

2019-2021  
Biennial Report  
of the  
**Wisconsin  
Elections  
Commission**



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**Performance Report**



# Wisconsin Elections Commission

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**DATE:** October 15, 2021

**TO:** The Honorable Tony Evers, Governor of Wisconsin

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

**FROM:** Wisconsin Elections Commission

**SUBJECT:** 2019-2021 Biennial Report

## **A. Introduction**

The Wisconsin Elections Commission is pleased to submit its 2019- 2021 biennial report to the Governor and the chief clerk of each house of the legislature, in accordance with Wis. Stat. § 15.04(1)(d). This report provides information on the performance and operations of the Commission and projects, goals, and objectives as developed for the agency budget. This report also includes information required specifically of the Elections Commission, as well as information provided at the Commission's discretion. Finally, the report also includes information on matters within the Commission's jurisdiction and recommendations for legislation.

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

### Mission

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

### Agency Description

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

*Wisconsin Elections Commissioners*

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

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*Administrator*  
Meagan Wolfe

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

The Commission Administrator serves as the agency head and the chief election officer of the state. The Commission staff is required to be non-partisan. The agency has a staff of 25.75 GPR and 6.00 SEGF full-time employees.

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

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

#### *State Election Administration*

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

#### *Support for Local Election Officials*

Elections in Wisconsin are conducted by over 1,920 local clerks at the town, village, city, and county levels. Commission staff provides education, training, and administrative and technical support to local election officials, on both a cyclical and daily basis. Courses and classes for election officials on both election administration responsibilities and tasks involving the statewide voter registration system are available on the Internet through an extensive webinar series and through the agency's online learning center. The Agency also offers in-person presentations to various professional associations and other groups. The Agency prepares detailed manuals to assist local election officials in carrying out their election-related responsibilities. Ongoing support to local clerks includes review of ballot formats, providing election forms, and answering inquiries regarding voting equipment and election procedures, as well as completing tasks in WisVote such as printing poll books, tracking ballot issuance and voter participation, updating voter registration records; maintaining candidate lists and polling place locations and producing various reports for clerks. Local election officials rely on the WisVote application and Agency staff support to conduct all federal, state, and local elections.

### *Voter Information*

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

### *Voter and Election Data*

Through maintenance of WisVote, the agency's Election Data Collection System, and the Canvass Reporting System, agency staff collects and analyzes election data, and compiles information for required reports to the federal government and state policymakers. Agency staff also makes the data available to the general public and research organizations through its BADGER Voters website (<https://badgervoters.wi.gov>) as well as on the agency's main website. Agency staff creates reports to comply with federal statutes and federal grant requirements and has implemented numerous measures to strengthen the security of the voter registration database.

### Programs, Goals, Objectives, and Activities

#### *Program 1: Administration of Elections*

Goal: Ensure open, fair, and transparent elections, by cultivating public confidence in the integrity of the electoral process.

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

Performance Measures, Goals, and Performance

2020 AND 2021 GOALS AND ACTUALS

<b>Prog. No.</b>	<b>Performance Measure</b>	<b>Goal 2020</b>	<b>Actual 2020</b>	<b>Goal 2021</b>	<b>Actual 2021</b>
1.	Monitor the number of contacts the public makes to WEC.	1,310,000	4,965,119	4,000,000	3,220,350
1.	Percentage of sworn complaints resolved within 60-days of submission.	90%	73%	90%	38%
1.	Conduct training events and maintain training resources for local elections partners and the general public.	150	286	150	188
1.	Percentage of candidates receiving nomination paper review results within 48 hours of filing.	90%	99%	90%	99%

Note: Based on fiscal year.

WEC adopted new performance measures for 2021

<b>Prog. No.</b>	<b>Performance Measure</b>	<b>Goal 2021</b>
1.	Monitor the number of contacts the public makes to WEC.	4,000,000
1.	Percentage of candidates receiving nomination paper review results within two business days of filing.	90%

Note: Based on fiscal year.

## Statutory Duties of the Elections Commission and the Agency's Compliance

The table in Appendix A outlines the statutory duties of the Wisconsin Elections Commission. The agency has complied with its statutory duties in administering election laws throughout the 2020 – 2021 fiscal years. Detailed information regarding agency initiatives and programs to carry out its statutory duties can be found in the materials for Commission meetings at this link:

<https://elections.wi.gov/about/meetings-past>.

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

#### Names and Duties of All Individuals Employed by the Commission

Wisconsin Elections Commission staff members are required to be non-partisan, in accordance with Wis. Stat. § 5.05(4). Following are the names and duties of Commission staff as of August 2021.

##### *Administrator – Meagan Wolfe*

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

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

Please see Appendix B for a full list of the Administrator's duties and Delegation of Authority.

##### *Deputy Administrator – Richard Rydecki*

Under the general supervision of the Administrator, the Deputy Administrator provides an array of executive-level policy, administrative and professional services for the Wisconsin Elections Commission and to the Administrator. This position serves as the Deputy in the absence of the Administrator. This position supervises personnel responsible for providing elections administration guidance and training for local election officials and voter outreach information for voters and the public. This position develops policy and procedures, sets goals and performance objectives, and develops and implements program assessment tools for the Commission staff.

*Legal Counsel – Nathan Judnic and James Witecha*

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

*IT Technology Director – Robert Kehoe*

Under the general supervision of the Administrator, the IT Technology Director provides an array of executive-level policy, management, and professional services for the Wisconsin Elections Commission and to the Administrator. This position supervises personnel responsible for information technology and related functions and manages the coordination and portfolios of outsourced information technology services with vendor partners. This position also maintains existing information technology applications and evaluates potential projects. This position develops and coordinates policies and procedures, sets goals and performance objectives, and develops and implements program assessment tools for agency information technology initiatives in conjunction with the management team.

*Chief Administrative Officer – Sharrie Hauge*

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

*Webmaster/Public Information Officer – Reid Magney*

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

*Elections Specialists — multiple incumbents*

Six positions under the Elections Commission are classified as Elections Specialists. Elections Specialists' responsibilities are mostly related to election administration. Staff in this classification are Erin Hoag, Allison Coakley, Cody Davies, Brianna Hanson, Robert Williams, and Riley Willman.

Under the general supervision of the Deputy Administrator of the Wisconsin Elections Commission, these positions provide operational execution of the Wisconsin Elections Commission's statutory responsibilities and ensure compliance with Wisconsin's elections laws. The individuals in these positions must be able to respond to questions involving complex application of statutes and administrative code and assist local election officials. The individuals in these positions conduct policy and legal analysis related to the administration of Wisconsin's elections laws and review applicable court decisions for potential impact on the Commission's responsibilities. They are also responsible for creating and managing the Elections Commission's training program for local election officials. These duties require the preparation of training materials and events, including manual

updates, written communications, webinars, and in-person presentations. They also monitor local election officials' compliance with training requirements. These positions report to the Administrator and the Commissioners on a regular basis the success of programs, policies, and procedures, and develop and implement more effective, efficient ways to achieve program goals.

*WisVote Specialists — multiple incumbents*

Eleven positions under the Elections Commission are classified as WisVote Specialists or have responsibilities for supporting Wisconsin's statewide voter registration system, known as WisVote. This support includes IT development and WisVote user support and training to local election officials who use the system. Staff in this category include Ann Oberle, UAT Lead; Patrick Brennan, Ahna Barreau, and Christopher Doffing, Training Officers; and Greg Grube, Jeffrey Harrison, Jodi Kitts, Aaron Knautz, Connie Shehan, Dawn Soletski and Sarah Statz, WisVote Elections Specialists.

*Help Desk Support — multiple incumbents*

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

*Operations Program Associate —Jacob Walters*

Under the general supervision of the Chief Administrative Officer, this position provides operational support by staffing the front desk, Help Desk customer service support, answering telephones, and providing program and administrative support to agency Administrator and staff.

*Accountant – Julia Billingham*

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

*Financial Specialist – Tiffany Schwoerer*

Under the close supervision of the Chief Administrative Officer, this position audits, codes and processes invoices and other financial documents, prepares and processes expenditure reports and records and produces various financial reports. This position also provides operational support by staffing the front desk, answering telephones, and providing additional support.



*IT Project Manager – Sara Linski*

Under the general supervision of the IT Technology Director, this position is responsible for the day-to-day scheduling, oversight, and implementation of agency IT projects. This position is responsible for the development, coordination and execution of an agency IT project plan and schedule and for coordinating feedback from local elections officials regarding the agency's IT applications.

*Election Security Lead – Tony Bridges*

Under the general supervision of the IT Technology Director, this position serves as the point person for developing and implementing the agency's overall elections security plan. This position is responsible for ensuring the implementation of cyber security best practices in the Commission's technology applications and that the agency's knowledge of cyber security tools and risks remain current and accurate.

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

The Elections Commission did not issue any formal or informal advisory opinions during the 2018-2019 fiscal years.

**E. Summary of Investigations Conducted**

The Elections Commission did not authorize any investigation during the 2020 – 2021 fiscal years.

**F. Recommendations for Legislation**

The Commission adopted a legislative agenda for the 2019– 2020 legislative session on December 3, 2018, which is attached as Appendix C along with the meeting minutes pertaining to agenda item J. Also attached as Appendix D is a memorandum outlining additional items that the Commission added to its legislative agenda at its March 11, 2019, meeting along with the meeting minutes pertaining to agenda item J. Also attached as Appendix E is a memorandum recommending approval the Commission continue its support of previous legislative agendas from 2018 and 2019 and add additional items as outlined in the Commission Legislative Agenda memo from the March 2, 2021, Commission meeting. The Commission approved items a, b, and c as outlined in the March 2, 2021, memorandum along with meeting minutes pertaining to agenda item I. At the Commission's September 9, 2021, meeting, they adopted an additional item to its legislative agenda to add a provision within statute that Special Voting Deputies and observers be defined as essential visitors, which would guarantee their entry to administer absentee voting. They would also be required to comply with all reasonable health requirements and procedures of the facility upon entry. The Commission also directed staff to send letters to the Governor (Appendix F) and Legislature (Appendix G). Agency staff also routinely provides feedback to the Legislature regarding legislative proposals which pertain to election administration and are not included on the Commission's legislative agenda.

**G. Report on Flexible Time Work Schedules, Permanent Part-Time Positions and Alternative Work Patterns Under Wis. Stat. §230.215 (4):**

The Wisconsin Elections Commission (WEC) maintains a commitment to providing flexible time and staggered-hour work schedules, job sharing and other alternative work patterns. All employees are allowed to adjust their start and leave times and lunch breaks. WEC staff members are issued laptop computers and have access to agency servers through a secure, virtual private network so they may work from other locations when they cannot be in the office. Many of the agency's employees work non-standard hours while providing quality service through a mutually satisfactory arrangement. During FY19-FY21 WEC employed permanent and temporary personnel.

# Appendix A

## Statutory Duties of the Wisconsin Elections Commission

Subject	Statutory Reference	Duties
General Statutory Authority	5.05(1)	The elections commission shall have the responsibility for the administration of chs. 5 to 10 and 12, and other laws relating to elections and election campaigns, other than laws relating to campaign financing. Wis. Stat. § 5.05(1).
Administrative Rules	5.05(1)(f)	Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than laws regulating campaign financing, or ensuring their proper administration. Wis. Stat. § 5.05(1)(f).
Investigations & Enforcement	5.05(2m)(a)	The commission shall investigate violations of laws administered by the commission. Wis. Stat. § 5.05(2m)(a).
Elections Commission Statutory Authority	5.05(2w)	The elections commission has the responsibility for the administration of chs. 5 to 10 and 12. Wis. Stat. § 5.05(2w).
Chief Election Officer	5.05(3g)	The commission administrator shall serve as the chief election officer of this state. Wis. Stat. § 5.05(3g).
Nonpartisan Employees	5.05(4)	All employees of the commission shall be nonpartisan. Wis. Stat. § 5.05(4).
Annual Report	5.05(5e)	The commission shall submit an annual report under s. 15.04(1) (d) and shall include in its annual report the names and duties of all individuals employed by the commission and a summary of its determinations and advisory opinions. Wis. Stat. § 5.05(5e).
Access to Records	5.05(5s)(a)	The commission shall permit inspection of records that are distributed or discussed in the course of a meeting or hearing by the commission in open session. The commission shall post on its Internet site the draft minutes of each meeting or hearing conducted by the commission in open session no later than 48 hours after the completion of the meeting or hearing. The commission shall post minutes approved by the commission no later than 48 hours after the minutes are approved. The commission may indicate whether minutes posted on its Internet site have been approved by the commission or are in draft form. Minutes posted pursuant to this paragraph shall include a summary of every action that the commission voted on, a record of each member's vote for or against every action requiring a vote, a record of all motions and seconds made by each member, including the full text of each motion debated and voted on by the commission, and a record of each member's status as being present or absent for any part of a meeting or hearing. The commission shall maintain all minutes published under this paragraph on its Internet site so that the minutes are accessible to the public at all times. Wis. Stat. § 5.05(5s)(a).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Access to Records	5.05(5s)(am)	The commission shall provide to the joint committee on finance records obtained or prepared by the commission in connection with an ongoing investigation when required under sub. (2q). Wis. Stat. § 5.05(5s)(am).
Advisory Opinions	5.05(5t)	Within 2 months following the publication of a decision of a state or federal court that is binding on the commission and this state, the commission shall issue updated guidance or formal advisory opinions, commence the rule-making procedure to revise administrative rules promulgated by the commission, or request an opinion from the attorney general on the applicability of the court decision. Wis. Stat. § 5.05(5t).
Advisory Opinions	5.06(6a)	The commission shall review a request for an advisory opinion and may issue a formal or informal written or electronic advisory opinion to the person making the request. Wis. Stat. § 5.05(6a).
Advisory Opinions	5.05(6a)(a)1.	Any individual. Either personally or on behalf of an organization or governmental body, may make a request of the commission in writing, electronically, or by telephone for a formal or informal advisory opinion regarding the propriety under chs. 5 to 10 or 12 of any matter to which the person is or may become a party. Wis. Stat. § 5.05(6a)(a)1.
Advisory Opinions	5.05(6a)(a)2.	To have legal force and effect, each formal and informal advisory opinion issued by the commission must be supported by specific legal authority under a statute or other law, or by specific case or common law authority. Wis. Stat. § 5.05(6a)(a)2.
Advisory Opinions	5.05(6a)(c)3.	Promptly upon issuance of each formal advisory opinion, the commission shall publish the opinion together with the information specified under sub. (5s) (f) on the commission's Internet site. Wis. Stat. § 5.05(6a)(c)3.
Advisory Opinions	5.05(6a)(a)4.	At each regular meeting of the commission, the administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued. Wis. Stat. § 5.05(6a)(a)4.
Election Officials	5.05(7)	The commission shall conduct regular information and training meetings at various locations in the state for county and municipal clerks and other election officials. Wis. Stat. § 5.05(7).
Education & Information	5.05(10)	The commission shall adopt and modify as necessary a state plan that meets the requirements of P.L. 107-252 to enable participation by this state in federal financial assistance programs authorized under that law. Wis. Stat. § 5.05(10).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Education & Information	5.05(12)	The commission shall conduct an educational program for the purpose of educating electors who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots of the effect of casting excess votes for a single office. Wis. Stat. § 5.05(12).
Education & Information	5.05(13)(a)	The commission shall maintain one or more toll-free telephone lines for electors to report possible voting fraud and voting rights violations, to obtain general election information, and to access information concerning their registration status, current polling place locations, and other information relevant to voting in elections. Wis. Stat. § 5.05(13)(a).
Overseas / Absent Military Voting	5.05(13)(c)	The commission shall maintain a free access system under which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk. Wis. Stat. § 5.05(13)(c).
Subscription Service	5.05(14)(b)	The commission shall establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33(5)(a), including semiweekly updates of such information. Wis. Stat. § 5.05(14)(b).
Reporting	5.05(14)(c)	On election night the commission shall provide a link on its Internet site to the posting of each county's election returns on each county's Internet site. Wis. Stat. § 5.05(14)(c).
Registration	5.05(15)	The commission shall require all municipalities to use the list in every election and may require any municipality to adhere to procedures established by the commission for proper maintenance of the list. Wis. Stat. § 5.05 (15).
Internal Control Plan	5.05(16)(a)	Annually, the commission shall adopt written policies and procedures in order to govern its internal operations and management and shall annually report such policies and procedures to the appropriate standing committees of the legislature under s. 13.172 (3). Wis. Stat. § 5.05 (16)(a).
Poll Lists	5.05(18)	The commission may facilitate the creation and maintenance of electronic poll lists for purposes of s. 6.79 including entering into contracts with vendors and establishing programs for development and testing. Wis. Stat. § 5.05(18).
Elections Administrator	5.055	The commission administrator shall, in consultation with the commission, appoint an individual to represent this state as a member of the federal election assistance commission standards board. Wis. Stat. § 5.055.
Elections Administrator	5.055	The administrator shall also conduct and supervise a process for the selection of an election official by county and municipal clerks and boards of election commissioners to represent local election officials of this state as a member of the federal election assistance commission standards board. Wis. Stat. § 5.055.

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Elections Division Administrator	5.056	The commission administrator shall enter into the agreement with the secretary of transportation specified under s. 85.61 (1) to match personally identifiable information on the official registration list maintained by the commission under s. 6.36 (1) and the information specified in s. 6.34 (2m) with personally identifiable information maintained by the department of transportation. Wis. Stat. § 5.056.
Complaints	5.06	The commission may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate. Wis. Stat. § 5.06(1).
HAVA Compliance	5.061	The commission shall make a final determination with respect to the merits of the complaint and issue a decision within 89 days of the time that the complaint or the earliest of any complaints was filed. Wis. Stat. § 5.061.
Voting Rights/Impediments	5.25(4)	The commission shall ensure that the voting system used at each polling place will permit all individuals with disabilities to vote without the need for assistance and with the same degree of privacy that is accorded to nondisabled electors voting at the same polling place. Wis. Stat. § 5.25(4).
Voting Rights/Impediments	5.25(4)(b)	In any jurisdiction that is subject to the requirement under 42 USC 1973aa-1a to provide voting materials in any language other than English, the commission shall ensure that the voting system used at each polling place in that jurisdiction is in compliance with 42 USC 1973aa-1a.
Voting Rights/Impediments	5.25(4)(d)	No later than June 30 of each odd-numbered year, the commission shall submit a report on impediments to voting faced by elderly and handicapped individuals to the appropriate standing committees of the legislature under s. 13.172(3). In preparing its report the commission shall consult with appropriate advocacy groups representing the elderly and handicapped populations. Wis. Stat. § 5.25(4)(d).
Voting Rights/Impediments	5.35(6)(a)4a.	The commission shall prescribe instructions for electors for whom proof of identification is required under s. 6.79 (2) or for whom proof of residence under s. 6.34 is required under s. 6.55 (2). Wis. Stat. § 5.35(6)(a)4a.
Voting Rights/Impediments	5.35(6)(a)4b.	The commission shall prescribe general information concerning voting rights under applicable state and federal laws, including the method of redress for any alleged violations of those rights. Wis. Stat. § 5.35(6)(a)4b.
Ballots	5.60(1)(b)	The elections commission shall certify the candidates' names and designate the official ballot arrangement for candidates for state superintendent, justice, court of appeals judge, circuit judge and for metropolitan sewerage commission commissioners elected under s. 200.09 (11) (am). Wis. Stat. § 5.60(1)(b).
Ballots	5.62(3)	The commission shall designate the official primary ballot arrangement for statewide offices and district attorney within each prosecutorial district by using the same procedure provided in s. 5.60 (1) (b). Wis. Stat. § 5.62(3).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Ballots	5.655(3)	The commission shall prescribe notices and instructions to be given to electors who use a consolidated ballot. Wis. Stat. § 5.655(3).
Ballots	5.72(2)	The commission shall review ballots and proof copies and shall notify the county and municipal clerk of any error as soon as possible but in no event later than 7 days after submission. Wis. Stat. § 5.72(2).
Electronic Voting Systems	5.87(2)	The commission shall, by rule, prescribe uniform standards for determining the validity of votes cast or attempted to be cast with each electronic voting system approved for use in this state under s. 5.91. Wis. Stat. § 5.87(2).
Electronic Voting Systems	5.905(2)	The commission shall determine which software components of an electronic voting system it considers to be necessary to enable review and verification of the accuracy of the automatic tabulating equipment used to record and tally the votes cast with the system. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(2)	The commission shall require each vendor of an electronic voting system that is approved under s. 5.91 to place those software components in escrow with the commission within 90 days of the date of approval of the system and within 10 days of the date of any subsequent change in the components. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(2)	The commission shall secure and maintain those software components in strict confidence except as authorized in this section. Wis. Stat. § 5.905(2).
Electronic Voting Systems	5.905(3)	The commission shall promulgate rules to ensure the security, review and verification of software components used with each electronic voting system approved by the commission. Wis. Stat. § 5.905(3).
Electronic Voting Systems	5.91(intro)	The commission shall certify any ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system. Wis. Stat. § 5.91(intro).
Electronic Voting Systems	5.93	The commission may promulgate reasonable rules for the administration of electronic voting systems. Wis. Stat. § 5.93.
Electronic Voting Systems	5.95	The commission shall prescribe information to electors in municipalities and counties using various types of electronic voting systems to be published in lieu of the information specified in s. 10.02 (3) in type B notices whenever the type B notice information is inapplicable. Wis. Stat. § 5.95.
Overseas / Absent Military Voting	6.06	The commission is the agency designated by the state of Wisconsin under 42 USC 1973ff-1 to provide information regarding voter registration and absentee balloting procedures to absent members of the uniformed services and overseas voters with respect to elections for national office. Wis. Stat. § 6.06.



<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Overseas / Absent Military Voting	6.22(4)(d)	For military absentee ballots, the commission shall prescribe the instructions for marking and returning ballots and the municipal clerk shall enclose instructions with each ballot, including supplemental instructions for local elections. Wis. Stat. § 6.22(4)(d).
Overseas / Absent Military Voting	6.24(3)	The commission shall design a form to ascertain the qualifications of overseas electors. The commission shall ensure that the form is substantially similar to the original form under s. 6.33 (1), insofar as applicable. Wis. Stat. § 6.24(3).
Overseas / Absent Military Voting	6.24(4)(d)	The commission shall prescribe a special certificate form for the envelope in which the absentee ballot for overseas electors is contained, which shall be substantially similar to the certificate used for absentee voters domiciled in Wisconsin as provided under s. 6.87(2). Wis. Stat. § 6.24(4)(d).
Overseas / Absent Military Voting	6.24(5)	The commission shall prescribe a special ballot for use by overseas/military voters whenever necessary, limited to national offices and designed to comply with the requirements under ss.5.60(8), 5.62, and 5.64(1) insofar as applicable. Wis. Stat. § 6.24(5).
Overseas / Absent Military Voting	6.24(6)	For overseas ballots, the commission shall prescribe the instructions for marking and returning ballots and the municipal clerk shall enclose instructions with each ballot, including supplemental instructions for local elections. Wis. Stat. § 6.24(6).
Registration	6.275(2)	The commission shall publish registration and voting statistics on its website within 7 days of receipt from local election officials and update this information on a monthly basis. Wis. Stat. § 6.275(2).
Overseas / Absent Military Voting	6.276(2)	Within 30 days after each general election, each municipal clerk shall transmit to the commission a report of the number of absentee ballots transmitted to absent military and overseas electors and the combined number of those ballots that were cast by those electors in that election. Wis. Stat. § 6.276(2).
Overseas / Absent Military Voting	6.276(3)	Within 90 days after each general election, the commission shall compile the information contained in the municipal clerks' reports and transmit the information to the federal Election Assistance Commission. Wis. Stat. § 6.276(3).
Registration	6.29(2)(am)	The commission shall provide to each municipal clerk a list prepared for use at each municipal clerk's office showing the name and address of each person whose name appears on the list provided by the department of corrections under s. 301.03 (20m) as ineligible to vote on the date of the election, whose address is located in the municipality, and whose name does not appear on the registration list for that municipality. Wis. Stat. § 6.29(2)(am).

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

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

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

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

Subject	Statutory Reference	Duties
Election Officials	7.31(4)	The commission shall require each individual to whom a certificate is issued under this section to meet requirements to maintain that certification. Wis. Stat. § 7.31(4).
Election Officials	7.31(5)	The commission shall conduct regular training programs to ensure that individuals who are certified by the commission as chief election inspectors are knowledgeable concerning their authority and responsibilities. The commission shall pay all costs required to conduct the training programs from the appropriation under s. 20.510(1)(bm). Wis. Stat. § 7.31(5).
Election Officials	7.315	The commission shall, by rule, prescribe the contents of the training that municipal clerks must provide to inspectors, other than chief inspectors, and to special voting deputies appointed under s. 6.875. Wis. Stat. § 7.315.
Election Observers	7.41(5)	The commission may promulgate rules that are consistent with the requirements of the public's right to access to the polling place regarding the proper conduct of individuals exercising the right, including the interaction of those individuals with inspectors and other election officials. Wis. Stat. § 7.41(5).
Canvass	7.60(5)(b)	If the board of canvassers becomes aware of a material mistake in the canvass of an election for state or national office or a statewide or technical college district referendum prior to the close of business on the day the elections commission receives returns from the last county board of canvassers with respect to that canvass, the board of canvassers may petition the elections commission to reopen and correct the canvass. The elections commission shall direct the canvass to be reopened and corrected if it determines that the public interest so requires. Wis. Stat. § 7.60(5)(b).
Canvass	7.70(1)	Upon receipt of the certified statements from the county clerks, the commission shall record the election results by counties and file and carefully preserve the statements. Wis. Stat. § 7.70(1).
Canvass	7.70(3)	The chairperson of the commission or a designee of the chairperson appointed by the chairperson to canvass a specific election shall publicly canvass the returns and make his or her certifications and determinations on or before the 2nd Tuesday following a spring primary, the 15th day of May following a spring election, the 3rd Wednesday following a partisan primary, the first day of December following a general election, the 2nd Thursday following a special primary, or within 18 days after any special election. Wis. Stat. § 7.70(3).
Canvass	7.70(5)	The commission shall record in its office each certified statement and determination made by the commission chairperson or the chairperson's designee. Immediately after the expiration of the time allowed to file a petition for recount, the commission shall make and transmit to each person declared elected a certificate of election under the seal of the commission. For presidential electors, the commission shall prepare a certificate showing the determination of the results of the canvass and the names of the persons elected, and the governor shall sign, affix the great seal of the state, and transmit the certificate by registered mail to the U.S. administrator of general services. Wis. Stat. § 7.70(5).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Nomination Papers	8.07	The commission shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon. Wis. Stat. § 8.07.
Nomination Papers	8.12(1)(d)	The commission shall forthwith contact each person whose name has been placed in nomination under par. (b) and notify him or her that his or her name will appear on the Wisconsin presidential preference ballot unless he or she files, no later than 5 p.m. on the last Tuesday in January of such year, with the commission, a disclaimer stating without qualification that he or she is not and does not intend to become a candidate for the office of president of the United States at the forthcoming presidential election. Wis. Stat. § 8.12(1)(d).
Ballots	8.12(2)	The form of the official ballots (Presidential Preference Vote) shall be prescribed by the commission. Wis. Stat. § 8.12(2).
Reporting	8.12(3)	No later than May 15 following the presidential preference primary, the commission shall notify each state party organization chairperson under sub. (1) (b) of the results of the presidential preference primary within the state and within each congressional district. Wis. Stat. § 8.12(3).
Candidates	8.185(2)	The commission may waive the requirement of 8.185(2) but only if the results of the general election indicate that a write-in candidate for the office of president is eligible to receive the electoral votes of this state except for noncompliance with this subsection. In such event, the write-in candidate shall have until 4:30 p.m. on the Friday following the general election to comply with the filing requirements of this subsection. Wis. Stat. § 8.185 (2).
Nomination Papers	8.19(3)	The commission shall not certify nor the county clerk print the name of any person whose nomination papers indicate a party name comprising a combination of existing party names, qualifying words, phrases, prefixes or suffixes in connection with any existing party name. Wis. Stat. § 8.19(3).
Nomination Papers	8.40(3)	The commission shall, by rule, prescribe standards consistent with this chapter and s. 9.10 (2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon. Wis. Stat. § 8.40(3).
Special Elections	8.50(1)(b)	If [a] special election concerns a national or state office, the commission shall give notice as soon as possible to the county clerks. Wis. Stat. § 8.50(1)(b).



<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Special Elections	8.50(1)(d)	When the election concerns a national office or a special election for state office is held concurrently with the general election, the commission shall transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in its office at least 62 days before the special primary, and in other cases the commission shall transmit the list to each county clerk at least 22 days before the special primary. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the special election unless the special election concerns a national office or is held concurrently with the general election, in which case the list shall be transmitted at least 62 days prior to the day of the special election. Wis. Stat. § 8.50(1)(d).
Recount	9.01(1)(ag)4.	The commission shall deposit all moneys (recount fees) received by it into the account under s. 20.511 (1) (g), and shall pay the fees required for each recount to the county clerks of the counties in which the recount is to be held. Wis. Stat. § 9.01(1)(ag)4.
Recount	9.01(1)(ar)3.	Whenever the commission receives a valid (recount) petition and any payment under par. (ag) 3., the commission shall promptly by certified mail or other expeditious means order the proper county boards of canvassers to commence the recount. Wis. Stat. § 9.01(1)(ar)3.
Recount	9.01(1)(ar)3.	The commission chairperson or the chairperson's designee may not make a determination in any election if a recount is pending before any county board of canvassers in that election. Wis. Stat. § 9.01(1)(ag)3.
Recount	9.01(1)(ar)3.	The commission chairperson or the chairperson's designee need not recount actual ballots, but shall verify the returns of the county boards of canvassers in making his or her determinations. Wis. Stat. § 9.01(1)(ar)3.
Recount	9.01(2)	When the recount concerns an election for a state or federal office, the commission shall promptly prepare a copy of the petition for delivery to each opposing candidate for the same office whose name appears on the ballot. In a recount proceeding for a partisan primary, the commission shall prepare a copy of the petition for delivery to each opposing candidate for the same party nomination for the same office, to each opposing candidate for the party nomination of each other party for the same office and to each independent candidate qualifying to have his or her name placed on the ballot for the succeeding election. Wis. Stat. § 9.01(2).
Recount	9.01(5)(c)	If the commission chairperson or the chairperson's designee receives the recount results, the chairperson or designee shall publicly examine the returns and determine the results not later than 9 a.m. on the 3rd business day following receipt, but if that day is earlier than the latest day permitted for that election under s. 7.70(3)(a), the commission chairperson or designee may examine the returns and determine the results not later than the day specified in s. 7.70(3)(a). Wis. Stat. § 9.01(5)(c).
Recount	9.01(10)	The commission shall prescribe standard forms and procedures for the making of recounts under this section. Wis. Stat. § 9.01(10).



<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Recount	9.01(10)	The procedures prescribed by the commission shall require the boards of canvassers in recounts involving more than one board of canvassers to consult with the commission staff prior to beginning any recount in order to ensure that uniform procedures are used, to the extent practicable, in such recounts. Wis. Stat. § 9.01(10).
Recall	9.10(3)(b)	Within 31 days after the petition is offered for filing, the commission with whom the petition is offered for filing shall determine by careful examination whether the petition on its face is sufficient and so state in a certificate attached to the petition. Wis. Stat. § 9.10(3)(b).
Recall	9.10(3)(b)	If the commission finds that the amended petition is sufficient, the commission shall file the petition and call a recall election to be held on the Tuesday of the 6th week commencing after the date of filing of the petition. Wis. Stat. § 9.10(3)(b).
Election Notices	10.01(1)	The form of the various election notices shall be prescribed by the commission to standardize election notices. To accomplish this purpose, the commission shall make rules and draft whatever forms it considers necessary. The commission shall also prescribe the provisions for municipal notices which shall be sent to each county clerk who shall immediately forward them to each municipal clerk. Wis. Stat. § 10.01(1).
Election Notices	10.01(1)	Notification or certification lists of candidates or referenda questions sent to the county clerks shall prescribe the form in which the county clerks shall publish the relevant portions of the notice and any additional county offices and referenda questions. Wis. Stat. § 10.01(1).
Election Notices	10.06(1)(a)	On or before November 15 preceding a spring election the commission shall send a type A notice to each county clerk. Wis. Stat. § 10.06(1)(a).
Election Notices	10.06(1)(c)	As soon as possible after the deadline for filing nomination papers for the spring election, but no later than the 2nd Tuesday in January, the commission shall send a type B notice certifying the list of candidates to each county clerk if a primary is required. Wis. Stat. § 10.06 (1)(c).
Election Notices	10.06(1)(e)	As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the commission shall send a type B notice certifying to each county clerk the list of candidates for the spring election. Wis. Stat. § 10.06 (1)(e).
Election Notices	10.06(1)(e)	When there is a referendum, the commission shall send type A and C notices certifying each question to the county clerks as soon as possible, but no later than the first Tuesday in March. Wis. Stat. § 10.06 (1)(e).
Election Notices	10.06(1)(f)	On or before the 3rd Tuesday in March preceding a partisan primary and general election the commission shall send a type A notice to each county clerk. Wis. Stat. § 10.06 (1)(f).

<b>Subject</b>	<b>Statutory Reference</b>	<b>Duties</b>
Election Notices	10.06(1)(h)	As soon as possible after the deadline for determining ballot arrangement for the partisan primary on June 10, the commission shall send a type B notice to each county clerk certifying the list of candidates for the partisan primary. Wis. Stat. § 10.06 (1)(h).
Election Notices	10.06(1)(i)	As soon as possible after the state canvass, but no later than the 4th Tuesday in August, the commission shall send a type B notice certifying the list of candidates and type A and C notices certifying each question for any referendum to each county clerk for the general election. Wis. Stat. § 10.06 (1)(i).
Biennial Budget	15.04(1)(b)	Biennially compile a comprehensive program budget which reflects all fiscal matters related to the operation of the department or independent agency and each program, subprogram and activity therein. Wis. Stat. § 15.04 (1)(b).
Biennial Report	15.04(1)(d)	On or before October 15 of each odd-numbered year, submit to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172(2), a report on the performance and operations of the agency during the preceding biennium, and projecting the goals and objectives of the agency as developed for the program budget report. Wis. Stat. § 15.04 (1)(d).
Federal Funds Application Report	16.54(5)	Whenever any agency of the federal government shall require that as a condition of obtaining federal aid the state agency entrusted with the administration of such aid shall submit a budget plan, application, or other project proposal, then the budget, plan, application or proposal shall, before it is submitted to the federal authorities for approval, first be approved by the governor and reported to the joint committee on finance. Wis. Stat. § 16.54 (5).
Non-Federal Gift and Grant Expenditures Report	20.907(1m)	State agencies shall, by December 1 annually, submit a report to the joint committee on finance and department of administration on expenditures made by the agency during the preceding fiscal year from nonfederal funds received as gifts, grants, bequests or devises. Wis. Stat. § 20.907 (1m).
Forestalling Appropriations	20.903(1)	Whenever any state agency obtains information or evidence of a possible violation relating to expenditures of state funds without specific prior appropriation shall provide the information or evident to the joint committee on finance and the secretary of administration. Wis. Stat. § 20.903 (1).
Review of Rules and Enactment	227.29(1)	By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by the agency. Wis. Stat. § 227.29 (1).

# Appendix B

Wisconsin Elections Commission Administrator

Position Description

and

Delegation of Authority

**Elections Commission Administrator**  
(Position # 334590)

**POSITION SUMMARY**

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

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

**Duties and Responsibilities**

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

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

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

**B. Interpretation of Election Laws.**

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(January, 2016)



# Wisconsin Elections Commission

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

Pursuant to the Commission Administrator's role as agency head and the State's chief election official, the Wisconsin Elections Commission on February 27, 2020 delegated the authority described below to its Administrator:

1. The following authority is delegated to the Administrator subject to the requirement that before it is exercised, the Administrator consult with the Commission Chair to determine whether a special meeting is conducted before action is taken:
  - a. To issue compliance review orders under the provisions of Wis. Stat. § 5.06. Prior to compliance review orders being issued, the following actions shall be taken:
    - i. Commission staff shall provide to Commissioners the parties' filings as they are received and post the filings on the Commission's website.
    - ii. If time permits, as determined by the Administrator in consultation with the Chair, staff shall provide draft decisions to all Commissioners prior to their issuance. The Administrator and Chair shall determine whether it is feasible to permit Commissioners to submit comments regarding the draft decision given statutory and administrative deadlines, and the amount of time allowed to submit comments.
    - iii. If time permits, Commissioners who wish to comment on the draft decision may contact the Administrator but shall not discuss the case with other Commissioners, except as allowed by the open meeting law. The Administrator shall determine whether any comments or input provided by Commissioners will be incorporated into the final decision.
    - iv. If two or more Commissioners ask the Administrator to request a special meeting regarding a Section 5.06 draft decision, the Administrator will discuss with the Commission Chair such requests and the Chair will determine whether to hold a special meeting prior to release of the decision.
  - b. To certify and sign election related documents including candidate certifications, certificates of election, and certifications of election results on behalf of the Commission;
  - c. To accept, review, and exercise discretion to approve applications for voting system modifications characterized as engineering change orders (ECOs) for systems previously approved for use in Wisconsin;
  - d. To implement the Commission's determinations regarding sufficiency of nomination papers or qualifications of candidates;
  - e. To communicate with litigation counsel representing the Commission in order to advise the Commission regarding necessary decisions related to Commission litigation. This delegation is intended to require Commission input regarding significant litigation

*Wisconsin Elections Commissioners*

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

*Administrator*  
Meagan Wolfe

decisions such as the filing of an appeal, but is not intended to require consultation with the Chair or the Commission prior to communicating with litigation counsel regarding routine matters such as feedback pertaining to legal briefs and other legal filings, discovery procedures and Commission staff's participation in court proceedings;

- f. To execute and sign contracts on behalf of the Commission, except related to special investigators as provided in Wis. Stat. § 5.05(2m), subject to the further provisions of this paragraph. The Administrator is required to request approval from the Commission for contracts involving a sum exceeding \$100,000, or for purchases from a statewide contract over \$100,000. The Administrator is required to request approval from the Commission prior to posting a Request for Proposal or Request for Bid. In addition, the Administrator may enter into a sole source contract only after obtaining approval from Commission Chair and providing five days' prior notice to the Commission regardless of the dollar amount.

**2. The following authority is delegated to the Administrator without the requirement for prior consultation with the Commission Chair before action is taken:**

- a. To exempt municipalities from polling place accessibility requirements pursuant to the provisions of Wis. Stat. § 5.25(4)(a);
- b. To exempt municipalities from the requirements for the use of voting machines or electronic voting systems pursuant to the provisions of Wis. Stat. § 5.40(5m);
- c. To execute and sign contracts on behalf of the Commission, except related to special investigators as provided in Wis. Stat. § 5.05(2m), for contracts involving a sum not exceeding \$100,000, or for purchases from a statewide contract involving sums not exceeding \$100,000.

# Appendix C

## Wisconsin Elections Commission's Legislative Agenda for 2019-2020

# WISCONSIN ELECTIONS COMMISSION

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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

## MEMORANDUM

**DATE:** For the December 3, 2018 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Interim Administrator

Prepared and Presented By:

Michael Haas  
Staff Counsel

Nathan Judnic  
Senior Elections Specialist

**SUBJECT:** Commission's Legislative Agenda for 2019 - 2020

### Background

This memorandum outlines Commission staff's recommendations for legislative changes to pursue in the 2019 – 2020 legislative session. The recommendations seek clarification of existing statutes, implement nationally recognized best practices, and communicate concerns of county and municipal clerks to the Legislature.

Commission staff maintains an ongoing list of recommended changes to current laws identified by legislators, municipal and county clerks, and the public. Staff also regularly reviews and analyzes current statutes, administrative code, and Commission policies in order to identify potential changes that may improve efficiency, cost-effectiveness, public comprehension, and general policy administration. The recommended changes below are those which staff believes would improve administrative processes, provide clarity or simplification to existing policies and procedures, or update policies to reflect modern practices.

Except for the few items noted above, the Commission has already reviewed and approved the items listed below, as they were part of the legislative agenda passed to the Legislature for 2017 – 2018 session. Commission staff has included these items to be reaffirmed and included with the upcoming session's legislative agenda, unless there are specific items the Commission would like to discuss further. Additional items may come up as the next legislative session progresses, and Commission staff will bring those items to the Commission's attention and approval as needed.

Attached to this memorandum is correspondence dated March 13, 2017 from the Federal Voting Assistance Program of the U.S. Department of Defense requesting changes to statutes related to the

treatment of temporarily overseas electors in order to bring Wisconsin law into conformity with federal law. Because the requested changes were not enacted in the previous legislative session, the U.S. Department of Justice initiated litigation and entered into a consent decree with the State of Wisconsin to implement two of the requested changes. The consent decree permits temporarily overseas electors to obtain ballots electronically and to use the Federal Write-In Absentee Ballot, treating those electors the same as permanently overseas electors in those two ways.

The consent decree also requires the WEC to propose state legislation to incorporate the consent decree changes into state law and to provide a report to the federal court by May 1, 2019. The relevant changes are incorporated into items 14 and 28 of the recommendations below. One item has been removed related to the assistance provided to individuals with disabilities and the use of electronic voting equipment as upon further review the staff believes the language of the statute provides sufficient support for allowing a person with disabilities to use electronic voting equipment with an assistant. One additional item has been inserted as item 42, which would ask the Legislature to clarify that the Elections Commission is the proper agency for making a finding of probable cause in a criminal matter under Chapter 12.

At its meeting of September 26, 2017, the Commission heard from several municipal and county clerks regarding a legislative proposal to implement an alternate method of casting and processing absentee ballots. The proposal was aimed at alleviating the burden of processing all absentee ballots on Election Day and would permit, as an optional method, the use of electronic voting equipment during in-person absentee voting. The Commission considered the clerks' request to support the proposed legislation but did not adopt a position given the policy issues involved. Commission staff recommends that it remain engaged with the supporters and legislative authors of the proposed legislation to review subsequent drafts and provide feedback regarding administrative and significant policy issues to be considered and addressed.

At its meeting of December 12, 2017, the Commission authorized staff to request a Legislative Council Study Committee to review the WEC's extensive legislative agenda and propose a comprehensive package of legislative changes. Staff submitted such a request which was not approved as one of the topics for a Study Committee for the 2018 – 2019 legislative session. However, staff has been working with the Office of State Representative Bernier to address several of the requested changes listed below. Representative Bernier is the outgoing Chair of the Assembly Committee on Campaigns and Elections and she has been elected to the State Senate. Staff anticipates that this effort will continue, and that legislation will be drafted related to some of the listed items.

Staff has organized the recommendations into five different categories:

- A. *Major Policy Initiatives* are those that staff suggests that the Commission highly recommend because they would likely significantly improve election administration and have a substantially positive impact on those affected by the policy.
- B. *Minor Policy Initiatives* include the changes that would improve election administration and represent minimal policy decisions, such as improving efficiency or providing clarity.



- C. *Technical Changes* are recommendations that address issues of inconsistency in the laws or drafting oversights.
- D. *Administrative Rule Provisions* are proposals to introduce legislation in lieu of promulgating administrative rules.
- E. *Chapters Not Administered by the WEC* are items contained in statutory chapters which are related to but outside the jurisdiction of the Commission.

**A. MAJOR POLICY INITIATIVES**

1. Provisions related to electronic poll lists. Agency staff has identified several provisions which could be created or amended to facilitate the implementation of electronic poll lists. These include the following:
  - A. § 5.02: Add definitions of “electronic poll book” and “electronic poll list” to the statutory definitions.
  - B. § 7.23(1)(e): Add language permitting electronic poll books to be cleared or erased after the deadline for filing a recount petition has passed but requiring the transfer of all data required to reproduce the voter list to a disk or other recording medium which may be destroyed 22 months after the election, consistent with other retention requirements.
2. Chapter 5 Subchapter III – Voting Equipment Statutes. This subchapter of the statutes refers to antiquated technologies such as voting equipment that utilizes levers or punch cards. These types of voting systems have been entirely replaced by electronic voting systems. The Legislature could revise this subchapter to remove references to antiquated technology. There are also references to such antiquated voting equipment elsewhere throughout the election laws. The Legislature could consider a broader review and revision of state law to reflect the electronic voting equipment currently in use throughout the State of Wisconsin, as well as the potential use of new technologies in the future.
3. § 6.86(1)(b). This provision sets forth the deadlines for requesting an absentee ballot. Under existing law there are three different deadlines (Thursday, Friday, or Election Day) for requesting an absentee ballot that depend on both the type of absent elector and the method by which the application is received. This multitude of deadlines has proven confusing for voters and election officials alike. The Election Day deadline for receipt of an absentee request also creates an unrealistic expectation that a ballot requested at such a late date and time could be successfully voted as the deadline for receiving the voted ballot is also Election Day and electronic return of the voted ballot is not permitted by state law. The Legislature could consider revising these deadlines by changing the deadline to 5:00 p.m. on the Thursday prior to Election Day for all

mailed, emailed, or faxed requests and 5:00 p.m. on the Sunday before Election Day for all in-person requests regardless of the type of absent elector.

4. §§ 8.15(1) and 10.06(1)(h). These provisions establish the window for circulation of nomination papers and the deadline for the Commission to certify the candidates to appear on the Partisan Primary ballot. Wisconsin Administrative Code EL 2.07 provides for challenges to nomination papers to be filed up to three calendar days following the nomination paper deadline. Depending on the year, this means the Commission has between 4-6 business days to review and decide challenges to ballot access. The Government Accountability Board previously directed staff at its June 2014 meeting to request the Legislature allow for more time between the candidate filing deadline and the deadline to certify ballot arrangement so as to allow for more thoughtful consideration of ballot access challenges. As there is not sufficient time in the calendar to move the candidate certification deadline later without changing the ultimate date of the election, the only practical option is to move the circulation period up. Commission staff recommends changing the first day to circulate nomination papers from April 15 to April 10, which would keep the first day to circulate nomination papers still after the spring election and moving the filing deadline from June 1 to the last Tuesday in May.

## **B. MINOR POLICY INITIATIVES**

### Chapter 5

5. §§ 5.06(5) and (6). These provisions allow the Commission to issue an order to ensure compliance with election laws. The Legislature could revise these provisions in order to authorize the Commission to issue a temporary order while a complaint investigation is ongoing. Occasionally Commission staff must direct a local election official to stay any action until the completion of a review investigation, such as when the question is whether to schedule a recall election or whether a candidate has qualified for ballot access. Current statutes allow the issuance of an order only after the filing of a complaint, upon a motion of the Commission, or after completion of an investigation.
6. § 5.06(10). This provision prohibits the Commission from reviewing matters arising in connection with recounts under § 9.01. This appears to be intended to avoid conflict with Wis. Stat. § 9.01(6) which directs appeals of recounts to circuit court. However, there are a variety of decisions made by election officials under § 9.01 that could benefit from commission review, e.g., estimates of recount filing fees. A better option may be to phrase this provision such that the Commission may not review the recount result or substantive decisions of the board of canvassers in a recount other than to enforce consistent application of those decisions when multiple boards of canvassers are involved. This authority would permit Commission staff to resolve procedural questions or conflicts more definitively and is supported by the charge of Wis. Stat. § 9.01(10) for the Commission to develop standard forms and procedures for use in recounts.

7. §§ 5.15 and 66 subchapter II. These provisions provide limitations to the construction of wards. Current statutes restrict a town from drawing ward lines that do not cross the boundaries of a state assembly district and requires towns to create a separate ward when a county does not adjust boundaries for county supervisory districts. However, statutes do not place similar restrictions on cities or villages annexing territory. This could be a problem if a city or village was to annex territory in different districts. The Legislature could revise these provisions to enact the same requirements for cities and villages that currently exist for towns and require specifying the identification of the created ward (e.g., ward 7).
8. § 5.84(1). This provision specifies that municipalities must conduct public tests of voting equipment in the 10 days prior to each election. The current requirement is problematic as larger municipalities may require several days to test all the equipment to be used at an election. Extending the testing window to the 15 calendar days prior to the election would grant municipal clerks more flexibility in the event any problems are identified during the public test. This provision also requires public notice of voting equipment testing via publication in a newspaper within the municipality or a newspaper of general circulation therein. Publishing in a general circulation newspaper, or even a municipal newspaper, may require significant costs to municipalities. The Legislature could revise this provision to require municipalities to provide the notice of the public test by the same means as other election notices under Wis. Stat. §§ 10.04 & 10.05, which would permit such notices to be posted in lieu of publication.
9. § 5.94. This provision requires the publication of a sample ballot. Wis. Stat. §10.02 (2)(c) allows the ballot size to be reduced when publishing the notice. The Legislature could consider removing the requirement for an “actual-size” copy of the ballot for publication in Wis. Stat. § 5.94 to reduce the costs that jurisdictions must incur and make these two provisions consistent.

#### Chapter 6

10. § 6.18. This provision provides a process for former Wisconsin residents to vote in a Presidential Election if they do not yet qualify to vote in their new state of residency, but does not provide a specific deadline for such a request. The Legislature could revise this provision by establishing a receipt deadline of 5:00 p.m. on the fifth day before the election to request an absentee ballot, consistent with most other absentee voters.
11. §§ 6.22(1)(b), 6.34(1)(a). These provisions define the term “military elector”. However, § 6.22(1)(b) includes additional categories of individuals not included under 6.34(1)(a). These two different definitions of the same term have caused considerable confusion with clerks and military voters as to what they can or cannot do. The G.A.B. previously recommended reconciling these two different definitions into a single broad definition of military elector. To avoid confusion and promote effective administration

of the laws, the Legislature could harmonize these two definitions as the G.A.B. has previously recommended throughout Chapter 6.

12. §§ 6.22(5), 6.24(7). These provisions provide that military and permanent overseas voters obtain the signature of a US citizen witness when voting their absentee ballot. This requirement commonly causes complaints from voters who do not have a US citizen easily available. The Government Accountability Board previously recommended retaining the witness signature, but removing the requirement that the witness be a US citizen. According to a 2012 study by the PEW Center for the States, only four states required any sort of witness signature for military and overseas absentee ballots (Alabama, Alaska, Virginia, and Wisconsin), and Wisconsin may be the only state which requires the witness to be a U.S. citizen. The Legislature could consider modifying or removing the witness requirement to ensure that military and permanent overseas absentee voters can vote their ballot without needing to find another US citizen.
13. § 6.22(6). This provision requires each municipal clerk to keep an updated list of eligible military electors that reside in the municipality in the format provided by the commission, and to distribute a copy the list to each polling place. The intent of this provision was to ensure compliance with absentee ballot procedures for military voters and the exemption from the voter registration requirement. In practice, all of the required information exists within WisVote and all known military voters automatically appear on the poll books. Clerks who rely on someone else for WisVote services communicate with their WisVote provider for lists prior to absentee voting. The Legislature could repeal this provision to reflect modern practices.
14. § 6.25(1)(b). This provision permits permanent overseas electors to use a Federal Write-In Absentee Ballot (FWAB) in lieu of an official ballot. To comply with the provisions of the federal court consent decree in *United States of America v. State of Wisconsin, et al.*, the Legislature could clarify that temporary overseas electors may also use a FWAB in lieu of an official ballot.
15. § 6.25(1)(c). This provision exempts military electors from the requirement to submit a separate absentee request before the Federal Write-In Absentee Ballot (FWAB) may be counted. Overseas electors are not similarly exempted from the requirement to submit a separate absentee request in addition to the FWAB before the ballot may be counted. The declaration/affirmation page of the FWAB contains all the necessary information to serve as an absentee request. Overseas voters face many of the same difficulties voting as overseas military voters. The Legislature could modify this provision to allow permanent and temporary overseas voters to submit a FWAB without a separate absentee ballot application no later than the applicable absentee request deadline in order to establish a more consistent process for all overseas voters.
16. §§ 6.275 and 6.33(5). These provisions provide deadlines for reporting certain statistics, and recording voter participation and registration following an election, respectively. In practice, and particularly in larger municipalities, clerks complete

entering voter registrations and recording voter participation in WisVote in order to provide accurate statistics. The 30-day deadline to report statistics and the 45-day deadline (60 days with an approved waiver) to enter voter registrations and record voter participation after general elections is inconsistent with current practices by many clerks. Clerks have 30 days to enter voter registrations and record participation after spring primaries, spring elections, partisan primaries, and special elections. Virtually all clerks are able to comply with both deadlines for elections other than general elections; however, many clerks struggle to meet the 60-day deadline after general elections. The Legislature could address this issue by clarifying that the deadline for reporting statistics coincides with the deadline to enter voter registrations and record voter participation in WisVote, as defined in Wis. Stat. § 6.33(5).

17. § 6.29(2)(b). This provision requires municipal clerks to prepare a certificate of registration in duplicate and provide one copy of the certificate to any person registering during the late registration period while keeping the other in their office. Commonly late registrations in-person are immediately followed by a request to vote an in-person absentee ballot. In this scenario, the preparation and issuance of the certificate of registration has no purpose. The Legislature could consider exempting clerks from the requirement to issue registration certificates if the voter chooses to vote absentee in the clerk's office in the same transaction as registering to vote.
18. § 6.29(2)(c). This provision requires any voter who registered to vote during the late registration period and receives a certificate of registration to provide that certificate to the inspectors at the polling place or to enclose that certificate with their voted absentee ballot. However, state law does not specify a consequence if the elector fails to provide their certificate of registration. It appears that the certificate is intended as a failsafe to prove registration has occurred in the event that the voter's name does not appear on the poll book despite their earlier registration. As such the Legislature could consider removing the requirement for the voter to provide their certificate of registration, but preserve the issuance of such certificates to maintain the failsafe.
19. § 6.30(4). This provision requires that municipalities make available a voter registration form and that "the form shall be pre-postpaid for return when mailed at any point within the United States." However, in practice, most municipalities simply make copies of the form available and do not offer pre-paid postage because of the cost. Additionally, the Commission has implemented online registration as directed by the Legislature, which may significantly reduce the demand for registration by mail. Due to the cost to municipalities and the online alternative the Legislature could consider elimination of the prepostpaid requirement for voter registration forms.
20. § 6.32(4). This provision requires a municipal clerk to send an address verification mailing to a voter who registers by mail or online. In practice, the Commission sends these mailings on behalf of municipalities. This facilitates consistent compliance and leveraging State purchasing power. During the 2013-2014 Legislative Session, the Wisconsin Legislature enacted 2013 Wisconsin Act 149, specifically authorizing the G.A.B. to send out the Election Day Registrant address verification mailings. The

Legislature could revise this provision to authorize the Commission to send out all other address verification mailings, including those related to the ERIC initiative, on behalf of municipalities.

21. § 6.34(3). This provision outlines the types of acceptable documents for proof of residence (POR) for the purpose of voter registration. In recognition of the broad move to replace paper documents with electronic documents, the Government Accountability Board previously authorized the acceptance of electronic versions of each acceptable proof of residence document. The Legislature could specifically authorize electronic proof of residence to be consistent with current practices and Board policy, as well as clarify the types of authorized POR to include other modern and common types of documents such as a cellphone bill, or internet service bill, or document from a financial institution.
22. § 6.34(3)(a)10. This provision allows for using a paycheck as proof of residence. As many voters do not receive a physical paycheck anymore, the G.A.B. previously interpreted this provision to include pay stubs, pay sheets, or other payroll documentation such as a direct deposit statement. The Legislature could revise this provision to also include these more modern alternatives to the paycheck and reinforce the agency's prior interpretation.
23. § 6.36(1)(b)1.a. This provision establishes information related to a voter record that must remain confidential. This list includes a voter's date of birth, operator license number, social security number, and any accommodation required for the individual to voter. If the voter is a confidential voter, their address is also confidential. The voter registration application also includes a place for a voter to list a phone number and email address. However, these are not required fields in order for a clerk to process a voter registration application. The Legislature could consider revising this provision in order to add phone number and email address to the list of confidential information that is not available for release through public record requests. The Legislature may also wish to clarify that a state-issued identification card number is also confidential by replacing *operator license number* with *driver license or state-issued identification card number*.
24. § 6.55(2)(d). This provision provides for a voter who has changed their name, but not their address to make such a change in their registration by notifying the election inspectors at the polling place instead of completing a new voter registration form. The Government Accountability Board and Wisconsin Elections Commission consistently required voters who wish to change their name to complete a new voter registration. When the Legislature repealed § 6.40, it removed a provision that permitted voters to make changes to their registration without submitting a new registration form. The Legislature could ensure that every change in a voter's registration is documented with a new voter registration form by modifying this provision to eliminate the ability of a voter to change their name without providing a new voter registration form.

25. § 6.82(1). This provision permits an elector who is unable to enter the polling place due to a disability to receive their ballot at the entrance to the polling place. While this provision does not directly speak to whether this elector must sign the poll book, agency staff has interpreted this provision to allow such electors to receive a ballot without signing the poll list because to qualify for the procedure a voter must be prevented from entering the polling place due to a disability and § 6.79(2)(am) specifically authorizes the election inspectors to waive the signature requirement if the elector is unable to sign due to disability. To clarify the procedure, the Legislature could specifically direct that an elector voting under this provision is exempt from signing the poll book.
26. § 6.86(2)(b). This provision requires a clerk to send a 30-day notice to indefinitely confined voters that do not return their absentee ballot in order to stay on the “permanent absentee” voter list. However, there is not sufficient time between primaries and the subsequent general elections to do so and staff has previously advised clerks that such notice is only required after a general election. The Legislature could consider revising this section to recognize this practical impossibility and only apply this requirement to non-primary elections.
27. § 6.87(3)(d). This provision allows military and permanent overseas voters to receive their absentee ballot electronically. Voters who are temporarily overseas do not receive this transmission option and therefore must request their ballot significantly earlier to account for the additional time it will take for the blank ballot to reach them. In order to comply with the federal court consent decree in *United States of America v. State of Wisconsin, et al*, and to make Wisconsin Statutes consistent with federal law, the Legislature could revise this provision to allow temporary overseas voters to receive their ballot electronically.
28. § 6.875. This provision covers absentee voting procedures involving special voting deputies (SVDs). This section does not specify whether a municipal clerk must issue a 30-day notice to renew their absentee ballot request as an indefinitely confined voter if the voter declines to vote via SVD. The Legislature could clarify this section by stating that the voter may decline to receive their ballot on a form prescribed by the Commission, as well as indicate if they wish to remain on the list of indefinitely confined voters (“permanent absentees”). This is current practice and is included in the Commission’s SVD manual.
29. §§ 6.875(4)(b), 7.30(4). Wis. Stat. § 6.875(4)(b) sets forth the process by which individuals are appointed as special voting deputies. The process is similar to the process for appointing election officials generally as set forth in Wis. Stat. § 7.30(4), but does not specifically state that the process of 7.30 applies to these appointments. Staff have interpreted § 7.30(4) to include special voting deputies, but the Legislature could modify § 6.875(4)(b) or 7.30(4) to make this more clear.

30. § 6.97. This provision provides the option for a voter to cast a provisional ballot whenever they are required to provide proof of residence and cannot provide such documentation. Agency staff has interpreted this provision to only apply to persons who registered to vote on or before April 4, 2014 to coincide with when the G.A.B. directed clerks to stop accepting voter registrations that were missing proof of residence. After the few remaining voters in the statewide voter registration system who are still missing proof of residence provide such documentation or are removed from the list, this provision will no longer be necessary, and the Legislature may wish to remove this language to avoid the impression that a provisional ballot would be an option for new registrants who do not have a proof of residence.

### Chapter 7

31. § 7.25. This section enumerates the duties of election officials in using “voting machines”. Voting machines are defined in 5.02(24r) as “a machine which serves in lieu of a voting booth, and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on a ballot to cast their votes.” Wisconsin no longer uses mechanical voting systems like lever voting machines and this section should be updated to reflect current practices and technology.
32. § 7.41. This section provides for the public’s right to be present at the clerk’s office, alternate absentee voting sites, and polling places in Wisconsin to observe all public aspects of the election process. A growing concern among voters and observers is the ability of observers to take photos or record video of what occurs at these sites. Agency policy and draft administrative rules currently prohibit observers from photographing or recording video at these locations. The Legislature could consider explicitly setting forth the Legislature’s position on photography and video recording in these places in this section.
33. § 7.50(2). The Legislature recently removed language in this section related to the counting of write-in votes cast by affixing a sticker to the ballot (see 2015 Act 37). However, the Legislature did not affirmatively prohibit the use of such stickers by write-in candidates. As Wis. Stat. § 7.50(2) still requires election officials to count an elector’s vote the person which the voter intended, agency staff has advised election officials to continue counting votes for candidates whose voters use stickers to write-in that candidate’s name. The Legislature may wish to revisit this section to more explicitly address this scenario.
34. § 7.50(2)(em). 2013 Wisconsin Act 178 amended this provision to state that all votes for write-in candidates shall be tallied if a candidate on the ballot dies or withdraws before the election. However, Wisconsin Statutes do not provide a procedure for candidates to withdraw. The Legislature could correct this issue by striking “*or withdraws*” from this provision or specifying what constitutes a candidate’s withdrawal.



35. § 7.60(5)(a). This provision requires county clerks to deliver or transmit to the Commission a certified copy of each county board of canvass statement. In current practice, county clerks use the Commission's Canvass Reporting System (CRS) to generate those statements using their secure login credentials, and then mail a signed copy of that report to the Commission. The Legislature could modernize this provision by adding the language *in the manner prescribed by the commission after the county clerk shall deliver or transmit*, or consider replacing the word *certified* with *electronically signed*. In 2014, the Legislature made a similar change, allowing political committees to sign their campaign finance reports electronically when certifying that information to the G.A.B.

#### Chapter 8

36. §§ 8.10(5), 8.15(4)(b), and 8.20(6). These provisions outline the filing requirements for candidates, including their declaration of candidacy, nomination papers, and statement of economic interest (SEI). Under current statutes, candidates are not required to file their SEI until 4:30 p.m. the third day after the deadline for the other documents. The Legislature could consider changing the deadline to file an SEI to match filing of declaration of candidacy and nomination papers. This would provide a consistent deadline that could improve administrative efficiency and public awareness of candidates that will appear on the ballot. Staff recommends moving the deadline to file the SEI to match the 5:00 p.m. deadline on the day that the declaration of candidacy and nomination papers is due. The counterpoint to this policy change is that the later deadline provides an "escape valve" where candidates no longer wishing to appear on the ballot could simply not file their SEI. The later deadline also allows the candidate additional time to gather the required financial information, though they have already had considerable time to gather nomination signatures. However, staff believes that a consistent deadline would improve administration and better inform the public of candidates who achieve ballot status.

#### Chapter 9

37. § 9.01(2). This provision establishes the candidate notification requirements prior to conducting a recount. Current statutes require personal delivery of the petition to the candidate or an approved agent, by either the clerk or the sheriff. Providing notice of the recount petition could potentially be delayed if the candidate and/or their agent is traveling outside of the municipality, county, or state after the election. The Legislature could revise this provision by allowing a three-step process. The first step a clerk would take is to attempt personal delivery of the petition to the candidate or approved agent. The second step would be to obtain documented confirmation of acknowledgement by the candidate or agent (e.g., through email or a documented phone call). The clerk could then issue a public notice and proceed with the recount process, if those two options are unsuccessful within a reasonable time period.
38. §§ 9.01(1)(ar)3. and (b). These sections establish deadlines for convening the board of canvassers for conducting a recount but provide conflicting deadlines. The Legislature

could revise this section by setting the deadline to provide clarity, consistency, and sufficient time for clerks to prepare for conducting a recount.

#### Chapter 10

39. § 10.02(3)(b). This provision includes requirements for the information that must be contained in the Type B election notice. This language still refers to antiquated voting equipment technology and depressing levers. The Legislature could revise this provision to reflect modern voting equipment technologies.
40. § 10.04. This section relates to the publication of election notices and the fees charged for publication by newspapers. The Legislature could clarify this section by allowing publishing all types of elections notices as an insert, consistent with commercial rates for newspaper inserts.

#### Chapter 12

41. § 12.13(1)(f). This provision prohibits an elector from showing any person his or her marked ballot. Recent court cases have called into question the constitutionality of such a prohibition, particularly in the context of publicly sharing photos of a voted ballot via social media. The Legislature could consider revising or repealing this provision to avoid unnecessary litigation.
42. 12.60(4). This section relates to the prosecution of violations of Chapter 12 in accordance with the procedure outlined in Wis. Stat. § 11.1401(2). The Legislature could consider clarifying this language so it is clear that the Elections Commission, and not the Ethics Commission is the state agency that may make a finding of probable cause prior to a District Attorney pressing charges in a Chapter 12 matter.

### **C. TECHNICAL CHANGES**

#### Chapter 5

43. § 5.02(24r). This provision defines the term “voting machine” and includes mechanical voting equipment like lever voting machines. Mechanical voting systems have been entirely replaced by more modern electronic voting systems and the Legislature could consider revising this definition to remove the references to the antiquated technology.
44. § 5.51(2). This provision provides the requirements for the weight of paper used for hand-counted ballots using an arcane formula that is regularly misapplied by election officials. The Legislature could consider revising this requirement to specify a clearly understandable paper weight for ballots or direct the commission to specify the required paper weight for ballots.
45. § 5.60(3). This provision provides for a separate ballot for city offices, but unlike subsections for other levels of government this subsection does not require write-in

lines be provided. The Legislature could clarify that write-in lines must be provided for city ballots as well.

46. § 5.62(1)(a). This provision requires that independent candidates for state office appear on partisan primary ballots. This was previously necessary to determine the independent candidate's eligibility for public funding. As public funding for state candidates has been eliminated, this language should be removed.
47. § 5.72. This provision requires clerks to provide a ballot sample to Commission staff three weeks before any election for review. This conflicts with the 48-day deadline for ballots to be available for state and federal elections. The Legislature could address this by changing the deadline to "as soon as candidates are certified" instead. The Legislature could also consider making commission review of ballots voluntary, but still allow the commission to compel compliance with the prescribed ballot template, if necessary.

#### Chapter 6

48. § 6.02. This provision outlines the general qualifications to vote. The Legislature could clarify that for voter registration, a person turns 18 on the anniversary of their date of birth. This addresses the common sense versus common law issue previously addressed by the G.A.B., deciding that a person turns 18 on the anniversary of their date of birth.
49. § 6.03(3). This provision addresses the right to vote by persons under guardianship or adjudicated incompetent. State law currently reserves rights to the individual unless specifically determined by a court to be incompetent to exercise those rights. However, this provision contains old language requiring individuals subject to guardianship to have an affirmative finding that they are competent to vote. The Legislature could revise this provision to reverse the standard to assume competency as required by state law and cross-reference as necessary with other state laws on guardianship. This change would make this provision consistent with other state laws regarding guardianship and legal competency.
50. § 6.25(4). The last clause of this provision states, "*and, if the elector is an overseas elector, the elector resides outside of the United States.*" The Legislature could eliminate the redundant second half of this clause as an overseas elector is already defined in § 6.24(1) as someone who does not qualify as a resident of this state.
51. § 6.34. This section covers proof of residence (POR) requirements for voter registration. Throughout this section, there are several references to POR as an *identifying document*. The Legislature could replace those references with *proof of residence* to clarify the section and avoid any confusion with the proof of identification requirement.

52. §§ 6.34(3)(a)1 and 2. These provisions refer to using either a Wisconsin driver license or state-issued identification card as proof of residence. The Legislature could revise these sections to include a receipt for either Wisconsin Department of Motor Vehicles (DMV) product, consistent with DMV current practices of issuing a temporary receipt prior to the driver license or state-issued identification card.
53. § 6.34(3)(a)7. This provision allows for using a university, college, or technical college identification card as proof of residence for voter registration, with either a fee payment receipt or a list of students residing in school housing. The Legislature could clarify that the receipt or list of students must include the name and address of the registrant.
54. § 6.45(1). This provision requires the municipal clerk to make copies of the poll list for use in the election. It should be updated to clarify that paper copies of a poll list need not be produced when an electronic poll list is used.
55. § 6.46(2). This provision requires a municipal clerk to remove the poll lists from the office for the purpose of copying if a copying machine is not accessible in response to public records requests or in order to supply candidates with the poll list. The provision should be updated to replace “if a copying machine is not accessible” with “if producing copies of the lists at the clerk’s office is not possible.”
56. § 6.50(2r)(b). This provision lists the information the Commission must provide regarding the four-year voter list maintenance process. Specifically, this item is the number of postcards returned to the Commission as undeliverable. While the Commission would be sending out the postcards, the undeliverable mailings go to the municipal clerk. The Legislature could correct this issue by either striking the words *to the commission*, or replacing that phrase with *to the (municipal) clerk*.
57. § 6.96. This provision relates to the voting procedure for electors voting pursuant to a federal court order. The Legislature could revise this provision to require that the same notation shall appear resulting from an extension of voting hours by a circuit court as currently required after a federal court extension.

## Chapter 7

58. § 7.08(10). This provision requires that the Commission provide to each municipal clerk, on a continuous basis, the names and addresses of organizations certified to provide services to victims of domestic abuse or sexual assault. As the addresses of these organizations may be sensitive information in that they provide temporary shelter to victims, this information cannot be placed on the Commission’s website. Additionally, sending this information unsolicited to over 1,800 municipal clerks could also compromise the security of victims. To better promote the security of victims of domestic abuse or sexual assault, the Legislature could consider modifying this provision to only provide this information to municipal clerks as needed to confirm the eligibility of confidential voters.

59. § 7.15(1)(j). This provision requires municipal clerks to send absentee ballots to electors who have filed a proper request. The provision appears to be redundant with subparagraph (cm) and could be removed or consolidated with (cm).
60. § 7.52(1)(b). This section provides a procedure by which a municipality may canvass absentee ballots on Election Day in a location other than the polling place and authorizes the municipality to appoint additional election inspectors to administer this absentee ballot canvass. However, when 2013 Act 147 expanded the residency of election officials to the county in which they serve, it did not similarly modify the residency requirement for election inspectors appointed to assist with this absentee ballot canvassing process. For consistency of administration, the Legislature could consider modifying § 7.52 to also permit the appointment of individuals who reside within the county of a municipality using this procedure.
61. § 7.52(3)(b). This section lists the reasons for which an absentee ballot may be rejected by the board of absentee ballot canvassers. 2015 Act 261 recently added the lack of the witness' address to the list of reasons an absentee ballot may be rejected at the polls, but did not make a similar adjustment to this section. For consistency of administration, the Legislature could consider modifying 7.52(3)(b) to include this additional reason for rejection of the absentee ballot.
62. § 7.53(2)(a). This provision states that in municipalities with multiple polling places, the municipal board of canvassers (MBOC) consists of the municipal clerk and two other qualified electors of the municipality. The word "other" implies that the municipal clerk is a qualified elector, which is not always true as many municipalities appoint their municipal clerk without regards to residency. Agency staff has interpreted 7.53(2)(a) to require that a municipal clerk must be a qualified elector of the municipality to serve on the MBOC, although the clerk should always be present to advise the members of the MBOC and handle the administrative processes associated with the canvass. To affirm the agency's interpretation the Legislature could consider revising this language to clarify that the municipal clerk may only serve as a member of the MBOC if they are a qualified elector and specifying who fills this position on the MBOC if the clerk is not a qualified elector.

#### Chapter 9

63. § 9.10(2)(e). This provision provides the reasons to not count recall petition signatures. In 2013 Wisconsin Act 160, the Legislature required that all petitions include the legibly printed name of the signer. While 2013 Act 160 required the printed name for nomination papers and petitions, it did not add the same requirement for recall petitions. The Legislature could correct this by adding to this section a reason not to count a recall petition signature if the printed name is not legible. The sections that cover the requirements for petitions are also inconsistent. Sections related to nomination papers and petitions affirm the requirements of what individuals must provide, whereas the section on recall petitions identifies when not to count signatures.

Alternatively, the Legislature could revise this provision to state the information a recall petition must contain in order to count a signature, similar to the other sections.

#### Chapter 10

64. § 10.06(2). This section enumerates the various election notices that county clerks are required to publish. While subparagraphs (f) and (L) require the publication of a Type A Notice of Referendum Election before the spring and general elections, there are no similar provisions for such a notice for referenda held in conjunction with the spring or partisan primaries. There is also no requirement in this section for the Type C Notice of Referendum before these elections, although it is addressed in the general description of the Type C notice at 10.01(2)(c). For consistency, the Legislature could revise 10.06(2) to include similar referendum notice requirements for state or county referenda held in conjunction with these elections as with any other election.
65. § 10.06(3). This section enumerates the various election notices that municipal clerks are required to publish. While subparagraph (as) requires the publication of a Type A Notice of Referendum Election before the spring primary if there is direct legislation to be voted on, there is no requirement for such a notice for other referenda held in conjunction with the spring primary. There is also no requirement for the Type C Notice of Referendum for non-direct legislation referenda voted on at the spring primary or for any referenda to be voted on at the partisan primary, except as part of the general definition of the notice in 10.01(2)(c). Finally, there is no Type D Notice of Polling Hours and Locations requirement in this section for either the spring or partisan primary although it is required as part of the general definition of the Type D notice at 10.01(2)(d). For consistency, the Legislature could revise this section to include similar notice requirements for all elections.

#### **D. ADMINISTRATIVE RULE PROVISIONS**

66. § 10.01(1) directs the Commission to prescribe the form of the various election notices contained in that chapter to ensure they are uniform and to promulgate any necessary rules. The Commission previously authorized to pause rulemaking on this topic until it is clear whether legislation will be introduced in lieu of rulemaking.
67. § 6.34 lists the acceptable forms of proof of residence that may be used as part of a voter registration application. The Commission previously reaffirmed that an elector may present an electronic version of a proof of residence document, and placed rulemaking on hold until it is clear whether legislation will be introduced in lieu of rulemaking.
68. Agency policy has permitted an overseas voter to have a U.S. citizen witness the absentee voting process via an internet video service such as Skype or Facetime if the voter is unable to locate a U.S. citizen to witness the process in person. The Commission previously authorized staff to pause rulemaking regarding this scenario until it is clear whether legislation will be introduced in lieu of rulemaking.

69. Current Wis. Adm. Code § 3.04(2) allows for a provisional ballot to be issued to a voter that is unable or unwilling to provide their DOT issued driver license or DOT issued state ID card number on the registration application. The rule allows the individual issued a provisional ballot under this category to provide the number to the clerk no later than 4:00pm on the day after the election. Individuals issued a provisional ballot in all other categories must provide the required piece of information to the clerk by 4:00pm by the Friday after the election. The Commission previously directed staff to halt rulemaking to standardize the date upon which a provisional voter must provide information to the clerk for their ballot to be counted until it is clear whether legislation will be introduced in lieu of rulemaking.
70. § 6.875(3)(b) uses the term “same grounds” in relation to voting via special voting deputies but no corresponding definition is provided to inform clerks as to what this phrase could encompass. The statute is also ambiguous as to whether individuals residing in a retirement home on the *same grounds* as a residential care facility served by special voting deputies may vote by that method. The Commission previously authorized staff to defer rulemaking regarding the “same grounds” definition until it is clear whether legislation will be introduced in lieu of rulemaking.

**E. CHAPTERS NOT ADMINISTERED BY THE WISCONSIN ELECTIONS COMMISSION**

71. § 59.23(2)(s). This provision requires county clerks to provide a list of local officials to the Secretary of State. This information would help the Commission maintain accurate information on current office holders and election administration. The Legislature could revise this provision by requiring county clerks to also provide this list to the Commission or require the Secretary of State to forward a compiled report to the Commission.
72. § 66.0217(9). This provision requires a municipality that annexes territory to file a copy of the related ordinance with the Secretary of State. The Secretary of State is required to forward copies of that ordinance within 10 days of receipt to the Departments of Administration, Revenue, Public Instruction, Natural Resources, Transportation, Agriculture, and Trade and Consumer Protection. The Legislature could add Commission to the list of agencies that receive a copy of the ordinance, certificate, and plat from the Secretary of State in order to ensure accurate and current district boundaries recorded in the statewide voter registration system. The G.A.B. previously approved this recommendation.
73. Chapter 66 – Subchapter II. This subchapter generally describes the processes by which a municipality may incorporate or adjust municipal boundaries. Staff has been involved in several incorporations and boundary agreements where the provisions of this subchapter appear inconsistent with the rules applied to other petitions and referenda in Chapters 5-12. The Legislature could consider revisiting this subchapter to harmonize its provisions with the rules governing other forms of petitions and referenda.

**Recommended Motion:**

The Commission adopts the items listed above as the Commission's 2019 – 2010 legislative agenda and directs staff to work with the Legislature to draft legislation consistent with this agenda and to continue to update the Commission as to significant policy and administrative issues raised by proposed legislation. The Commission also directs staff to continue working with clerks and legislative authors of the proposed legislation regarding alternate absentee voting procedures to review subsequent drafts and provide feedback regarding administrative and significant policy issues to be considered and addressed. In addition, the Commission specifically requests the Legislature to enact legislation to implement and make permanent the changes required by the federal court consent decree in *United States of America v. State of Wisconsin, et al*, related to temporary overseas electors.



December 3, 2018

Wisconsin Elections Commission Meeting Minutes

**J. Legislative Agenda**

Mr. Haas and Senior Elections Specialist Nathan Judnic made a brief presentation based on a memorandum starting on page 38 of the December 3 Commission meeting materials regarding the Commission's legislative agenda. The memorandum categorizes 73 possible legislative changes into five categories: major policy initiatives, minor policy initiatives, technical changes, administrative rule provisions and chapters not administered by the WEC.

Chair Knudson said he believes the Commission's top legislative priority should be the confirmation of Meagan Wolfe as administrator. Commissioners also discussed statutory changes necessary to require additional post-election audits and the need for clean-up legislation for minor statutory issues. Mr. Haas said staff is working with Representative Bernier's staff on cleanup legislation.

**MOTION:** That the top legislative priority of the Wisconsin Elections Commission for the coming session is the confirmation of Meagan Wolfe as administrator, and to communicate that priority by letter to the Senate. Moved by Commissioner Knudson, seconded by Commissioner Thomsen.

Motion carried unanimously.

**MOTION:** The Commission adopts the items listed in the Legislative Agenda memorandum as the Commission's 2019 – 2010 legislative agenda and directs staff to work with the Legislature to draft legislation consistent with this agenda and to continue to update the Commission as to significant policy and administrative issues raised by proposed legislation. The Commission also directs staff to continue working with clerks and legislative authors of the proposed legislation regarding alternate absentee voting procedures to review subsequent drafts and provide feedback regarding administrative and significant policy issues to be considered and addressed. In addition, the Commission specifically requests the Legislature to enact legislation to implement and make permanent the changes required by the federal court consent decree in *United States of America v. State of Wisconsin, et al*, related to temporary overseas electors.

Moved by Commissioner Jensen, seconded by Commissioner Gill.

Motion carried unanimously.

## Appendix D

# Wisconsin Elections Commission's Additional Legislative Agenda for 2019-2020

# WISCONSIN ELECTIONS COMMISSION

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JODI JENSEN  
MARK L. THOMSEN

INTERIM ADMINISTRATOR MEAGAN WOLFE

## MEMORANDUM

**DATE:** For the March 11, 2019 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Interim Administrator

Prepared and Presented by:  
Michael Haas

**SUBJECT:** Commission Legislative Agenda

At the meeting of December 3, 2018, the Commission adopted a legislative agenda for the 2019 - 20 legislative session which included recommendations related to over 70 items. Commission staff has met with legislative staff and Legislative Reference Bureau drafting attorneys and expects a significant share of those items to be addressed in legislative proposals.

Commission staff is requesting feedback regarding the following three additional items for the legislative agenda.

1. Voter Name and Address Requirement: Wis. Stat. § 6.79(2) states that before receiving a ballot at the polling place, each voter must state their name and address. Periodically we have heard from voters with disabilities who are unable to verbally state their name and address. Given that the Americans with Disabilities Act requires governmental services to be provided to all qualified voters, Commission staff has advised that a voter who is unable to speak their name and address due to a disability should still receive a ballot. In practice, this means that the name and address are verified and stated in another way, such as the election inspector reading the information from a photo ID card, other document, or poll list, or another individual assisting the voter by stating the name and address. These alternatives accomplish the statutory goals of the voter confirming their name and address and permitting election observers to hear that information for each voter.

Several statutes specify that voters may obtain assistance during various stages of the voting process, including completing a registration application, requesting an absentee ballot, and marking a ballot. Also, Wis. Stat. § 5.36 states that an individual with a disability may notify their municipal clerk to request a specific type of accommodation at the polling place. The statutes do not specifically address assistance with the requirement to state a voter's name and address, especially without notifying the municipal clerk in advance.

The Commission discussed this issue with its Accessibility Advisory Committee at its meeting on February 27, 2019. The Advisory Committee consists of representatives of organizations which work with and advocate on behalf of persons with disabilities. Committee members expressed concerns with the potential that an election inspector may strictly apply the requirement for a voter to state their name and address and deny a ballot to a voter who is unable to verbalize that information, or at least to discourage individuals from voting in the first place. Some members of the Committee advocated for completely removing the requirement for all voters. After discussion regarding the right of election observers to hear the voter's name and address and transparency in the voting process, the Committee adopted a motion requesting that the Elections Commission request a change in the statutes to specifically address the requirement. The Committee passed the following motion:

The Accessibility Advisory Committee requests that the WEC support legislative changes to allow voters with disabilities to receive assistance from an election inspector or another individual to satisfy the statutory requirement to state the voter's name and address before receiving a ballot, and work with the Accessibility Advisory Committee and the Legislature to enact such legislation.

2. **Ballot Harvesting Statutes:** Media attention on absentee voting improprieties in a North Carolina Congressional election has generated discussion regarding whether Wisconsin Statutes adequately address potential issues with "ballot harvesting." The practice of ballot harvesting involves an individual collecting marked absentee ballots from voters and returning them to the local clerk. In North Carolina a political operative allegedly did not return some absentee ballots collected from voters and also altered votes on some collected ballots.

Wisconsin Statutes do not prohibit the return of absentee ballots by individuals other than the voter. Commission staff is not aware of efforts of any political campaign or other organization systematically contacting absentee voters to collect marked ballots and offering to return them to the clerk. However, given that the Statutes require the Commission to offer a subscription service providing continually updated information about the issuance and return of individual absentee ballots, a greater potential may exist for absentee voters to be contacted and asked if they need assistance in returning their ballot.

Wis. Stat. § 12.13(3)(m) prohibits fraudulently changing a ballot of an elector so the elector is prevented from voting for whom the elector intended, and violations are punishable as a Class I felony. This addresses one of the risks of ballot harvesting. Several provisions of Section 12.13 may be interpreted to prohibit failing to return a marked absentee ballot collected from another voter but contain general language which may not be clearly on point. The Commission could request that the Legislature insert language into Section 12.13(3)(m) to clearly prohibit failing or refusing to deliver a marked ballot collected from another voter to the municipal clerk or polling place, and to classify violations as a Class I felony.

3. **Certification Deadline in Absence of a Potential Recount:** Following the completion of the official canvass at the local, county, and state levels, the appropriate filing officer issues a

certificate of election to the winning candidates. Whether at the level of a municipality (Wis. Stat. § 7.53(4)), school district (Wis. Stat. § 7.53(3)(a)), county (Wis. Stat. § 7.60(6)) or state (Wis. Stat. 7.70(5)), the filing officer may not issue the certificate of election until the expiration of the time for filing a recount, which is three days after the official canvass is completed. When a recount petition is filed, the certificate of election is not issued until the completion of the recount or any court action resulting from the recount.

Legislation was enacted in 2017 to limit the right to request a recount to an “aggrieved party,” which is defined as a candidate who lost by no more than 40 votes when the total votes cast for the office was 4,000 or fewer, or a candidate who lost by no more than one percent of the total votes cast for the office when that total exceeds 4,000. That legislation did not amend the timeline for issuing a certificate of election when the initial canvass results indicate there is no aggrieved party that may request a recount. In some cases, clerks and even the Commission would benefit from being able to issue certificates of election sooner when there is no candidate qualified to request a recount. The Commission could request that the Legislature update the relevant statutes to permit certificates of election after completion of the official canvass when there is no aggrieved party.

**Recommended Motion:**

The Commission adopts the additional items outlined above to be included in its legislative agenda and directs staff to work with the Legislature to enact appropriate statutory changes.

March 11, 2019

Wisconsin Elections Commission Meeting Minutes

**J. Legislative Update and Agenda**

At the Chair's direction, this item was taken out of order.

Elections Specialist Robert Williams made a presentation based on a memorandum starting on page 90 of the March 11 Commission meeting materials regarding pending legislation.

Commissioners and staff discussed a bill that would remove the prohibition against a voter showing his or her marked ballot to another person.

Staff Counsel Michael Haas made a presentation based on a memorandum on page 92 of the Commission's meeting materials regarding the Commission's legislative agenda. He said staff is working with the Legislative Reference Bureau on drafting legislation to accomplish the agenda. There are three items for the Commission to consider adding to its legislative agenda: an exception to the requirement that a voter state their name and address; ballot harvesting statutes; and certification deadline in absence of a potential recount.

Commissioners and staff discussed the bill to allow voters with disabilities to receive assistance to satisfy the requirement for voters to state their name and address to receive a ballot. They also discussed a bill to revise statutes regarding curbside voting to make it more consistent with the Commission's guidance.

**MOTION:** Adopt the additional items outlined above to be included in its legislative agenda and directs staff to work with the Legislature to enact appropriate statutory changes.

Moved by Commissioner Thomsen, seconded by Commissioner Jensen.

Motion carried unanimously.

# Appendix E

## Wisconsin Elections Commission's Legislative Agenda for 2020-2021



# 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

## MEMORANDUM

**DATE:** For the March 2, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Commission Legislative Agenda

Historically, the Wisconsin Elections Commission has adopted a legislative agenda for each year of a legislative session. The Commission's legislative agendas have focused solely on technical changes and drafting errors in election provisions. Most recently, at the meeting of December 3, 2018, the Commission adopted a legislative agenda, and on March 11, 2019, the Commission met to add additional items to their agenda. In total, the Commission adopted more than 70 technical, clean-up items over the last three years. For the Commission's reference, both of previous Commission memos outlining the last two legislative agendas are included as attachments. In 2019, both houses of the Wisconsin Legislature drafted bills which incorporated the Commission's legislative agenda into Senate Bill 242/Assembly Bill 247, Senate Bill 241/Assembly Bill 246, and Senate Bill 240/Assembly Bill 245. The bills received a hearing in the senate and assembly, but ultimately were not signed into law. During the legislative drafting process, the Legislature asked for more detail about each of the Commission's legislative agenda items. In response, WEC staff drafted three memos outlining the background of each suggested change. Those memos are also included as attachments to this document.

As you can see in the Commission's previous legislative agendas, the Commission has historically adopted technical items pointing out drafting errors or timeline conflicts. The Commission has long taken the position that it is not a legislative body, and therefore, has not taken positions as a body on policy decisions or political positions related to elections. In those instances when Commissioners have had individual opinions about legislation, they have typically provided that policy and political feedback directly to legislators in their individual capacity, being careful to indicate that they are not speaking on behalf of the Commission as a whole. In instances when the legislator is seeking feedback on a bill or idea that the Commission has not taken a position on, the Administrator has met with legislators or appeared to testify at hearings to provide non-partisan, factual testimony for information only, often focused on the fiscal impact of a bill, the mechanics of implementation or potential conflicts with existing statutes.

For the 2021 session, staff recommends that the Commission continue its support of the previous legislative agendas from 2018 and 2019, and that the Commission also consider whether to add the four items listed below to the agenda. Adding an item to the Commission's legislative agenda requires at least four votes of the Commission. Without four votes to change the agenda, the agenda will remain unchanged from previous years. If the Commission adopts a legislative agenda at the March 2, 2021, meeting, a letter outlining the Commission's decision will be sent to Senate and Assembly minority and majority leadership as well as the

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*Administrator*  
Meagan Wolfe



chairs of the Senate and Assembly election committee. If a bill is introduced that incorporates an item from the Commission's legislative agenda, then the staff would work with the legislator to support those legislative changes and the Administrator would present testimony to the Legislature "in support" of the bill if invited to testify. Two of the recommended items (SVD and Canvass Certification) do not suggest a specific fix to the Legislature, rather they point out that clarity is needed. In these instances, staff will continue to collect feedback from clerks and other subject matter experts that can be provided to the Legislature as information if asked for feedback on a specific solution the Legislature is proposing.

It is further recommended that if the Commission chooses to adopt these items as part of the legislative agenda, the letter expressing support would also include a statement that the Commission recommends that the technical clean up items remain part of stand alone bills and not be combined with other matters.

Commission staff is requesting feedback regarding the following four additional items for the legislative agenda and asks that the Commission consider adopting these items and adding them to the current legislative agenda.

**a. Federal and State Absentee Ballot Deadline Issues (A/B Ballots)**

*Background:* The Legislature may wish to address conflicting statutory deadlines to limit the necessity of A/B ballot scenarios when a federal contest is on the ballot in the spring.

Wis. Stat. § 7.15(1)(cm) states, "The clerk shall send or transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received."

This requirement is in addition to the 45-day deadline under federal law to send absentee ballots to all UOCAVA voters (military and overseas) prior to each federal election. For state and local elections, the deadline to send ballots to voters with an absentee application on file is 21 days before the election. This becomes an issue when the Spring Election and the Presidential Preference Vote occur on the same day – as it creates different deadlines for when ballots must be sent out. The 47-day and 45-day deadlines for sending ballots is prior to the certification deadline for the Spring Primary, therefore it is impossible to have a full ballot available to send that far out from the election.

This situation results in the A/B ballot scenario, with an "A" ballot being sent that only contains the Presidential Preference contest 47-days prior, and then the "B" ballot being sent no later than 21 days before the election which contains all contests on the ballot (federal, state, local).

In February 2020, the Commission conducted a special meeting and directed that "A" ballots should only be sent to military and overseas voters by the 47-day state deadline and the 45-day federal deadline; "A" ballots should not be sent to regular absentee voters with requests on file and clerks should wait to send the official (full) ballot by the 21-day deadline to regular absentee voters with requests on file.

*Potential Legislative Agenda Item:* The Legislature could consider changing the statute to direct clerks to send an "A" ballot only to military and overseas electors by the 45<sup>th</sup> day prior to the election, respond to any requests from military and overseas electors within one business day, and then send the full ballot to all voters with requests on file once it is available, but no later than 21 days prior to the election.

## **b. Special Elections – U.S. Senator and Representative in Congress**

*Background:* The ordering of a special election to fill vacancies in U.S. Senate and House of Representative offices is the statutory duty of the Governor. However, Commission staff traditionally provide information to the Governor's office regarding timelines and specific conflicts that could occur if certain dates are selected. Commission staff have found that the special election statutes under Wis. Stat. § 8.50 can be difficult to navigate at times, and they sometimes mandate deadlines that do not allow sufficient time to canvass and certify primary results before ballots must be prepared and sent to military and overseas voters under federal law.

To ensure that state and federal laws can be complied with when vacancies in the offices of U.S. Senator or Representative in Congress occur and special elections are called to fill these vacancies, the Legislature could consider modifications to the current special election statutes.

Under current law, a vacancy in the office of U.S. Senator or Representative in Congress occurring prior to the second Tuesday in April in the year of the general election must be filled at a special primary and special election. A vacancy occurring in one of these offices between the second Tuesday in April and the second Tuesday in May in the year of the general election is filled at the partisan primary and general election. Wis. Stat. § 8.50(4)(b). Current law provides that a special primary be held four weeks before the day of the special election. However, if the election is held on the same day as the spring election, the special primary is held concurrently with the spring primary. Wis. Stat. § 8.50(2). Under current law, with regard to an election for a national office, the period between a special primary and special election or between the spring primary or spring election does not provide sufficient time to canvass and certify the primary results and prepare ballots to send to overseas voters as required by federal law.

*Potential Legislative Agenda Item:* To address these ballot timing issues, the Legislature could consider making the following changes in the process for filling vacancies in the offices of U.S. Senator or Representative in Congress:

For special elections to be held on the third Tuesday in May following the first day of the vacancy with a special primary to be held concurrently with the spring primary on the third Tuesday in February; at a special election to be held on the second Tuesday in August following the first day of the vacancy with a special primary to be held on the third Tuesday in May; at a special election to be held on the Tuesday after the first Monday in November following the first day of the vacancy with a special primary to be held on the second Tuesday in August. In addition to these changes, a November election would not be held in any year in which the general election is held for that office, but instead the vacancy is filled at the partisan primary and general election.

## **c. Canvass and Certification Timeframes**

*Background:* Current law sets the certification timeline for various boards of canvass. The municipal board of canvassers must meet no later than 9:00 a.m. on the Monday after the election and complete their work no later than 4:00 p.m. on that same day. Wis. Stat. §§ 7.51(5)(b), 7.53(1)(a), (2)(d). The county board of canvass must convene no later than 9:00 a.m. on the Tuesday after the election and must deliver a statement of canvass to the WEC no later than nine days after each primary, 10 days after each partisan primary and other election and 14 days after a general election. Wis. Stat. § 7.60(5). The Commission conducts its canvass (within 10 days of commencement) of results received by the counties and must certify on or before the second Tuesday following a spring primary, the 15th day of May following a spring election, the third Wednesday following a partisan primary and the first day of December following a general election.

Some municipal clerks have expressed concern that the timeframe for the local level to conduct its canvass is much shorter than the timeframe allowed for the county and state to conduct its canvass and certify results.

*Potential Legislative Agenda Item:* The Legislature could consider amending some of the timing statutes related to canvass to allow municipalities additional time to conduct their canvass and certify results. Given the number of days allowed for the county and state to conduct its canvass work, the Legislature could consider adding days to the municipal level and subtracting days from the county and state level. This may also create an opportunity for municipal and county clerks to include additional checks on the process before election results are certified at each level of government, such as reviewing tally tapes for an unusual rate of overvotes or other anomalies.

#### **d. Special Voting Deputies**

*Background:* Current statutes are not clear on how to handle situations in which special voting deputies are not permitted to conduct voting at a care facility as outlined in Wis. Stat. § 6.875 due to a pandemic, facility-specific quarantine, natural disaster or some other reason. Commission staff have recommended that statutory changes to address this scenario could be included as part of the Commission's legislative agenda.

While the Commission does not recommend specific statutory changes or language, it may wish to advise the legislature that a change is needed to address circumstances in which SVDs are not allowed to enter a care facility. The Commission has further directed WEC staff to research options, and to provide the Legislature with feedback from accessibility and ageing advocates, public health officials, and other subject matter experts on request. Commission staff would share this research with the legislature if/as requested.

Some ideas for consideration:

- The Legislature could consider adding language that would permit clerks to send ballots to residents of facilities in which SVD voting cannot be conducted without requiring two separate visits by an SVD. This may include clarifying what constitutes a "visit" to the facility in the event that a facility is not open to visitors, including SVDs.
- The Legislature could indicate the specific situations in which the direct sending of ballots to residents (similar to the provision currently contained in Wis. Stat. § 6.875(6)(e)) would be authorized and the timeframe upon which ballots should be sent to ensure residents are provided an opportunity to cast their ballot and have it returned on or before election day. Such a change would clarify that SVDs would not be required to show up at facilities to post a notice (initially) for voting or to conduct the voting itself (two visits) if they are only going to be denied by the facility due to one of the reasons outlined.
- The Legislature could include the method by which SVDs and clerks are notified that a facility will not allow SVDs to post a notice or conduct voting, and it could include a timeline by which that notification should occur – so that residents, administrators, SVDs and clerks are all aware that ballots will be sent to voters for a specific election because visitors are restricted due to an outbreak at a facility, for example.
- The Legislature could insert transparency provisions into the statutes so that the public, and potentially families of residents, are aware that voting will need to be conducted via mail due to the

reason cited. While each clerk's office and care facility will have different access to technology, remote observation, in a controlled, secured setting could also be contemplated.

- The legislature could consider options where SVDs may be allowed to access a facility, but observers may not, and allow for an exception.
- The legislature could consider repealing the prohibition on care facility staff assisting voters and allow clerks to deputize care facility staff as SVDs during quarantines or other emergencies.

*Potential Legislative Agenda Item:* While the Commission does not take a position on which statutory change should be pursued, it asks the Legislature to examine this issue and to clarify the law to specifically address how voters in SVD care facilities shall participate in voting in the event that the facility has a legitimate reason, such as medical quarantine, physical security concern, or natural disaster, to deny SVDs and/or observers from accessing the facility. WEC further asks that the Legislature examine not only election related laws, but the intersection with laws and accreditation standards that govern care facilities, and well as the medical privacy of voters.

**Recommended Motion:**

The Commission adopts the additional items outlined above to be included in its legislative agenda and directs staff to work with the Legislature to support these statutory changes. The Commission further directs staff to submit a letter to legislative leadership outlining the Commission's decision and indicating that the Commission further recommends that WEC legislative agenda items remain stand-alone bills and that the technical changes should not be paired with other bills or items.

March 2, 2021

Wisconsin Elections Commission Meeting Minutes

**I. Consideration of Updates to Commission's Legislative Agenda**

Administrator Wolfe gave a presentation based on a memorandum starting on page 76 of the March 2, 2021, commission meeting materials packet regarding the Commission's history of submitting a legislative agenda, examples of past legislative agendas. She discussed four new items which the staff recommends the Commission include in its current legislative agenda. The four are 1.) Federal and State Absentee Ballot Deadline Issues (A/B Ballots), 2.) Special Elections – U.S. Senator and Representative in Congress, 3.) Canvass and Certification Timeframes, and 4.) Special Voting Deputies.

Administrator Wolfe said staff recommends that the Commission adopt the additional items outlined in the memorandum to be included in its legislative agenda and direct staff to work with the Legislature to support these statutory changes. The Commission further directs staff to submit a letter to legislative leadership outlining the Commission's decision and indicating that the Commission further recommends that WEC legislative agenda items remain stand-alone bills and that the technical changes should not be paired with other bills or items.

**MOTION:** That items 1, 2 and 3 be accepted, and discuss 4 afterwards because that's controversial.

Moved by Commissioner Spindell, seconded by Commissioner Knudson.

Discussion.

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

Motion carried unanimously.

**MOTION:** Item 4, Special Voting Deputies, is postponed until such time as staff reports its recommendations on Special Voting Deputies. Moved by Commissioner Spindell, seconded by Commissioner Thomsen.

Discussion.

Commissioner Spindell withdrew the motion.

# Appendix F

Letter to the Governor  
regarding  
Special Voting Deputies



# Wisconsin Elections Commission

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

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September 17, 2021

The Honorable Tony Evers, Governor  
Room 115 East, State Capitol  
Madison, WI 53703

Dear Governor Evers:

The Wisconsin Elections Commission directed me to provide you with the information contained in this letter as a result of several motions passed during their recent public meeting.

During the September 9, 2021 meeting of the Wisconsin Elections Commission, the Commissioners discussed potential legislative changes for situations when Special Voting Deputies (SVDs) do not have access to a nursing home or qualified care facility to administer absentee voting as prescribed in current statute (*see* Wis. Stat. § 6.875). The Commission passed several motions related to this issue and directed staff to provide the staff memorandum to the Governor's office and leaders of the Wisconsin Assembly and Senate. The staff memorandum is included as an attachment to this communication and outlines several different options for potential legislative changes and includes feedback on these options provided by Wisconsin county and municipal clerks and advocates for the aging and disability communities.

In addition to directing staff to provide this memorandum to your office, the Commission also passed the following motion related to the agency legislative agenda:

Add to the legislative agenda a provision within statute that Special Voting Deputies and observers be defined as essential visitors, which would guarantee their entry to facilities to administer absentee voting. They would be required to comply with all reasonable health requirements of the facility upon entry.

The Commission also passed an additional motion directing staff to send a letter to the Governor to:

...request the Governor and his administration define Special Voting Deputies as essential visitors, which would guarantee their entry to administer absentee voting, and they must comply with all reasonable health requirements and procedures of the facility upon entry

For your reference, the meeting materials, draft meeting minutes and video of the public meeting can be found on the agency website here: <https://elections.wi.gov/node/7369>.

Please let me know if you have any questions about these issues and I will be happy to discuss them with you.

*Wisconsin Elections Commissioners*

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

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Administrator  
Meagan Wolfe

Letter to Governor Evers RE Special Voting Deputies  
September 17, 2021  
Page 2 of 2

Sincerely,

A handwritten signature in black ink that reads "Meagan L.M. Wolfe". The signature is written in a cursive style with a large, stylized 'M' at the beginning.

Meagan Wolfe  
Administrator  
Wisconsin Elections Commission

Attachment





# 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

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**DATE:** For the September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Potential Special Voting Deputy Statutory Changes

## Introduction

During the March 2, 2021, meeting of the Wisconsin Elections Commission, the Commissioners directed staff to research potential legislative changes for situations when Special Voting Deputies (SVDs) do not have access to a nursing home or qualified care facility to administer absentee voting as prescribed in current statute. The motion passed by the Commission was as follows:

**Motion:** Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, as part of the Commission's 2021 legislative agenda.

This memorandum provides an overview of the current statutes and identifies potential options for statutory changes for consideration of inclusion to the Commission's legislative agenda.

## Current Process

Current state law requires the SVDs to "...arrange one or more convenient times with the administrator of each qualified retirement home and residential care facility in the municipality that the deputies are scheduled to visit." Wis. Stat. § 6.875(6)(a). Many SVDs will arrange and notice two or more visits proactively so there is no delay in assisting voters that were unable to attend a prior visit. Visits cannot begin any earlier than the 4<sup>th</sup> Monday prior to election day and the final day for SVD visits is the Monday prior to election day. If a voter or entire facility worth of voters is unavailable for SVD visits, state law states that the clerk may mail a ballot to all voters with active absentee requests on file who could not vote with SVDs. This process is based on Wis. Stat. § 6.875(6)(e) which states "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 or executive director of the board of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on the Friday preceding the election."

*Wisconsin Elections Commissioners*

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

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*Administrator*  
Meagan Wolfe

### **Preliminary Considerations**

WEC staff has identified several components of the Special Voting Deputy process that could be considered when Commissioners determine which changes to current statute they would like to add to their legislative agenda. Several of these are already accounted for in the current statutes that prescribe the SVD process, but some of them may be new considerations due to the type and nature of the changes suggested by the Commission.

1. **Family members.** Wis. Stat. § 6.875(6)(c) provides two different opportunities for relatives of facility residents served by SVDs to be involved in the process. First, Wis. Stat. § 6.875(6)(c)1 states that a relative, defined as a spouse or relative within the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree of kinship, may be present during voting and assist the voter with marking their ballot. In addition, Wis. Stat. § 6.875(6)(c)2 allows for a relative of a care facility relative to request the time and date of SVD visits from the care facility administrator and be present when voting is taking place. Any legislative changes proposed by the Commission may need to account for access to the process by relatives of care facility residents. Options for observation by relatives could include options for virtual observation, such as through a video conference application. In addition, statutory changes could identify whether the facility, municipal clerk, resident or relative is responsible for providing the technology necessary to facilitate virtual observations of the SVD voting process.
2. **Election Observers.** State law also allows observers from the two recognized political parties whose candidate for governor or president received the most votes in the last general election to be present when SVD voting is taking place. Any legislative changes proposed by the Commission may need to provide for observation opportunities for representatives of the political parties as provided in Wis. Stat. § 6.875(7).
3. **Notice requirements.** State law requires the municipal clerk to post a notice containing the date and time of SVD visits at least five days prior to each visit. The Commission may wish to consider recommending a shortened notice period or other changes during pandemic conditions to increase the speed for mailing absentees and not orphaning voters.
4. **Overreliance on technology.** Access to technology is not uniform across jurisdictions, so statutory changes that prescribe mandatory procedures that are reliant on technology may be difficult to implement in a uniform manner across the state. In instances where required technology is not available, an alternative option may need to be identified and codified in statute.
5. **Uniformity.** Uniformity in procedures used to administer voting in care facilities and nursing homes should be considered when the Commission determines which options they would like to add to their legislative agenda. Procedures which are universal in nature were recommended throughout 2020 by advocates and nursing home and care facility administrators so that training, guidance and communication can be streamlined and efficient.
6. **Defining access restrictions.** Current statute does not effectively define or account for situations where SVDs cannot access a qualified facility to administer absentee voting. Legislative recommendations adopted by the Commission could seek to define these situations to provide clarity for when alternative provisions are necessary or allowable.

### **Potential Additions to the WEC Legislative Agenda**

1. **Proceed to sending ballots if voter and/or facility are unavailable.** This option would be similar to the current process outlined in the WEC *Absentee Voting in Residential Care Facilities and Retirement Homes* manual (<https://elections.wi.gov/publications/manuals/nursing-home-absentee>), but language could be added to statute acknowledging these circumstances and giving clerks and SVDs directives on how to proceed. Wis. Stat. § 6.875(6)(e) could be amended to add language such as: “If a municipal clerk, board of election commissioners or special voting deputies are informed by personnel at the qualified retirement home or care facility that scheduling special voting deputy visits is not possible, the municipal clerk or board of election commissioners shall proceed to send the ballot to all eligible electors with active requests on file as soon as practicable, but not later than 5 p.m. on the Friday preceding the election.”

**Feedback:** Municipal and county clerks who provided feedback were generally supportive of this option, but felt that some clarifications would be helpful to make administering this requirement easier. All were in agreement that a definition for when a facility is unavailable would help to deter facilities from closing to SVD voting due to staffing shortages or reported lack of interest in voting from residents. Language such as “not possible due to serious health or property emergency” was suggested for the purpose of clarifying applicable situations.

In addition, the clerks expressed interest in an option for municipal clerks to hand deliver unvoted ballots in a sealed container directly to the facility if it were to be closed to SVDs and to pick up voted ballots directly from the facility. This process should include chain of custody documentation when ballots were delivered and picked up, and would allow for a more efficient voting process for residents rather than relying on mail delivery in both directions.

Clerks also expressed interest in extending the timeline for nursing home and care facility voting to further out from election day to allow voters in facilities unable to be served by SVDs more time to receive, vote, and return their ballot.

Advocates for the aging and disability communities were in agreement with these suggestions as they would provide more opportunity for voters to participate in an election. They expressed specific interest in the timeline change as they noted there are always some residents unavailable during SVD visits even if the facility is open to visitors. The updated timeline would also allow for more voter registration opportunities for residents served by SVDs as there would be a longer time for SVD visits during open registration when SVDs are allowed to register voters if they are also appointed as Election Registration Officials. Currently, voter registration may only take place during the first two days of SVD visits as registration closes 20 days prior to each election. They also expressed a strong interest in instituting training requirements for care facility staff who may need to assist residents with voting if they cannot vote with the SVDs.

2. **Conduct two tele-visits and then proceed to mailing ballots.** This option represents the process outlined in the Commission’s administrative rule that was sent for promulgation as an emergency rule prior to the 2021 Spring Election but was not approved before April 6. Statute would be amended to satisfy the two-visit requirement by using a tele-visit option to meet with the facility administrator or authorized representative to confirm the facility is not open to nonessential visitors. Once the tele-visits are completed, the clerk would proceed to sending the ballot to all impacted voters who reside in that facility under the current statutory provision for sending ballots after two visits have been made.

**Feedback:** Both county and municipal clerks expressed concern over the viability of this option after administering a similar program for the April 2021 Spring Election. They reported difficulty in scheduling the tele-visits with the facility and some facilities never showed up on the call at the noticed time of the open meeting. This option is reliant on technology, so clerks were concerned about technology-related issues causing visits to be rescheduled and further delaying the transmittal of ballots. One clerk described their experience as such:

Tele-visits seemed like a good idea on paper, but they were terrible to implement. I arranged in advance the date and TIME of the tele-visit call between the SVDs and the facilities. On numerous occasions, I called to connect to the person “administrator or social worker” the appointment was scheduled with and was told the person was unavailable. Numerous times I was put through to their voice mail. I’d call back to the main line and the person would have no idea where the person was or when they’d be back, even though I had pre-arranged for the tele-visit in advance. We’d end up speaking to the person who answered the main line and they would tell us the facility was closed. Often, they were uncomfortable to address whether or not they would allow the SVDs to conduct voting.

They also expressed concern over how many attempts at rescheduling, and re-noticing, these visits should be required, especially if the tele-visit could not take place due to facility staff failure to show up. Clerks also expressed interest in an alternate option if tele-visits were unable to be scheduled or if the tele-visit did not take place as scheduled due to technology or participation issues from facility administrators.

The advocates consulted as part of this review also stated concerns over the differing level of technology available at smaller facilities and delays caused by the potential rescheduling of tele-visits for logistical reasons.

3. **Allow for virtual SVD visits.** Statute could be amended to accommodate a process for SVDs to conduct voting in qualified care facilities and nursing homes where access is restricted due to public health concerns or some other lawful reason for closure. SVDs could oversee voting using a video conference option and residents could receive assistance from care facility staff designated for this purpose. Statute would have to be amended to allow for facility staff to assist voters and SVDs in these circumstances, as they are currently prohibited from assisting residents who vote using an SVD. Statutory provisions to ensure process integrity could be included in the proposed changes, including required deputizing and training for care facility staff and procedures for SVDs to verify residents are the individuals voting their ballot or in instances where they require assistance, that the ballot is being marked by the assistor in accordance with the voter’s directives.

**Feedback:** Clerks were split on this option as some thought it would provide added transparency to the process while others were concerned that the process would rely heavily on technology that would have to be provided by the facility. Clerks were all in agreement that staffing on the part of the facility would be a challenge, including any necessary IT support, and reported high staff turnover rates in these facilities would necessitate ongoing training for those assisting with voting. Clerks felt it would be important to define who exactly was responsible for providing necessary technology and what the process was in the event that technology issues did not allow for virtual visits to take place.

Once again, advocates provided feedback based on their experiences working with nursing homes and care facilities of various sizes and that technology would be unavailable at many smaller facilities. This would require an alternate process for mailing or delivering ballots to these facilities in the event the technology was not available or functioning at the time of the scheduled visit.

- 4. Certify care facility staff as alternate SVDs.** Currently, care facility staff are restricted from serving as SVDs or assisting voters whose ballots are being administered by SVDs, and that restriction continues for the two years immediately following such employment. Statute would have to be changed to create a certification option for facility staff and to prescribe training and eligibility requirements. This option is similar to legislation that was introduced during the 2021-2022 Wisconsin legislative session and was vetoed by Governor Evers after the provisions regarding care facility staff serving as alternate SVDs were removed from the version that was passed. The text and legislative analysis of that bill, Senate Bill 205, can be found here: <https://docs.legis.wisconsin.gov/2021/proposals/reg/sen/bill/sb205>.

**Feedback:** Clerks and advocates expressed similar concerns about this option regarding both the staffing levels of these facilities and the training that would be necessary and required for facility staff serving as alternate SVDs. Staff turnover rates are significant at facilities served by SVDs, which may cause a constant need to provide training to staff serving as alternate SVDs prior to each election. Currently, staff are prohibited from serving as SVDs or assisting residents during the SVD process, so this change would represent a significant culture shift in the way statute currently refers to facility staff's involvement in the voting process. Clerks and advocates were in agreement that staff would have to receive significant training, with one clerk stating: "The number one challenge with training facility staff is that the turn-over in that job is incredibly high ... Staff turns over so often that training would need to be perpetual." Other clerks also expressed concern over the loss of control over this process, as they are currently responsible for appointing and training SVDs and summarized their concerns thusly: "If we end up with people who don't care about the process and all the steps that must be followed our credibility goes out the window."

- 5. Define SVDs as essential staff or visitors.** Many care facilities limit access to only essential visitors in the event of a public health emergency. This practice was especially prevalent during the 2020 election cycle due to COVID-19 transmission concerns. Statute could be amended to define SVDs as essential visitors, which would guarantee their entry to facilities to administer absentee voting. Provisions could be included to require SVDs to comply with all reasonable public health procedures mandated by the facility upon entry.

**Feedback:** Clerks were generally supportive of this option and felt that voting could take place safely if SVDs were allowed access to the facility as essential visitors. One clerk stated their support for this option as such:

This is without a doubt the best method to protect the elderly and provide voting during emergency operations in my opinion. There is no reason the facility and the Clerk couldn't work together to provide a safe environment for voting using the party affiliated personnel who have training and many years of experience with voting and election laws. Whether the emergency is a pandemic, natural disaster, power outage, etc., I am confident the communication between the Clerk and facility to work out the voting could be accomplished safely. We just need to be defined as ESSENTIAL VISITORS so that we can do the important work we do while protecting our voters and their votes with high integrity.

The only concerns raised in response to this option were regarding potential immunization/vaccination requirements facilities may have in place for visitors and staff and concerns over how the required partisan observers could be included in this process.

- 6. Provide express consent for WEC rulemaking authority.** State law could be amended to provide authority for WEC to promulgate administrative rules that prescribe procedures for these situations. This

statutory change would give the Commission the opportunity to codify administrative procedures that could resemble the tele-visit-based administrative rule the Commission pursued earlier this year or the Commission could decide on a different set of procedures as part of the rulemaking process. Rulemaking authority that was expressly provided for in the specific section of statute that provides for the SVD process would increase the likelihood of success for a proposed administrative rule and provide the Commission with flexibility in deciding the specifics of a rule, subject to legislative review. Any administrative rule could not contain elements that conflict with existing statutory provisions and can only serve as a supplement to existing procedures.

**Feedback:** Clerk feedback regarding this option was mixed, as some felt rulemaking would provide less local control over the process while others felt an administrative rule could provide valuable flexibility in outlining procedures for these situations.

## Appendix G

Letter to the Chief Clerk's of the Legislature  
regarding  
Special Voting Deputies



# 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

September 17, 2021

Edward Blazel  
State Assembly Chief Clerk  
17 W. Main St., Room 401  
Madison, WI 53703  
Ted.Blazel@legis.wisconsin.gov

Michael Queensland  
State Senate Chief Clerk  
P.O. Box 7882  
Madison, WI 53707  
Michael.Queensland@legis.wisconsin.gov

Dear Chief Clerks:

The Wisconsin Elections Commission directed me to provide the Wisconsin Legislature with the information contained in this letter as a result of several motions passed during their recent public meeting. Please distribute this communication to members of the Legislature, including the Senate Committee on Elections, Election Process Reforms and Ethics and the Assembly Committee on Campaigns and Elections.

During the September 9, 2021 meeting of the Wisconsin Elections Commission, the Commissioners discussed potential legislative changes for situations when Special Voting Deputies (SVDs) do not have access to a nursing home or qualified care facility to administer absentee voting as prescribed in current statute (*see* Wis. Stat. § 6.875). The Commission passed several motions related to this issue and directed staff to provide the staff memorandum to the Governor's office and leaders of the Wisconsin Assembly and Senate. The staff memorandum is included as an attachment to this communication and outlines several different options for potential legislative changes and includes feedback on these options provided by Wisconsin county and municipal clerks and advocates for the aging and disability communities.

In addition to directing staff to provide this memorandum to the Legislature, the Commission also passed the following motion related to the agency legislative agenda:

Add to the legislative agenda a provision within statute that Special Voting Deputies and observers be defined as essential visitors, which would guarantee their entry to facilities to administer absentee voting. They would be required to comply with all reasonable health requirements of the facility upon entry.

For your reference, the meeting materials, draft meeting minutes and video of the public meeting can be found on the agency website here: <https://elections.wi.gov/node/7369>.

*Wisconsin Elections Commissioners*

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

Administrator  
Meagan Wolfe



Letter to Chief Clerks RE Special Voting Deputies  
September 17, 2021  
Page 2 of 2

Please let me know if you have any questions about these issues and I will be happy to discuss them with you.

Sincerely,

A handwritten signature in black ink that reads "Meagan Wolfe". The signature is written in a cursive style with a large, prominent initial "M".

Meagan Wolfe  
Administrator  
Wisconsin Elections Commission

Attachment



# 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 September 9, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** Potential Special Voting Deputy Statutory Changes

## Introduction

During the March 2, 2021, meeting of the Wisconsin Elections Commission, the Commissioners directed staff to research potential legislative changes for situations when Special Voting Deputies (SVDs) do not have access to a nursing home or qualified care facility to administer absentee voting as prescribed in current statute. The motion passed by the Commission was as follows:

**Motion:** Staff are directed to research, in consultation with other subject matter experts, statutory changes needed in order to implement an alternative to SVD voting, as part of the Commission's 2021 legislative agenda.

This memorandum provides an overview of the current statutes and identifies potential options for statutory changes for consideration of inclusion to the Commission's legislative agenda.

## Current Process

Current state law requires the SVDs to "...arrange one or more convenient times with the administrator of each qualified retirement home and residential care facility in the municipality that the deputies are scheduled to visit." Wis. Stat. § 6.875(6)(a). Many SVDs will arrange and notice two or more visits proactively so there is no delay in assisting voters that were unable to attend a prior visit. Visits cannot begin any earlier than the 4<sup>th</sup> Monday prior to election day and the final day for SVD visits is the Monday prior to election day. If a voter or entire facility worth of voters is unavailable for SVD visits, state law states that the clerk may mail a ballot to all voters with active absentee requests on file who could not vote with SVDs. This process is based on Wis. Stat. § 6.875(6)(e) which states "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 or executive director of the board of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on the Friday preceding the election."

*Wisconsin Elections Commissioners*

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

---

*Administrator*  
Meagan Wolfe

### **Preliminary Considerations**

WEC staff has identified several components of the Special Voting Deputy process that could be considered when Commissioners determine which changes to current statute they would like to add to their legislative agenda. Several of these are already accounted for in the current statutes that prescribe the SVD process, but some of them may be new considerations due to the type and nature of the changes suggested by the Commission.

1. **Family members.** Wis. Stat. § 6.875(6)(c) provides two different opportunities for relatives of facility residents served by SVDs to be involved in the process. First, Wis. Stat. § 6.875(6)(c)1 states that a relative, defined as a spouse or relative within the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree of kinship, may be present during voting and assist the voter with marking their ballot. In addition, Wis. Stat. § 6.875(6)(c)2 allows for a relative of a care facility relative to request the time and date of SVD visits from the care facility administrator and be present when voting is taking place. Any legislative changes proposed by the Commission may need to account for access to the process by relatives of care facility residents. Options for observation by relatives could include options for virtual observation, such as through a video conference application. In addition, statutory changes could identify whether the facility, municipal clerk, resident or relative is responsible for providing the technology necessary to facilitate virtual observations of the SVD voting process.
2. **Election Observers.** State law also allows observers from the two recognized political parties whose candidate for governor or president received the most votes in the last general election to be present when SVD voting is taking place. Any legislative changes proposed by the Commission may need to provide for observation opportunities for representatives of the political parties as provided in Wis. Stat. § 6.875(7).
3. **Notice requirements.** State law requires the municipal clerk to post a notice containing the date and time of SVD visits at least five days prior to each visit. The Commission may wish to consider recommending a shortened notice period or other changes during pandemic conditions to increase the speed for mailing absentees and not orphaning voters.
4. **Overreliance on technology.** Access to technology is not uniform across jurisdictions, so statutory changes that prescribe mandatory procedures that are reliant on technology may be difficult to implement in a uniform manner across the state. In instances where required technology is not available, an alternative option may need to be identified and codified in statute.
5. **Uniformity.** Uniformity in procedures used to administer voting in care facilities and nursing homes should be considered when the Commission determines which options they would like to add to their legislative agenda. Procedures which are universal in nature were recommended throughout 2020 by advocates and nursing home and care facility administrators so that training, guidance and communication can be streamlined and efficient.
6. **Defining access restrictions.** Current statute does not effectively define or account for situations where SVDs cannot access a qualified facility to administer absentee voting. Legislative recommendations adopted by the Commission could seek to define these situations to provide clarity for when alternative provisions are necessary or allowable.

### **Potential Additions to the WEC Legislative Agenda**

1. **Proceed to sending ballots if voter and/or facility are unavailable.** This option would be similar to the current process outlined in the WEC *Absentee Voting in Residential Care Facilities and Retirement Homes* manual (<https://elections.wi.gov/publications/manuals/nursing-home-absentee>), but language could be added to statute acknowledging these circumstances and giving clerks and SVDs directives on how to proceed. Wis. Stat. § 6.875(6)(e) could be amended to add language such as: “If a municipal clerk, board of election commissioners or special voting deputies are informed by personnel at the qualified retirement home or care facility that scheduling special voting deputy visits is not possible, the municipal clerk or board of election commissioners shall proceed to send the ballot to all eligible electors with active requests on file as soon as practicable, but not later than 5 p.m. on the Friday preceding the election.”

**Feedback:** Municipal and county clerks who provided feedback were generally supportive of this option, but felt that some clarifications would be helpful to make administering this requirement easier. All were in agreement that a definition for when a facility is unavailable would help to deter facilities from closing to SVD voting due to staffing shortages or reported lack of interest in voting from residents. Language such as “not possible due to serious health or property emergency” was suggested for the purpose of clarifying applicable situations.

In addition, the clerks expressed interest in an option for municipal clerks to hand deliver unvoted ballots in a sealed container directly to the facility if it were to be closed to SVDs and to pick up voted ballots directly from the facility. This process should include chain of custody documentation when ballots were delivered and picked up, and would allow for a more efficient voting process for residents rather than relying on mail delivery in both directions.

Clerks also expressed interest in extending the timeline for nursing home and care facility voting to further out from election day to allow voters in facilities unable to be served by SVDs more time to receive, vote, and return their ballot.

Advocates for the aging and disability communities were in agreement with these suggestions as they would provide more opportunity for voters to participate in an election. They expressed specific interest in the timeline change as they noted there are always some residents unavailable during SVD visits even if the facility is open to visitors. The updated timeline would also allow for more voter registration opportunities for residents served by SVDs as there would be a longer time for SVD visits during open registration when SVDs are allowed to register voters if they are also appointed as Election Registration Officials. Currently, voter registration may only take place during the first two days of SVD visits as registration closes 20 days prior to each election. They also expressed a strong interest in instituting training requirements for care facility staff who may need to assist residents with voting if they cannot vote with the SVDs.

2. **Conduct two tele-visits and then proceed to mailing ballots.** This option represents the process outlined in the Commission’s administrative rule that was sent for promulgation as an emergency rule prior to the 2021 Spring Election but was not approved before April 6. Statute would be amended to satisfy the two-visit requirement by using a tele-visit option to meet with the facility administrator or authorized representative to confirm the facility is not open to nonessential visitors. Once the tele-visits are completed, the clerk would proceed to sending the ballot to all impacted voters who reside in that facility under the current statutory provision for sending ballots after two visits have been made.

**Feedback:** Both county and municipal clerks expressed concern over the viability of this option after administering a similar program for the April 2021 Spring Election. They reported difficulty in scheduling the tele-visits with the facility and some facilities never showed up on the call at the noticed time of the open meeting. This option is reliant on technology, so clerks were concerned about technology-related issues causing visits to be rescheduled and further delaying the transmittal of ballots. One clerk described their experience as such:

Tele-visits seemed like a good idea on paper, but they were terrible to implement. I arranged in advance the date and TIME of the tele-visit call between the SVDs and the facilities. On numerous occasions, I called to connect to the person “administrator or social worker” the appointment was scheduled with and was told the person was unavailable. Numerous times I was put through to their voice mail. I’d call back to the main line and the person would have no idea where the person was or when they’d be back, even though I had pre-arranged for the tele-visit in advance. We’d end up speaking to the person who answered the main line and they would tell us the facility was closed. Often, they were uncomfortable to address whether or not they would allow the SVDs to conduct voting.

They also expressed concern over how many attempts at rescheduling, and re-noticing, these visits should be required, especially if the tele-visit could not take place due to facility staff failure to show up. Clerks also expressed interest in an alternate option if tele-visits were unable to be scheduled or if the tele-visit did not take place as scheduled due to technology or participation issues from facility administrators.

The advocates consulted as part of this review also stated concerns over the differing level of technology available at smaller facilities and delays caused by the potential rescheduling of tele-visits for logistical reasons.

3. **Allow for virtual SVD visits.** Statute could be amended to accommodate a process for SVDs to conduct voting in qualified care facilities and nursing homes where access is restricted due to public health concerns or some other lawful reason for closure. SVDs could oversee voting using a video conference option and residents could receive assistance from care facility staff designated for this purpose. Statute would have to be amended to allow for facility staff to assist voters and SVDs in these circumstances, as they are currently prohibited from assisting residents who vote using an SVD. Statutory provisions to ensure process integrity could be included in the proposed changes, including required deputizing and training for care facility staff and procedures for SVDs to verify residents are the individuals voting their ballot or in instances where they require assistance, that the ballot is being marked by the assistor in accordance with the voter’s directives.

**Feedback:** Clerks were split on this option as some thought it would provide added transparency to the process while others were concerned that the process would rely heavily on technology that would have to be provided by the facility. Clerks were all in agreement that staffing on the part of the facility would be a challenge, including any necessary IT support, and reported high staff turnover rates in these facilities would necessitate ongoing training for those assisting with voting. Clerks felt it would be important to define who exactly was responsible for providing necessary technology and what the process was in the event that technology issues did not allow for virtual visits to take place.

Once again, advocates provided feedback based on their experiences working with nursing homes and care facilities of various sizes and that technology would be unavailable at many smaller facilities. This would require an alternate process for mailing or delivering ballots to these facilities in the event the technology was not available or functioning at the time of the scheduled visit.

- 4. Certify care facility staff as alternate SVDs.** Currently, care facility staff are restricted from serving as SVDs or assisting voters whose ballots are being administered by SVDs, and that restriction continues for the two years immediately following such employment. Statute would have to be changed to create a certification option for facility staff and to prescribe training and eligibility requirements. This option is similar to legislation that was introduced during the 2021-2022 Wisconsin legislative session and was vetoed by Governor Evers after the provisions regarding care facility staff serving as alternate SVDs were removed from the version that was passed. The text and legislative analysis of that bill, Senate Bill 205, can be found here: <https://docs.legis.wisconsin.gov/2021/proposals/reg/sen/bill/sb205>.

**Feedback:** Clerks and advocates expressed similar concerns about this option regarding both the staffing levels of these facilities and the training that would be necessary and required for facility staff serving as alternate SVDs. Staff turnover rates are significant at facilities served by SVDs, which may cause a constant need to provide training to staff serving as alternate SVDs prior to each election. Currently, staff are prohibited from serving as SVDs or assisting residents during the SVD process, so this change would represent a significant culture shift in the way statute currently refers to facility staff's involvement in the voting process. Clerks and advocates were in agreement that staff would have to receive significant training, with one clerk stating: "The number one challenge with training facility staff is that the turn-over in that job is incredibly high ... Staff turns over so often that training would need to be perpetual." Other clerks also expressed concern over the loss of control over this process, as they are currently responsible for appointing and training SVDs and summarized their concerns thusly: "If we end up with people who don't care about the process and all the steps that must be followed our credibility goes out the window."

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The only concerns raised in response to this option were regarding potential immunization/vaccination requirements facilities may have in place for visitors and staff and concerns over how the required partisan observers could be included in this process.

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statutory change would give the Commission the opportunity to codify administrative procedures that could resemble the tele-visit-based administrative rule the Commission pursued earlier this year or the Commission could decide on a different set of procedures as part of the rulemaking process. Rulemaking authority that was expressly provided for in the specific section of statute that provides for the SVD process would increase the likelihood of success for a proposed administrative rule and provide the Commission with flexibility in deciding the specifics of a rule, subject to legislative review. Any administrative rule could not contain elements that conflict with existing statutory provisions and can only serve as a supplement to existing procedures.

**Feedback:** Clerk feedback regarding this option was mixed, as some felt rulemaking would provide less local control over the process while others felt an administrative rule could provide valuable flexibility in outlining procedures for these situations.