



# Wisconsin Elections Commission

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Dec. 3, 2021

By email

Senator Robert Cowles  
Representative Samantha Kerkman  
Re: Response to Legislative Audit Bureau Report 21-19 on Elections Administration

Dear Senator Cowles and Representative Kerkman,

We are very pleased to let you know that the Wisconsin Elections Commission on Wednesday, Dec. 1 completed a deep and thorough review of the Legislative Audit Bureau's report on elections administration in the 2020 election cycle.

The bipartisan Commission – with three appointed Democrats and three appointed Republicans – made great headway and substantial progress in addressing recommendations cited in the LAB report. The Commissioners set aside political differences to reach agreement on a path forward to address the LAB's recommendations, many of which are reasonable and can be implemented in short order.

The Commission and staff leadership met for more than 10 hours Wednesday to diligently and seriously examine each one of the LAB's 30 recommendations. Over the course of the meeting, Commissioners considered a motion on each recommendation included in the LAB report, including important topics such as beginning the administrative rule drafting process on the use of drop boxes for absentee ballots, and the process for allowing municipal clerks to correct or add missing witness address information on absentee ballot certificates.

On most of the recommendations, the Commission acted unanimously to begin the administrative rulemaking process or take other appropriate first steps. For those recommendations, staff have been directed to prepare scope statements, which the Commission will review in the coming months. For a few recommendations, Commissioners decided to take no action because the WEC is already in compliance or the recommendation is not allowable under the law.

Included with this letter is a recommendation-by-recommendation summary account of the actions the Commission took on Wednesday. Additionally, draft meeting minutes will be available this afternoon [at this link](#). We look forward to working with you and members of your committee on any further questions or concerns you may have.

Thank you,  
Chair Ann S. Jacobs  
Commissioner Marge Bostelmann  
Commissioner Julie Glancey  
Commissioner Dean Knudson  
Commissioner Robert Spindell, Jr.  
Commissioner Mark Thomsen

*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

**Recommendation No. 1** relates to updating existing Administrative Rule EL 12 to reflect a recent legislative change to the training terms for municipal clerks and to reflect the brand name “WisVote” instead of the generic term “statewide voter registration system (SVRS).”

**Commission response:** Direct staff to draft scope statement for an Administrative Rule that would 1) correct or strike training term reference to comport rule with current statute; 2) add a sentence that defines WisVote as the Statewide Voter Registration System and defines that the system name may change in the future.

**Recommendation No. 2** suggests that the WEC should amend Admin. EL 12 to include very specific information on the method used to contact the governing bodies when municipal clerks do not report sufficient training.

**Commission response:** Staff is directed to create a scope statement that all municipalities must provide the WEC with their official mailing address for purposes of receiving notice that the clerk has not completed training.

**Recommendation No. 3** suggests that once WEC amends Admin. EL 12 to include the specific method for contacting governing bodies, it should then follow said rule.

**Commission response:** Send notice of noncompliance by First Class mail to governing body within 30 days of deadline for noncompliant clerks.

**Recommendation No. 4** suggests that the WEC should promulgate an administrative rule that specifies the content of training provided to special voting deputies (SVD) and election inspectors (poll workers).

**Commission response:** Direct staff to draft scope statement updating 2017 scope statement (EL 13) and bring back to Commission for review.

**Recommendation No. 5** asks WEC to renew a data sharing agreement with the Wisconsin Department of Transportation (DOT).

**Commission response:** Direct staff to continue to work with DOT on updated agreement; keep provisions of current agreement in place while agreement is being updated. The final agreement should include a mechanism for keeping the agreement renewed by July every four years following the presidential election.

**Recommendation No. 6** asks WEC to include a mechanism in the updated agreement to ensure that the agreement is kept up to date in the future.

**Commission response:** Same as Recommendation No. 5 above.

**Recommendation No. 7** asks the WEC to work with the Department of Transportation to “obtain the electronic signatures of individuals who register online to vote, or to request that the Legislature modify the statutory requirement that the Wisconsin Elections Commission obtain [signatures].”

**Commission response:** WEC finds it has fully complied with all requirements of Wis. Stat. § 6.30(5) through its data sharing agreement with DOT, which allows WEC immediate access to those signatures.

**Recommendation No. 8** asks the WEC to compare driver’s license and identification card numbers nightly to identify duplicate numbers.

**Commission response:** WEC has already begun complying with this recommendation regarding this practice. WEC has added the LAB recommendation to include a crosscheck of DL and ID numbers in addition to the data fields already included in the overnight matching process to identify duplicate voter registration records.

**Recommendation No. 9** asks WEC to renew a data sharing agreement with the Wisconsin Department of Health Services (DHS).

**Commission response:** Although not statutorily required, WEC is already working to execute a data sharing agreement with DHS and to update the current data sharing agreement with DOC and will ensure that they are reviewed and renewed, as needed.

**Recommendation No. 10** asks WEC to include a mechanism in the updated agreement to ensure that the agreement is kept up to date in the future.

**Commission response:** Included in response to Recommendation No. 9 above.

**Recommendation No. 11** asks WEC to renew a data sharing agreement with the Wisconsin Department of Corrections (DOC).

**Commission response:** Included in response to Recommendation No. 9 above.

**Recommendation No. 12** asks WEC to include a mechanism in the updated agreement to ensure that the agreement is kept up to date in the future.

**Commission response:** Included in response to Recommendation No. 9 above.

**Recommendation No. 13** asks the WEC to establish a schedule for regularly obtaining each type of ERIC data and a plan for action on these data. ERIC is the Electronic Registration Information Center.

**Commission response:** WEC directs staff to produce a calendar available to the public that shows the annual schedule and cycle of when WEC obtains and acts on each type of data. WEC has been regularly obtaining all types of ERIC data. WEC is in compliance with the ERIC membership agreement.

**Recommendation No. 14** relates to the absentee ballot certificate envelope and a field on the certificate for the witness' printed name.

**Commission response:** WEC directs staff to add ballot envelope redesign as an item to a future meeting's agenda.

**Recommendation No. 15** relates to augmenting existing training or providing new training related to the requirement that clerks initial absentee certificate envelopes when issuing ballots during in-person absentee voting.

**Commission response:** The WEC will provide additional training on the requirement to initial absentee ballot certificate envelopes, ballot processing, pre-election tests of electronic voting equipment, and reviewing of election day forms.

**Recommendation No. 16** relates to the promulgation of an Administrative Rule regarding guidance issued by the Commission in 2016 relating to municipal clerks' ability to correct or add missing witness information on returned absentee ballot certificate envelopes.

**Commission response:** WEC directs staff to prepare a draft scope statement and provide Commissioners with two versions, one that mirrors current guidance and also includes the staff's best alternative proposal; and the second with staff's best alternative as the scope statement with the current guidance as an alternative. Both scope statements should be prepared for the 3/9/2022 Commission meeting.

**Recommendation No. 17** relates to the suggestion that the WEC promulgate an Administrative Rule that clarifies the use of drop boxes by municipalities.

**Commission response:** WEC directs staff to draft a scope statement regulating drop box usage based on current WEC guidance.

**Recommendation No. 18** suggests that the Commission promulgate an Administrative Rule specifying the situations when municipal clerks should not send Special Voting Deputies to residential care facilities and qualified retirement homes.

**Commission response:** No action taken by WEC.

**Recommendation No. 19** asks the Commission to rescind or amend a 12-page memorandum issued by the WEC to all Wisconsin election officials on October 22, 2020 that informed clerks and board of canvass members about end-of-night procedures for election day and the ability of the canvass to adjourn prior to completion.

**Commission response:** A motion to remove one sentence from the October 2020 memo regarding protocols for handling emergency situations during a canvass failed on a 3-3 vote.

**Recommendation No. 20** suggests the Commission consider promulgation of an Administrative Rule to allow municipal clerks to adjourn in certain circumstances before ballot counting is complete.

**Commission response:** WEC finds that state law does not permit the agency to promulgate a rule that allows for adjournment of the canvass.

**Recommendation No. 21** suggests that the Commission rescind or amend a memorandum issued regarding relocating polling places. The memorandum in question was specific to the April 2020 election and Executive Order #72.

**Commission response:** WEC finds that this recommendation is moot as the guidance was applicable only to the April 2020 election. WEC further directs staff to add a disclaimer that this guidance was only applicable to the April 2020 election and that this was affirmed by the Commission during their 12/1/2021 meeting.

**Recommendation No. 22** relates to the potential need for a long-term Administrative Rule or addition to the Commission's legislative agenda to account for future pandemics, natural disasters, and similar catastrophic events that impact polling place locations or necessitate last-minute changes.

**Commission response:** WEC directs staff to draft a scope statement for an Administrative Rule relating to the need to relocate polling places due to natural disasters, pandemics, etc.

**Recommendation No. 23** suggests clerks and election inspectors would benefit from additional training from WEC regarding ballot processing and post-election data entry of election statistics into the statewide voter registration system.

**Commission response:** WEC directs staff to provide additional training on the requirement to initial ABS ballot certificates, on ballot processing, on pre-election public test of voting equipment and on reviewing election day forms.

**Recommendation No. 24** suggests the Commission should provide more, or updated, training on the pre-election test of voting equipment required before each election.

**Commission response:** Included in response to Recommendation No. 23 above.

**Recommendation No. 25** relates to a suggestion from LAB that WEC provide training to municipal clerks on reviewing Election Day forms after each election and investigating relevant issues, including those related to tamper-evident seals.

**Commission response:** Included in response to Recommendation No. 23 above.

**Recommendation No. 26** details the need for required Administrative Rule promulgation pertaining to electronic voting equipment and software security.

**Commission response:** WEC directs staff to redraft and update the 2017 scope statement for EL 7 and bring scope statement back to Commission for consideration.

**Recommendation No. 27** states WEC should ensure equipment vendors provide additional training to municipal clerks on ensuring that ballots are counted accurately when paper jams occur in electronic voting equipment.

**Commission response:** WEC directs staff to bring this issue to the vendors' attention so that they can emphasize clearing paper jams during training.

**Recommendation No. 28** states that WEC should comply with state statutes by calculating an error rate for each type of electronic voting equipment used in each General Election.

**Commission response:** WEC directs staff to draft scope statement that defines different error rates, including a memo that includes background information for scope.

**Recommendation No. 29** relates to LAB's suggestion that WEC promulgate Administrative Rules for considering complaints alleging violations of election laws.

**Commission response:** Given Wis. Stat. § 5.05, the WEC declines to undertake the rulemaking process since the law is clear, WEC is following statute, and the process has worked well.

**Recommendation No. 30** suggests using newly purchased customer service software to track and report customer contacts.

**Commission response:** WEC will use new customer service software to track and report customer contacts. The new software is currently being implemented.