

PRESS RELEASE

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FOR FURTHER INFORMATION CONTACT:
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March 2, 2021

Wisconsin Elections Commission Fails to Comply with State Law - Again Nass: WEC authorizes another unlawful directive on SVDs for the April 6th Election.

Senator Steve Nass (R-Whitewater), Co-chair of the Joint Committee for Review of Administrative Rules (JCRAR), was outraged by the failure of the Wisconsin Elections Commission (WEC) to comply with state law regarding special voting deputies (SVDs) and the process for them going to nursing homes, residential care facilities and retirement homes to assist with absentee voting by residents of these facilities.

Today, the WEC knowingly issued another directive on SVDs for the April 6th Election that violates the law and ignores a lawful mandate given to the WEC by JCRAR (on February 11, 2021) to complete an emergency rule by March 13, 2021, before issuing any further directives.

“The Wisconsin Elections Commission and its staff can’t be bothered to follow the law even after being given a lawful mandate from the legislature through the statutory powers of JCRAR. It is shocking that the people responsible for protecting the integrity of our elections would so openly violate the law even after being told what they were doing was improper” Nass said.

In early February, Nass released a legal opinion from the Wisconsin Legislative Council making clear that “state law does not empower the Elections Commission to waive” a statutory requirement that local clerks must dispatch SVDs to these facilities.

On February 11, 2021, JCRAR voted to mandate WEC comply with s. 227.01 (13) of the Wisconsin Statutes, which would require the agency to show statutory authority for such directives or cease issuing the directives for lack of legal authority. If WEC believes it has the authority for SVD directives, then the agency must submit a promulgated emergency rule within 30 days (by March 13, 2021). The JCRAR has the power to suspend parts or all provisions of any emergency rule submitted by a state agency.

“If the WEC doesn’t immediately rescind today’s directive, it will likely lead to further JCRAR actions against the agency and could lead to legal challenges for the WEC and municipal clerks,” Nass said.

-End-

Motion Passed by the Wisconsin Elections Commission
March 2, 2021

MOTION: Specific to the April 6, 2021 election, Clerks shall contact all eligible facilities in their municipality no later than March 12, 2021 to determine whether special voting deputies will be admitted. If SVDs are permitted, SVDs should schedule their SVD visits immediately in the allowable SVD period and consolidate such visits to the greatest extent possible, so that there are at least 14 days prior to the election for any voter who does not vote with SVD assistance may receive and return their absentee ballot. These visits should be scheduled no later than March 19, 2021. SVDs and observers must comply with any requirements of the care facility and of state and local health departments to conduct the visits safely, recognizing the importance of preserving a resident's right to vote. If the clerk is informed that SVDs will not be permitted entry to the facility, the SVDs should schedule two tele-visits with the administrator of the facility. These tele-visits should be scheduled immediately in the allowable SVD period so that if attempted visits are denied that there are at least 14 days prior to the election for the voter to receive and return their absentee ballot. SVDs should use the tele-visit to confirm that SVDs are not permitted to enter the facility. If SVDs are denied access to the facility, then clerks must proceed to the provisions of Wis. Stat. §6.875(6)(e) and send voters their ballots.

Moved by Commissioner Knudson, seconded by Commissioner Bostelmann.

Roll Call vote:

Bostelmann: Aye	Glancey: Aye
Knudson: Aye	Spindell: Aye
Thomsen: Aye	Jacobs: Aye

Motion carried unanimously.