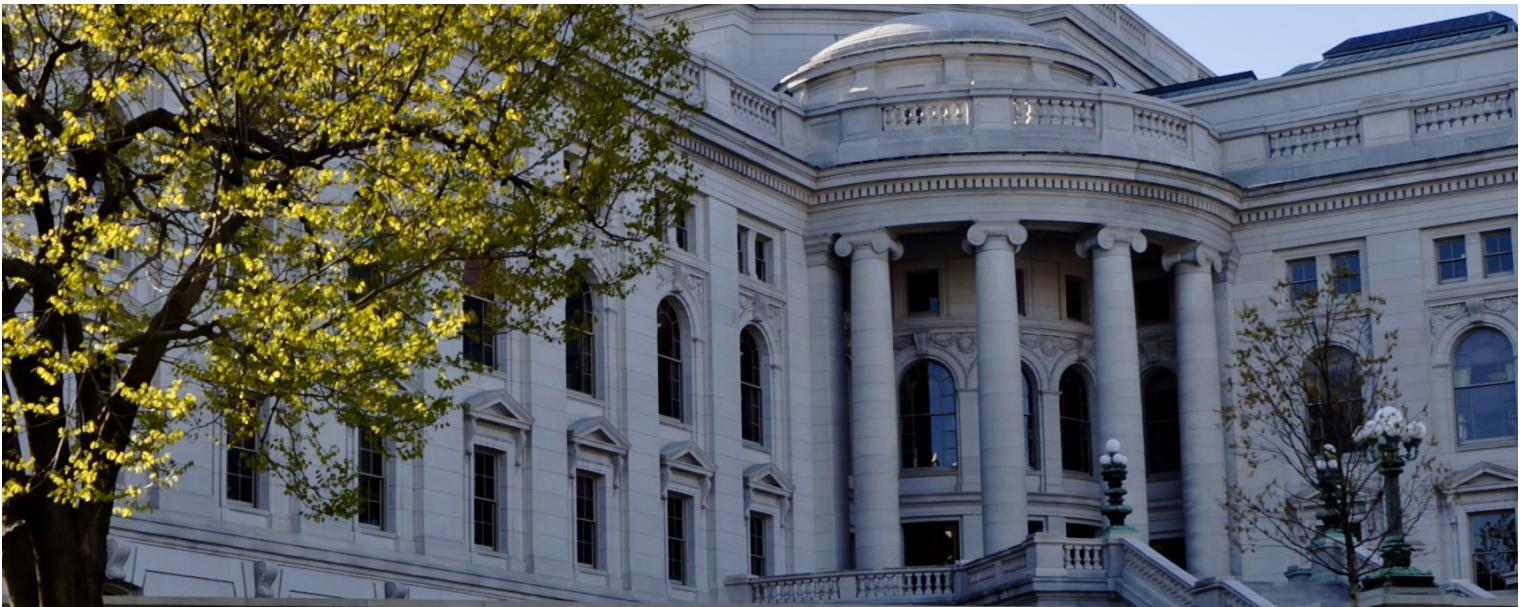




STATE OF WISCONSIN
Legislative Audit Bureau
NONPARTISAN • INDEPENDENT • ACCURATE

Report 21-19
October 2021

Elections Administration



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Elections Administration



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October 22, 2021

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

As requested by the Joint Legislative Audit Committee, we have completed an evaluation of elections administration issues. The Wisconsin Elections Commission (WEC) is responsible for ensuring compliance with state and federal election laws. County and municipal clerks administer elections.

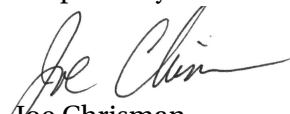
We reviewed the training that WEC is statutorily required to provide to municipal clerks, analyzed how WEC and clerks maintained the accuracy of voter registration records, reviewed guidance that WEC and its staff provided to clerks for handling absentee ballots and processing ballots, examined issues pertaining to electronic voting equipment and the statutorily required post-election audit that WEC conducted after the November 2020 General Election, assessed how WEC and its staff considered complaints, and examined the costs of the recount after the General Election.

To complete this audit, we contacted WEC's staff, surveyed all 1,835 municipal clerks and 72 county clerks in April 2021, contacted 179 clerks to obtain additional information about elections administration issues, analyzed voter registration data, physically reviewed 14,710 certificates that accompanied absentee ballots returned to clerks in 29 municipalities throughout the state, reviewed the results of 175 statutorily required tests of electronic voting equipment that clerks in 25 municipalities completed before the November 2020 General Election, and reviewed all 45 sworn, written complaints pertaining to the General Election that were filed with WEC as of late-May 2021.

We make 30 recommendations for improvements, which are located throughout the report and comprehensively listed in Appendix 7. We include 18 issues for legislative consideration, which are located throughout the report and comprehensively listed in Appendix 8.

We appreciate the courtesy and cooperation extended to us by WEC's staff, municipal clerks, and county clerks.

Respectfully submitted,



Joe Chrisman
State Auditor

JC/DS/ss

Introduction

WEC is responsible for ensuring compliance with state and federal election laws.

The Wisconsin Elections Commission (WEC) is responsible for ensuring compliance with state and federal election laws, and county and municipal clerks administer elections. Statutes require WEC to provide training and guidance to municipal clerks in the state's 1,849 municipalities. Statutes also require WEC to design and maintain the state's electronic voter registration system, which is known as WisVote; maintain the MyVote Wisconsin website, through which individuals may register to vote and obtain absentee ballots and other election-related information; and approve electronic voting equipment before it can be used in Wisconsin. Statutes specify how individuals can submit complaints pertaining to elections administration issues to WEC. WEC was created by 2015 Wisconsin Act 118, which was enacted in December 2015, and began operation on June 30, 2016. WEC replaced the Government Accountability Board (GAB), which was abolished by Act 118.

WEC includes six commissioners who serve for five-year terms, including:

- one commissioner appointed by the Senate Majority Leader;
- one commissioner appointed by the Senate Minority Leader;
- one commissioner appointed by the Assembly Speaker;
- one commissioner appointed by the Assembly Minority Leader; and

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- two commissioners appointed by the Governor, with the advice and consent of the Senate. These two commissioners must have formerly served as county or municipal clerks. The Governor nominates one individual from each of the lists provided by the two political parties that received the most votes for President.

Appendix 1 lists the six WEC commissioners as of October 2021 and indicates how each commissioner was appointed.

WEC has delegated to the administrator limited authority to act without its involvement.

WEC is statutorily required to appoint an administrator with the advice and consent of the Senate. This administrator, who serves as the state’s chief election officer, performs the duties assigned by WEC and appoints other staff as needed to help carry out these duties. Statutes require WEC’s staff to be nonpartisan. WEC has delegated to the administrator limited authority to act without its involvement. In February 2020, WEC delegated the authority for the administrator to exempt municipalities from polling place accessibility requirements, exempt municipalities from using electronic voting equipment, and execute certain contracts up to \$100,000. WEC also delegated the authority for the administrator to take specified actions in consultation with its chairperson, including when considering certain complaints.

Elections are administered by local election officials. Figure 1 shows the key statutory responsibilities of local election officials, including county clerks, municipal clerks, chief election inspectors, and election inspectors. The City of Milwaukee Election Commission, rather than the municipal clerk, administers elections in the City of Milwaukee.

Figure 1

Key Statutory Responsibilities of Local Election Officials

COUNTY CLERKS	MUNICIPAL CLERKS	CHIEF ELECTION INSPECTORS	ELECTION INSPECTORS
Prepare and provide ballots and election supplies	Register individuals to vote and administer elections	Direct the activities at polling places on Election Day	Serve at polling places to maintain order, ensure ballot boxes and poll lists are secure, and ensure that electronic voting equipment works properly; commonly known as “poll workers”
Section 7.10, Wis. Stats.	Section 7.15, Wis. Stats.	Section 7.36, Wis. Stats.	Section 7.37, Wis. Stats.

The Legislative Audit Bureau has previously completed audits of elections administration issues, including *Complaints Considered by the Government Accountability Board* (report 15-13), *Government Accountability Board* (report 14-14), *Compliance with Election Laws* (report 07-16), and *Voter Registration* (report 05-12).

After the General Election on November 3, 2020, questions were raised about elections administration issues, including compliance with election laws, the use of electronic voting equipment, and complaints filed with WEC and clerks. On February 11, 2021, the Joint Legislative Audit Committee directed us to evaluate elections administration issues, including:

- efforts by WEC to comply with election laws, including by working with clerks to ensure voter registration data include only eligible voters, and by providing training and guidance to clerks;
- efforts by clerks to comply with election laws, including by administering elections, processing absentee ballots, and performing recount responsibilities, as well as the observations and concerns of clerks regarding elections administration;
- the use of electronic voting equipment, including the methodology and results of WEC's most-recent statutorily required post-election audit and the actions taken as a result of this audit; and
- General Election-related complaints filed with WEC and clerks, as well as how those complaints were addressed.

To complete this evaluation of issues pertaining to the November 2020 General Election:

- We contacted eight groups that are involved with elections administration issues. These groups are listed in Appendix 2.
- We reviewed statutory provisions pertaining to elections administration and WEC's administrative rules. We contacted WEC's staff and reviewed their written policies and procedures, the minutes and materials associated with WEC's meetings, and the written guidance provided by WEC and its staff to municipal and county clerks.
- In April 2021, we invited all six WEC commissioners to discuss elections administration issues. Two commissioners spoke with us, and one other commissioner provided written information.

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- In April 2021, we surveyed all 1,835 municipal clerks and all 72 county clerks to obtain their perspectives on various issues pertaining to the General Election. A total of 879 municipal clerks (47.9 percent) and 59 county clerks (81.9 percent) responded to our survey.
- We contacted a total of 179 clerks in 61 counties, including 157 municipal clerks and 22 county clerks, to obtain additional information about elections administration issues. The locations of these clerks are listed in Appendix 3.
- We analyzed WisVote data pertaining to voter registration records and absentee ballots cast in the General Election.
- We physically reviewed 14,710 absentee ballot certificates, which are typically the envelopes in which individuals return absentee ballots. We attempted to review certificates in 30 municipalities, including the 10 municipalities where the most absentee ballots were cast in the General Election, the 10 municipalities where the highest proportions of absentee ballots were cast in that election, and 10 municipalities we selected randomly from counties other than those in which the first 20 municipalities were located. However, the City of Madison clerk declined to allow us to physically handle the certificates. The clerk indicated that the clerk's office is responsible for maintaining the chain of custody of election records and ensuring these records are not inadvertently altered or damaged. As a result, we examined certificates in 29 municipalities. The results of our review are shown in Appendix 4.
- We reviewed a total of 1,233 Election Day forms completed by poll workers for the November 2020 General Election, including 571 forms completed by poll workers in 319 municipalities that we randomly selected and 662 forms completed by poll workers in 39 municipalities that had central count locations. On these forms, poll workers recorded information such as the numbers of absentee ballots that were remade and rejected. The results of our review are shown in Appendix 5.
- We reviewed a total of 175 statutorily required tests that municipal clerks had completed before the General Election for electronic voting equipment used in 25 municipalities. The results of our review are shown in Appendix 6.

- We reviewed all 45 sworn, written complaints pertaining to the General Election that were filed with WEC as of late-May 2021, and we reviewed 1,521 election-related concerns that individuals provided through forms on WEC’s website from January 2020 through mid-April 2021.
- We assessed 26 reports that expressed general concerns about how the General Election was conducted and that were made to our office’s Fraud, Waste, and Mismanagement Hotline. Few reports provided information pertaining to specific municipalities or issues. One report expressed concerns about a post-election investigation. We also assessed one complaint forwarded to us by a legislative office by speaking with two municipal clerks, but we did not find information to substantiate the issues in this complaint.
- We reviewed information about the recount costs that Dane and Milwaukee counties submitted to WEC after the General Election.
- We reviewed information from other states about various elections administration issues, including ballot drop boxes, signature verification on absentee ballot certificates, indefinitely confined individuals, post-election audits, and recount costs.

Based on our audit work, we make 30 recommendations for improvements and include 18 issues for legislative consideration.

Based on our audit work:

- we make 30 recommendations for improvements, which are located throughout the report and comprehensively listed in Appendix 7; and
- we include 18 issues for legislative consideration, which are located throughout the report and comprehensively listed in Appendix 8.

Because our audit was not approved until three months after the November 2020 General Election, we did not directly observe Election Day practices, including how poll workers processed ballots and how electronic voting equipment operated. The U.S. Department of Justice indicated that election officials are responsible for retaining and preserving election records, regardless of who physically possesses them. In part as a result of this guidance from the Department of Justice, the City of Madison clerk did not allow us to physically handle election records. In addition, county clerks indicated that we would not be able to handle ballots for Milwaukee County and the Town of Little Suamico. Combined, the City of Madison, Milwaukee County, and the Town of Little Suamico accounted for 623,700 of the 3.3 million ballots cast in the November 2020 General Election (18.9 percent). Therefore, to complete our audit we relied on available evidence we were able to

access, including WisVote data, absentee ballot certificates that we could physically handle, other election records, and information provided to us by municipal clerks, county clerks, WEC's staff, and other individuals.

Statutes require us at all times to observe the confidential nature of any audit being performed. As a result, we completed our audit independently from legislators, WEC, and all other individuals and organizations. Although we typically allow an audited entity the opportunity to review our draft audit report and respond in writing to it, we did not do so for this report. Because we contacted a total of 179 clerks, sharing the draft audit report with so many individuals would have compromised the report's confidentiality. In addition, because WEC's administrator has limited authority to act without WEC's involvement, we would have needed to provide our confidential draft audit report to WEC for its consideration. Statutes allow governmental bodies such as WEC to convene in closed session only for specified purposes, none of which pertains to reviewing draft audit reports. Thus, to preserve the statutorily required confidentiality of our audit until its completion, we did not provide WEC with an opportunity to review a confidential draft audit report and respond in writing to this report prior to its release.

■ ■ ■ ■

Training

Statutes require WEC to conduct regular training throughout the state for municipal clerks and other local election officials.

Statutes require WEC to conduct regular training throughout the state for municipal clerks and other local election officials. The training is intended to provide key information that clerks and other local election officials need to administer elections effectively, explain the state's election laws, and promote uniform procedures. WEC's staff train municipal clerks and the chief election inspectors who oversee individual polling places on Election Day, and they approve training provided by other entities. Municipal clerks are statutorily required to train other local election officials such as election inspectors, who are commonly known as poll workers. We reviewed training materials prepared by WEC's staff and contacted 20 clerks. We recommend WEC's staff work with WEC to promulgate and modify administrative rules and comply with the rules by notifying the governing bodies of municipalities when clerks have not reported that they completed the required training. We also include two issues for legislative consideration.

Municipal Clerks

Statutes require each municipal clerk to attend WEC-approved training at least once every two-year period that begins on January 1 of an even-numbered year and ends on December 31 of the following year. WEC's administrative rules require a clerk to attend three hours of training approved by WEC's staff in order to receive initial certification for the two-year period in which a clerk receives the training. A clerk must complete three additional hours of training, approved by WEC's administrator, in the same two-year period in order to maintain certification for the subsequent two-year period. Thereafter, a clerk

must attend six hours of approved training in a given two-year period in order to maintain certification for the subsequent two-year period. Statutes require WEC to promulgate administrative rules specifying the training contents. WEC's administrative rules require the training to address topics such as:

- completing election-related forms and notices;
- handling confidential voter information and proof of residence documents;
- acquiring, testing, and auditing voting equipment;
- ensuring the security of ballots and voting equipment; and
- preparing and supplying polling places.

We reviewed WEC's election administration manual and materials for the three-hour training that municipal clerks must complete in order to obtain initial certification. We found that the training and the manual, which is referenced in the training, addressed all of the training provisions specified by WEC's administrative rules.

WEC's administrative rules for training municipal clerks have not been updated since June 2016 and contain outdated provisions.

We found that WEC's administrative rules for training municipal clerks have not been updated since June 2016 and contain outdated provisions. The administrative rules specify that training may include how municipal clerks are to use the former Statewide Voter Registration System (SVRS), which was replaced by WisVote in January 2016. The administrative rules also require clerks to complete training during two-year periods that begin on January 1 of odd-numbered years, rather than the even-numbered years required by statutes. WEC's staff should work with WEC to modify administrative rules to reflect current statutory requirements for elections, such as training clerks on how to use WisVote.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to modify ch. EL 12, Wis. Adm. Code, to reflect current statutory requirements for elections; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

WEC's staff provided municipal clerks with training in coordination with organizations such as the Wisconsin Towns Association and the Wisconsin Municipal Clerks Association. WEC's staff provided us with information indicating that training occurred at locations throughout the state in the months before mid-March 2020, when they ceased to provide in-person training as a result of the public health emergency and instead provided training online. WEC's staff conducted:

- 20 sessions on electronic poll books in December 2019 and January 2020;
- 12 sessions on election security from January 2020 through mid-March 2020; and
- 5 tabletop exercises on election security in December 2019 and January 2020.

To increase training opportunities for municipal clerks, WEC's staff trained and certified county and municipal clerks to be clerk-trainers. For the current two-year training period that began in January 2020, WEC's staff certified nine individuals, including seven county clerks and two municipal clerks, to provide the training that municipal clerks need to obtain initial certification.

Compliance with Training Requirements

As of June 2021, 82.5 percent of municipal clerks who served in those positions before January 2020 reported having completed all required training.

WEC's staff relied on municipal clerks to self-report the number of training hours that the clerks completed. WEC's staff provided us with information for the two-year period from January 2018 through December 2019, which was the most recently completed training period at the time of our audit. Clerks who completed all required training during this period were certified for the two-year period that began in January 2020. As of June 2021, the information indicated that 175 clerks had started in their positions in January 2020 or later and, therefore, were not required to complete any training in the previous period, and 1 clerk position was vacant. Of the remaining 1,636 clerks who had served in those positions before January 2020:

- 1,349 municipal clerks (82.5 percent) reported having completed all required training; and
- 287 municipal clerks (17.5 percent) did not report having completed all required training.

We reviewed information on the training that municipal clerks reported having completed from January 1, 2020, through November 3, 2020. This information reflected training reported to WEC's staff as of June 2021. We found that 874 clerks reported having completed some training. These clerks reported having each completed an average of 6.7 hours of training.

We attempted to determine the extent to which individuals who began working as municipal clerks in 2020 had completed the initial training before the November 2020 General Election. However, statutes do not require individuals to inform WEC of the dates they began working as clerks, and WEC's staff indicated that they are not consistently informed of these dates.

WEC's staff provided us with training information reported by 120 municipal clerks who, to the knowledge of WEC's staff, began working in those positions in 2020. This information reflected training reported as of June 2021. We found that:

- 76 clerks (63.3 percent) reported having each completed, on average, 6.0 hours of training from January 1, 2020, through November 3, 2020, including 71 clerks who reported having completed the initial training; and
- 44 clerks (36.7 percent) did not report having completed any training from January 1, 2020, through November 3, 2020. Some of these clerks may have completed training but did not report it, and some may have begun working as clerks after November 3, 2020.

WEC's staff did not comply with administrative rules because they did not contact governing bodies if clerks did not report having completed the required training for the two-year period that ended in December 2019.

Statutes require WEC to promulgate administrative rules that include a method for notifying the governing body of a given municipality if a municipal clerk does not complete the required training. WEC's administrative rules state only that WEC will notify a governing body if a clerk does not complete the training. WEC's staff indicated that they did not contact any governing bodies if clerks did not report having completed the required training for the two-year period that ended in December 2019. Instead, WEC's staff indicated that they contacted clerks and attempted to elicit their cooperation in completing and reporting the training. In addition, WEC's staff posted information on WEC's website about the amount of training that clerks reported having completed in the two-year period that ended in December 2019. This information could be misleading because it included clerks who began in their positions after that two-year period had ended and, therefore, were not expected to have completed any training during that two-year period.

WEC's staff should work with WEC to modify administrative rules to specify how they will notify the governing bodies of municipalities when clerks do not report having completed training required by administrative rules. WEC's staff should then consistently comply with administrative rules. Doing so may provide greater assurance that the training is completed and reported.

☑ Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to modify ch. EL 12.02 (7), Wis. Adm. Code, to specify how the governing bodies of municipalities will be notified when municipal clerks do not report having completed training required by administrative rules;*
- *consistently comply with administrative rules; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Issues for Legislative Consideration

The Legislature could consider modifying statutes to require clerks to complete the initial training before administering an election.

Currently, statutes require municipal clerks to attend training at least once every two years, and WEC's administrative rules require clerks to complete three hours of training in order to receive initial certification for the two-year period in which the training is received. However, statutes and administrative rules do not specify when a new clerk must complete the training for initial certification, and they do not require clerks to be certified before administering an election for the first time. As a result, a clerk could administer an election before having completed the initial training. The Legislature could consider modifying statutes to require clerks to complete the initial training before administering an election. Statutes could exempt from this training requirement those individuals who became clerks only shortly before an election.

The Legislature could consider modifying statutes to require a municipal governing body to notify WEC within 30 days when there is turnover in the clerk position.

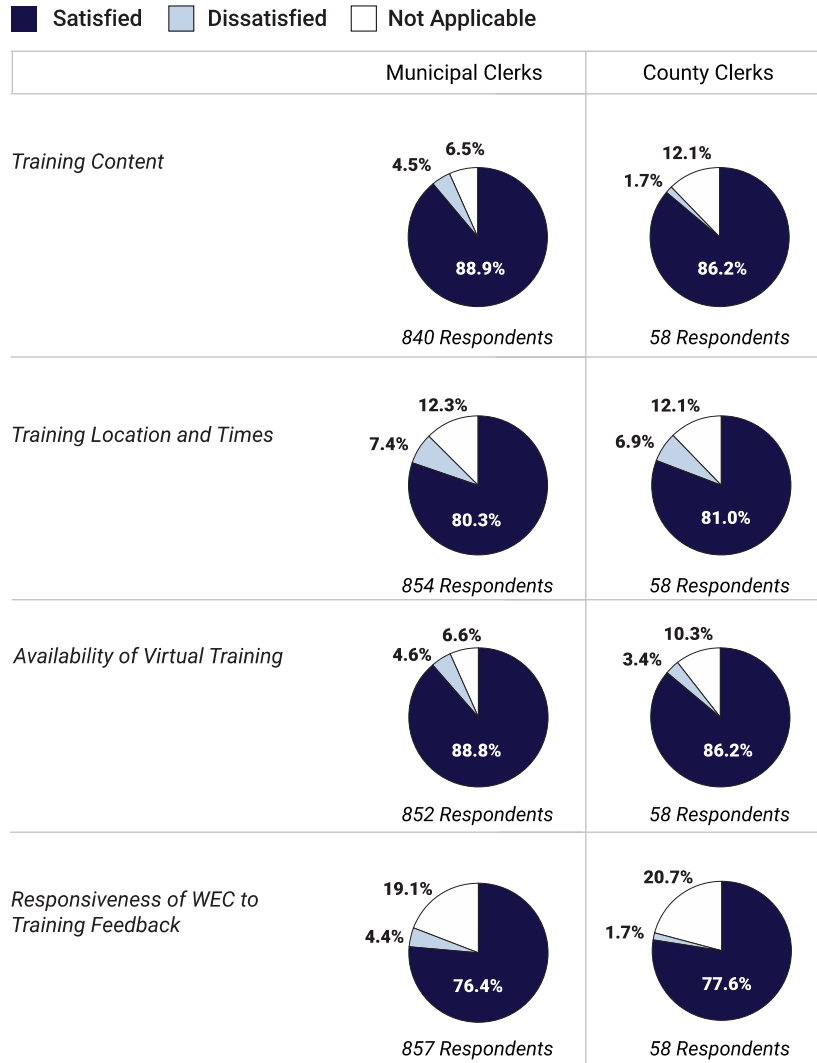
Currently, statutes do not require individuals to inform WEC of the dates they began working as municipal clerks, and WEC's staff indicated that they are not consistently informed of these dates. The Legislature could consider modifying statutes to require a municipal governing body to notify WEC within 30 days when there is turnover in the clerk position. If WEC were better informed, it could more accurately track whether clerks completed all required training.

Satisfaction Levels of Clerks

Our April 2021 survey asked municipal and county clerks about the training provided by WEC's staff. As shown in Figure 2, most clerks who responded to our survey indicated that they were satisfied with the training content, training location and times, availability of virtual training, and the responsiveness of WEC to feedback on the training.

Figure 2

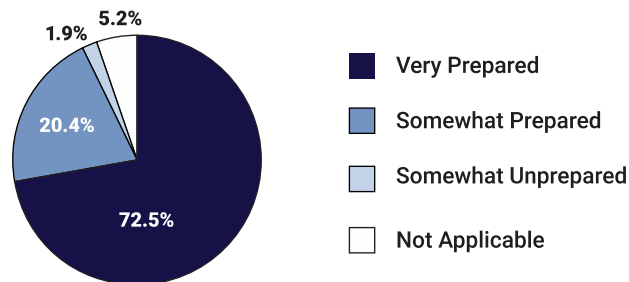
Satisfaction of Clerks with Training Provided by WEC's Staff¹



¹ As indicated by municipal and county clerks who responded to our April 2021 survey.

As shown in Figure 3, 72.5 percent of the municipal clerks who responded to our survey indicated they were very prepared to fulfill their duties in the November 2020 General Election as a result of training provided by WEC, and 20.4 percent indicated that they were somewhat prepared.

Figure 3

**Clerk Preparedness for the November 2020 General Election,
as a Result of WEC's Training¹**

¹ As indicated by 858 municipal clerks who responded to our April 2021 survey.

We contacted 16 municipal clerks and 4 county clerks to obtain their perspectives on WEC's training. Similar to our survey, these clerks indicated that they were generally satisfied with the training. For example:

- one clerk indicated that there were adequate training opportunities and that WEC's staff did a good job using technology to deliver training virtually;
- a second clerk indicated that the training covered all necessary topics; and
- a third clerk indicated that WEC's staff did a good job providing training and other resources for clerks to obtain needed information.

We also contacted clerks who had indicated in their survey responses that they were dissatisfied with the training. For example:

- one clerk indicated that the training and guidance were contradictory at times;
- a second clerk indicated that the training was more useful for clerks in larger municipalities; and
- a third clerk indicated that the training should cover more topics and that WEC should improve WEC's election administration manual.

Other Local Election Officials

Other local election officials help municipal clerks to administer elections. Chief election inspectors serve as the lead election official at polling places, election inspectors perform various duties at polling places, and special voting deputies visit residential care facilities and qualified retirement homes in order to conduct absentee voting in person.

Chief Election Inspectors

Statutes require municipal clerks to appoint an individual to serve as the chief election inspector at a given polling place. Statutes require WEC to establish requirements for certifying individuals to serve as chief election inspectors, including the requirement to attend at least one training session before serving as a chief election inspector. Individuals may not serve as chief election inspectors unless WEC certifies them. To maintain certification, chief election inspectors must attend at least one training session during every two-year period that begins on January 1 of each even-numbered year and ends on December 31 of the following year.

WEC's staff indicated that municipal clerks are responsible for ensuring that individuals who serve as chief election inspectors meet the training requirements and are certified. In the current two-year training period that began in January 2020, WEC's staff certified 47 individuals, including county clerks, municipal clerks, deputy clerks, and others, to provide baseline training to chief election inspectors. In response to the public health emergency, WEC's staff made this training publicly available on WEC's website.

We reviewed the chief election inspector training and found that it included a variety of topics related to administering an election, including conducting pre-election tests of electronic voting equipment, opening and closing polls, registering voters, processing absentee ballots, and completing election forms.

Chief election inspectors sign Election Day forms certifying that they had previously completed the required training and are certified. After Election Day, county clerks maintain these forms. We selected a random sample of 319 municipalities throughout the state and requested that the clerks of the 69 counties where these municipalities are located provide us with the forms completed for the November 2020 General Election. We reviewed all 571 forms provided to us and found that 567 forms (99.3 percent) contained signatures of chief election inspectors.

Other Election Officials

Statutes require WEC to promulgate administrative rules prescribing the contents of training that municipal clerks provide to other local

election officials, including election inspectors and special voting deputies. In report 14-14, we found that GAB had approved draft administrative rules regarding the contents of training for election inspectors and special voting deputies and in August 2009 had directed its staff to complete the promulgation process. We also found that GAB's staff had not done so through September 2014 but had instead relied on election manuals to indicate the training contents. We recommended that GAB promulgate the statutorily required administrative rules.

WEC did not comply with statutes by promulgating administrative rules prescribing the contents of training for special voting deputies or election inspectors.

In our current audit, we found that WEC did not promulgate statutorily required administrative rules prescribing the contents of training for special voting deputies or election inspectors. WEC's staff indicated that they were unaware of any discussions WEC had regarding promulgating the statutorily required administrative rules. Instead, WEC's staff provided municipal clerks with written guidance on training special voting deputies and election inspectors.

WEC's staff should work with WEC to promulgate the statutorily required administrative rules regarding the contents of training that municipal clerks provide to special voting deputies and election inspectors. Although the written guidance that WEC's staff provided municipal clerks contained relevant information, provisions in administrative rules carry the force of law.

☑ Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to promulgate statutorily required administrative rules prescribing the contents of training that municipal clerks provide to special voting deputies and election inspectors; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

■ ■ ■ ■

Maintenance of Voter Registration Records

WEC and clerks share responsibility for maintaining the accuracy of voter registration records.

WEC and clerks share responsibility for maintaining the accuracy of voter registration records. Statutes require WEC to maintain WisVote and municipal clerks to use WisVote to verify the accuracy of information provided by registrants, who are individuals registering to vote. Information provided by registrants is matched with personally identifiable information from the Department of Transportation (DOT). WEC obtains personally identifiable information from the departments of Health Services (DHS) and Corrections (DOC) and provides it to clerks. Clerks use this information to inactivate the voter registration records of individuals ineligible to vote because they are deceased or have ongoing felony sentences. We recommend WEC's staff work with WEC to execute written data-sharing agreements with these three state agencies, improve how they identify potentially duplicate voter registration records in WisVote, and establish a schedule for regularly obtaining data from the Electronic Registration Information Center (ERIC), which is a nonprofit organization that helps member states to improve the accuracy of their voter registration systems by providing personally identifiable information on certain types of individuals. We also include two issues for legislative consideration.

Voter Registration

Any U.S. citizen age 18 or older is eligible to vote in a Wisconsin election district where he or she has resided for 28 consecutive days before an election, if he or she has not been determined by a judge to be incompetent to vote, has not bet on the election, and is not serving a sentence for a felony, treason, or bribery.

Almost one-half of the 957,977 individuals who registered to vote in Wisconsin from January 1, 2020, through November 3, 2020, did so online.

Statutes allow individuals to register to vote at any time except for the three days before Election Day. Individuals who register 20 days or more before Election Day may typically do so online through the MyVote Wisconsin website, at a clerk's office, or by mail. Individuals who register within 20 days before Election Day may typically do so only at a municipal clerk's office or on Election Day at the polls. As shown in Table 1, almost one-half of the 957,977 individuals who registered to vote in Wisconsin from January 1, 2020, through November 3, 2020, did so online.

Table 1

Individuals Who Registered to Vote, by Method¹
January 1, 2020, through November 3, 2020

Method	Number of Individuals	Percentage of Total
Online	476,605	49.8%
In Person	423,282	44.2
Mail ²	58,090	6.1
Total	957,977	100.0%

¹ According to information that clerks entered into WisVote.

² Includes individuals who registered by email or fax.

Statutes require municipal clerks to enter information provided by individuals registering to vote by mail or in person into WisVote. Statutes allow any municipal clerk to designate another municipal clerk or a county clerk to enter such information into WisVote on the clerk's behalf. As of March 2021, 1,155 municipalities (62.5 percent) had arrangements with their counties or other municipalities for assistance in entering information into WisVote, including voter registration-related information.

Personally Identifiable Information

Registrants must provide their valid driver's license numbers or state identification card numbers, but they may provide the last four digits of their Social Security numbers if they do not have valid driver's licenses or state identification cards. Registrants must also provide their dates of birth and current addresses.

Statutes require WEC's administrator and DOT's secretary to enter into an agreement to attempt to verify the personally identifiable information provided by registrants with DOT's information.

Statutes require WEC's administrator and DOT's secretary to enter into an agreement to attempt to verify the personally identifiable information provided by registrants with DOT's information on vehicle registrations, driver's licenses, and state identification cards. Each night, the personally identifiable information of individuals who registered to vote is electronically compared with DOT's information, including names, dates of birth, and driver's license or state identification card numbers. If registrants do not provide driver's license or state identification card numbers, DOT forwards the last four digits of their Social Security numbers to the federal Social Security Administration, which compares this information with its records. DOT electronically informs WEC whether it confirmed the information provided by registrants. If DOT did not confirm this information, it electronically informs WEC about the particular piece of information it could not confirm. However, DOT does not provide WEC with any personally identifiable information, such as names or dates of birth.

If an individual registers to vote online, statutes require the personally identifiable information provided by individuals to be instantly verified with DOT's information. If the information cannot be verified, statutes require individuals to be redirected to DOT's website in order to update their information. Individuals cannot complete their online registrations until the information they provide matches DOT's information.

The personally identifiable information provided by 93.8 percent of individuals who registered to vote matched DOT's information.

We used data provided by WEC's staff to determine the extent to which the personally identifiable information provided by individuals who registered to vote from January 1, 2020, through November 3, 2020, matched DOT's information. As shown in Table 2, the information provided by 93.8 percent of these 957,977 individuals matched DOT's information, but the information provided by 4.8 percent of these individuals did not. In report 14-14, we found that information provided by 92.4 percent of individuals who registered to vote in fiscal year (FY) 2012-13 matched DOT's information, but that 7.4 percent did not.

Table 2

**Comparison of Personally Identifiable Information Provided by
Individuals Registering to Vote with DOT's Information¹**

January 1, 2020, through November 3, 2020

	Number of Individuals	Percentage of Total
The Information:		
Matched DOT's Information	898,421	93.8%
Did Not Match DOT's Information	45,665	4.8
No Attempt Was Made to Match the Information	13,800	1.4
The Match Was Ongoing	91	<0.1
Total	957,977	100.0%

¹ As indicated by data provided by WEC's staff.

Non-matches occurred for 63.1 percent of the 45,665 individuals because the names the individuals provided when registering to vote did not match DOT's information. WEC's staff indicated that a non-match could have occurred if, for example, an individual registered to vote as "Robert" but was known as "Bob" on a driver's license. However, the data do not indicate precisely why the non-match occurred because DOT does not provide WEC with any personally identifiable information. As a result, clerks are uncertain whether a non-match occurred because of only a slight difference in a given individual's name, which may indicate little cause for concern, or a significant difference, which may indicate that an individual is attempting to register to vote by using another individual's information.

WEC's staff indicated that no attempts were made to match the personally identifiable information provided by 13,800 individuals for several reasons. Individuals serving in the military are not statutorily required to register to vote and, thus, do not provide driver's license, state identification card, or Social Security numbers, although WisVote contains voter records for these individuals. Similarly, no matching attempts were made if individuals updated registrations that had previously been made before WisVote's implementation and the individuals were not changing their names, driver's license or Social Security numbers, or dates of birth.

If the personally identifiable information provided by registrants does not match DOT's information, the relevant clerks receive automatic notifications in WisVote. WEC's staff instruct clerks to correct the voter registration if they can determine that the non-match was the result of a data entry error. Otherwise, clerks are instructed to inform the individuals that they should resolve the mismatched information.

Statutes do not require clerks to inactivate the voter registration records of these individuals, who remain eligible to vote.

We contacted a total of 12 municipal and county clerks in order to learn how they reviewed instances when information provided by registrants did not match DOT's information. The clerks indicated that they typically reviewed the available information in order to determine why a non-match may have occurred. For example, they may discover a typo in the registration information that could have caused a non-match. However, one county clerk was unaware of the need to review non-matches, and one municipal clerk indicated not having time to review non-matches.

Data Agreement

WEC did not have a written data-sharing agreement with DOT at the time of our audit.

We found that WEC did not have a written data-sharing agreement with DOT at the time of our audit. The most-recent agreement was effective from January 5, 2017, until January 5, 2021. This agreement pertained only to verifying information provided by individuals who registered online to vote, and not to verifying information provided by individuals who registered to vote by other methods. WEC's staff indicated that they planned to update the agreement later in 2021.

We found that WEC's data-sharing agreement, which expired on January 5, 2021, did not specify any procedures that DOT should use to verify information provided by individuals who registered to vote by methods other than online. Instead, WEC's staff indicated that verification occurs based on procedures formally agreed upon with DOT in 2005.

WEC did not comply with statutes by obtaining from DOT the signatures of individuals who register online to vote.

Statutes require individuals who register online to vote to authorize WEC to obtain from DOT electronic copies of the signatures they provided when they obtained driver's licenses or state identification cards. Statutes require WEC to obtain these signatures. However, we found that WEC's most-recent agreement with DOT explicitly did not include the provision of these signatures. WEC's staff indicated that no signatures were obtained from DOT, in part, because a significant amount of electronic space would be needed to store them. DOT indicated that an individual's signature and photo are stored in one file, which could make it challenging to provide WEC with only the signatures.

Before January 1, 2022, WEC's staff should work with WEC to execute a new written data-sharing agreement with DOT. This agreement should include provisions for verifying the information provided by individuals who register to vote by all methods, and it should specify the procedures for verifying this information. WEC's staff should also establish a system to regularly review and update the agreement with DOT. Doing so will ensure that the data-sharing process reflects current technological processes and available data, and that the agreement does not expire in the future without a replacement agreement. In addition, WEC's staff should comply with statutes by working with DOT to obtain the electronic signatures of individuals who register online to vote. If WEC believes that such signatures cannot help it to ensure the

accuracy of voter registration records, it should request that the Legislature modify the statutory requirement that it obtain the signatures.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *before January 1, 2022, work with the Wisconsin Elections Commission to execute with the Department of Transportation a new written data-sharing agreement that includes provisions for verifying the information provided by individuals who register to vote by all methods and that specifies the procedures for verifying this information;*
- *establish a system to regularly review and update the data-sharing agreement;*
- *comply with statutes by working with the Department of Transportation to obtain the electronic signatures of individuals who register online to vote, or request that the Legislature modify the statutory requirement that the Wisconsin Elections Commission obtain them; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to require that DOT provide additional information to WEC when DOT attempts to verify certain information provided by registrants.

As noted, DOT currently provides information that does not indicate precisely why a given non-match occurred because DOT does not provide WEC with any personally identifiable information. The Legislature could consider modifying statutes to require that DOT provide additional information to WEC when DOT attempts to verify the personally identifiable information provided by registrants. For example, statutes could be modified to require DOT to provide WEC with the names, dates of birth, and driver's license or state identification card numbers for individuals whose information did not match. WEC's staff and clerks we contacted indicated that this additional information would help them to identify and correct errors in voter registration records, such as misspelled names and typos.

Duplicate Voter Registration Records

Each night, WisVote automatically compares personally identifiable information in voter registration records in order to identify potentially duplicate records.

Each night, WisVote automatically compares certain personally identifiable information in voter registration records in order to identify potentially duplicate records. The relevant clerks receive automatic notifications in WisVote whenever the information in one record matches the information in another record. When this occurs, WEC's staff instruct clerks to consider the available information and either merge the two records or determine a potential match was erroneous and allow the two records to remain separate. WisVote uses four sets of criteria to identify potentially duplicate records.

Duplicate voter registration records can be identified with additional sets of criteria not currently used by WisVote. We used only the driver's license and state identification card numbers to identify potentially duplicate records for all individuals who voted absentee in the November 2020 General Election. We identified 70 records in which either driver's license or state identification card numbers matched the numbers in 70 separate records. We provided WEC's staff with a list of these 140 total records for their review because the criteria WEC's staff use to identify potentially duplicate records would not have discovered these records.

We provided WEC's staff with the names of four individuals who may have voted twice by absentee ballot during the November 2020 General Election.

We found that the names and dates of birth of the individuals associated with 24 of the 70 voter registration records that we identified by using our criteria matched similar information in 24 other records. This suggests that the 24 individuals associated with these records had two active voter registration records. We analyzed absentee ballot data provided by WEC's staff and found that these data indicated 4 of the 24 individuals may have voted twice by absentee ballot during the November 2020 General Election. We provided WEC's staff with the names of these 24 individuals, including the 4 individuals who may have voted twice.

WEC's staff should improve how they identify potentially duplicate voter registration records in WisVote by comparing driver's license and state identification card numbers of all registered voters each night. Because driver's license and state identification card numbers should be unique, clerks should merge duplicate records or correct any information that resulted in the matches. For example, a mistyped driver's license number may have resulted in an erroneous match. Taking these actions will improve the accuracy of voter registration records.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *improve how they identify potential duplicate voter registration records in WisVote by comparing driver's license and state identification card numbers of all registered voters each night; and*

- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Deceased Individuals

Each month, DHS electronically provides WEC with personally identifiable information for all Wisconsin residents who died in the state.

Statutes require municipal clerks to use vital statistics reports to inactivate the voter registration records of deceased individuals. On an ongoing basis, DHS receives information about deceased individuals, primarily from funeral homes. Each month, DHS electronically provides WEC with personally identifiable information for all Wisconsin residents who died in the state, including names, last four digits of Social Security numbers, dates of birth and death, and the cities and counties where these individuals last lived. By the time that WEC obtains this information, varying amounts of time have elapsed.

WisVote automatically compares the information provided by DHS with the personally identifiable information in voter registration records, as well as with the personally identifiable information provided by registrants. The relevant clerks receive automatic notifications in WisVote whenever the information provided by DHS potentially matches the personally identifiable information in voter registration records. WEC's staff instruct clerks to consider the available information and either inactivate a given record or determine the potential match was erroneous and allow a given record to remain active. WisVote indicates whether clerks used the potential matches to make such determinations. In report 14-14, we found that clerks had acted on 93.6 percent of potential matches provided by DHS in FY 2012-13, but that clerks had not acted on 6.4 percent of potential matches.

We obtained data from WEC's staff on all 33,473 potential matches between the information provided by DHS and the personally identifiable information in voter registration records from January 1, 2020, through November 3, 2020. These data indicated whether clerks had acted on the potential matches as of mid-April 2021. If a clerk does not act on a potential match for a given individual, WEC's staff are uncertain if a clerk determined whether an individual is still alive and, therefore, whether the voter registration record is accurate.

Clerks did not consistently act on potential matches provided by DHS to inactivate the voter registration records of individuals who may have died.

As shown in Table 3, the data indicated that clerks had acted on the potential matches for 20,908 individuals (62.5 percent), but that clerks in 1,199 municipalities had made no determinations on the potential matches for 12,565 individuals (37.5 percent). Although the data indicated that clerks had not acted on the potential matches, other data provided by WEC's staff indicated that, in fact, clerks had inactivated the records of 12,406 of the 12,565 individuals (98.7 percent) as of the November 2020 General Election and had inactivated the records of all but 8 of the 12,565 individuals as of June 2021. To inactivate these records, clerks used information sources other than the potential matches. In response to our April 2021 survey, 188 municipal clerks indicated that they had inactivated records before the General Election, including 144 clerks who relied on obituaries, 72 clerks who relied on personal knowledge about individuals, and 49 clerks who inactivated

records after individuals did not respond to mailed notices about their potential ineligibility to vote.

Table 3

Resolution of Information Indicating That Registered Voters Were Deceased¹
 January 1, 2020, through November 3, 2020

	Number of Individuals	Percentage of Total
Clerks Determined Individuals Were:		
Deceased	20,614	61.6%
Alive	294	0.9
Subtotal	20,908	62.5
Clerks Made No Determinations²	12,565	37.5
Total	33,473	100.0%

¹ As indicated by data that were provided by WEC’s staff and that indicated the determinations clerks had made as of mid-April 2021.

² As of June 2021, clerks had inactivated the voter registration records of all but 8 of the 12,565 individuals.

If an individual submits an absentee ballot but dies before Election Day, statutes require that the absentee ballot not be counted if local election officials are aware of the death. Identifying deceased individuals in time to ensure that their absentee ballots are not counted is sometimes challenging because of the amount of time required for DHS to be notified of the deaths, for DHS to prepare the applicable data, and for the monthly data exchange with WisVote to occur. We found that it took clerks a median time of:

- 7 days from when they were informed about a potential match to when they determined that an individual was deceased or alive; and
- 56 days from when individuals died to when they determined that an individual was deceased or alive.

Eleven individuals who died before November 3, 2020, likely voted in the General Election.

We reviewed the voting records of the 20,614 individuals who clerks determined were deceased and the 12,565 individuals for whom clerks made no determinations. The available information indicates that 11 individuals who died before November 3, 2020, likely voted in the General Election. Clerks received potential data matches for all 11 individuals 10 days before the General Election. By that point in time, clerks had mailed absentee ballots to all 11 individuals. We notified WEC’s staff about these 11 individuals.

Data Agreement

WEC did not have a written data-sharing agreement with DHS at the time of our audit.

We found that WEC did not have a written data-sharing agreement with DHS at the time of our audit. The most-recent agreement was effective from January 1, 2016, through December 31, 2016.

Before January 1, 2022, WEC's staff should work with WEC to execute a new written data-sharing agreement with DHS, and they should establish a system to regularly review and update the agreement. Doing so will ensure that the data-sharing process reflects current technological processes and available data, and that the agreement does not expire in the future without a replacement agreement.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *before January 1, 2022, work with the Wisconsin Elections Commission to execute a new written data-sharing agreement with the Department of Health Services;*
- *establish a system to regularly review and update the data-sharing agreement; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Individuals Serving Felony Sentences

DOC is statutorily required on a continuous basis to provide WEC with information on individuals who have been convicted of felonies.

Statutes prohibit individuals convicted of felonies from voting until they have completed their sentences, including parole and extended supervision, or completed probation. DOC is statutorily required on a continuous basis to provide WEC with the names and addresses of individuals who have been convicted of felonies and whose civil rights have not been restored, as well as the dates DOC expects these civil rights to be restored.

Each day, WisVote automatically compares the information provided by DOC with the personally identifiable information in voter registration records. The relevant clerks receive automatic notifications in WisVote whenever the information provided by DOC potentially matches information in voter registration records. WEC's staff instruct clerks to consider the available information and either inactivate a given record or determine the potential match was erroneous and allow a given record to remain active. WEC's staff indicated that clerks need to carefully consider potential matches because DOC's information changes frequently and can contain duplicate records. In report 14-14, we found that clerks had acted on 91.8 percent of potential matches

provided by DOC in FY 2012-13, but that clerks had not acted on 8.2 percent of potential matches.

We obtained data on all potential matches between DOC’s information and the personally identifiable information in voter registration records from January 1, 2020, through November 3, 2020. We determined the extent to which clerks had acted on these potential matches as of mid-April 2021. If a clerk does not act on a potential match for a given individual, WEC’s staff are uncertain whether a clerk determined whether an individual has an ongoing felony sentence and, therefore, whether the voter registration record is accurate.

Clerks did not consistently act on the potential match information provided by DOC to inactivate the voter registration records of individuals who may have been serving felony sentences.

As shown in Table 4, the data indicated that clerks had acted on the potential matches for 1,435 individuals (63.6 percent), and it took a median time of five days to act on these matches. Clerks in 296 municipalities had made no determinations on the potential matches for 821 individuals (36.4 percent). Although the data indicated that clerks had not acted on the potential matches, other data provided by WEC’s staff indicated that, in fact, clerks had inactivated the records of 748 of the 821 individuals (91.1 percent) as of the November 2020 General Election and had inactivated the records of all but 1 of the 821 individuals as of September 2021.

Table 4

Resolution of Information Indicating That Registered Voters Had Ongoing Felony Sentences¹
January 1, 2020, through November 3, 2020

	Number of Individuals	Percentage of Total
Clerks Determined Individuals:		
Had Ongoing Felony Sentences	1,115	49.4%
Did Not Have Ongoing Felony Sentences	320	14.2
Subtotal	1,435	63.6
Clerks Made No Determinations²		
	821	36.4
Total	2,256	100.0%

¹ As indicated by data that were provided by WEC’s staff and that indicated the determinations clerks had made as of mid-April 2021.

² As of September 2021, clerks had inactivated the voter registration records of all but 1 of the 821 individuals.

Eight individuals with ongoing felony sentences may have voted in the General Election.

We reviewed the voting records of the 1,115 individuals whom clerks determined had ongoing felony sentences and the 821 individuals for whom clerks made no determinations. We found that the available data indicate that eight individuals with ongoing felony sentences may have voted in the November 2020 General Election. Clerks had

received information about the potential matches for four of these eight individuals within 30 days before the General Election. WEC's staff were aware of all eight individuals based on their own post-election review conducted independently from our audit.

We selected a random sample of 75 of the 1,115 individuals whose voter registration records clerks inactivated. We reviewed the Wisconsin Court System's Consolidated Court Automation Programs (CCAP) and found that the available information indicated the felony sentences of 3 of the 75 individuals had ended before the November 2020 General Election. We provided WEC's staff with the names of these individuals.

Data Agreement

To obtain information on individuals with ongoing felony sentences, GAB executed a data-sharing agreement of indefinite duration with DOC in October 2015. Although GAB executed this agreement, 2015 Wisconsin Act 118 stipulated that all ongoing contracts remained in effect after GAB was abolished.

WEC's data-sharing agreement with DOC contained outdated information.

We found that WEC's data-sharing agreement with DOC contained outdated information. The agreement referenced SVRS, which has been replaced by WisVote. In addition, WEC's staff indicated that the technology for transferring data between the two agencies was updated in recent years and that additional updates are anticipated. Although the agreement specified it was to be reviewed at least annually, WEC's staff indicated that such reviews did not occur.

Before January 1, 2022, WEC's staff should work with WEC to update the almost six-year-old data-sharing agreement with DOC, and they should establish a system to regularly review and update the agreement. Doing so will ensure that the data-sharing process reflects current technological processes and available data.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *before January 1, 2022, work with the Wisconsin Elections Commission to execute a new data-sharing agreement with the Department of Corrections;*
- *establish a system to regularly review and update the data-sharing agreement; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Post-Election Review

After every election, statutes require WEC to compare the list of individuals provided by DOC with the list of individuals who registered to vote on Election Day or within 20 days before an election. If WEC determines that an individual with an ongoing felony sentence may have voted, statutes require it to notify the district attorney in the county where the vote occurred. Statutes require WEC to complete these reviews as soon as possible.

WEC's staff completed statutorily required post-election reviews for every election from June 2016 through November 2020.

In report 14-14, we found that GAB's staff had not completed these statutorily required reviews for several years, and we recommended that they be completed. In our current audit, we found that WEC's staff had completed these reviews for every election from WEC's inception in June 2016 through the November 2020 General Election, although some cases pertaining to the General Election were in the process of being reviewed by clerks at the time of our audit.

Electronic Registration Information Center (ERIC)

2015 Wisconsin Act 261, which was enacted in March 2016, requires WEC to belong to ERIC. As of March 2020, 30 states and the District of Columbia were members of ERIC. Member states such as Wisconsin provide ERIC with personally identifiable information from their voter registration and driver's license systems. ERIC also collects personally identifiable information from the Social Security Administration and the U.S. Postal Service. Each member state decides how often to request data from ERIC, but ERIC requires each state to request some data at least annually.

WEC can request that ERIC provide it with five types of data.

Under the terms of its agreement with ERIC, WEC can request that ERIC provide it with data containing personally identifiable information on:

- eligible Wisconsin residents who are not registered to vote;
- registered Wisconsin voters who may have moved within Wisconsin, who may have moved to and registered to vote in other states, or who submitted new address information to the U.S. Postal Service's National Change of Address program;
- registered Wisconsin voters who may have voted multiple times in the same election;
- registered Wisconsin voters who may have died in other states; and

- registered Wisconsin voters who may have multiple voter registration records in Wisconsin.

Some types of ERIC data are available to WEC through other sources, such as data on voters who may have moved within Wisconsin. Nevertheless, WEC’s staff indicated that ERIC’s data-matching software is better than WEC’s software at identifying individuals whose voter registration records may need to be inactivated or who may have more than one active voter registration record in Wisconsin. Other types of ERIC data are not readily available to WEC through other sources, such as data on registered Wisconsin voters who may have moved to and registered to vote in other states, who may have died in other states, and who may have voted multiple times in the same election.

WEC did not regularly obtain all types of data from ERIC in recent years.

As shown in Table 5, WEC did not regularly obtain all types of data from ERIC in recent years. From September 2016 to May 2021, WEC obtained some types of data every two years, but it obtained other types of data once during this period of time.

Table 5

ERIC Data that WEC Obtained, by Type¹
As of July 2021

Type of Data	Sept. 2016	Sept. 2017	June 2018	Aug. 2019	Sept. 2019	May 2020	May 2021
Eligible residents who are not registered to vote	✓		✓			✓	
Registered voters who may have moved within Wisconsin, moved to and registered to vote in other states, or submitted new address information to the National Change of Address program		✓		✓			✓
Registered voters who may have voted multiple times in the same election					✓		
Registered voters who may have died in other states							✓
Registered voters who may have multiple voter registration records in Wisconsin							✓

¹ According to information provided by WEC’s staff.

In August 2019, WEC obtained ERIC data on registered Wisconsin voters who may have moved within Wisconsin, who may have moved to and registered to vote in other states, or who submitted new address information to the National Change of Address program. It obtained these data for the time period from September 2017 through July 2019. These data included information on approximately 428,500 individuals, but WEC’s staff eliminated duplicate and erroneous records, which left

information for 232,579 individuals in the data. In June 2019, WEC approved a plan for its staff to inactivate the voter registration records of all individuals whose voter registration status remained unresolved after the April 2021 Spring Election. In October 2019, WEC's staff sent letters to the 232,579 individuals, who were informed that they needed to confirm their current addresses or update their voter registration information.

As of August 2021, the voter registration records for:

- 153,156 of the 232,579 individuals (65.9 percent) remained active because, for example, the individuals had contacted their clerks, updated their records through the MyVote Wisconsin website, or had voted since October 2019;
- 69,196 individuals (29.8 percent) had been inactivated by WEC's staff because the individuals had not contacted their clerks and had not voted since October 2019; and
- 10,227 individuals (4.4 percent) had been inactivated for other reasons.

In May 2021, WEC obtained data on 743 registered Wisconsin voters who may have died in other states and data on approximately 16,000 registered voters who may have had multiple voter registration records in Wisconsin. It obtained these data for the time period from April 2018 through April 2021 and was still processing them at the time of our audit. Obtaining data on Wisconsin residents who may have died in other states is particularly important because DHS does not provide such information to WEC. Although DHS provides WEC with information about Wisconsin residents who died in the state, it cannot provide it with information about Wisconsin residents who died in other states because it and the health departments in all other states have agreed to share such information only with each other.

We contacted all five other midwestern states that are members of ERIC in order to determine how often they obtained ERIC data. Ohio did not respond, but:

- Illinois indicated that it regularly obtained all types of the available data, as required by its statutes, including some types as frequently as six times per year and other types as infrequently as once every two years;
- Iowa indicated that it annually obtained some types of the available data and planned to obtain all types of the available data each month beginning in 2022;

- Michigan indicated that it obtained some types of the available data every 18 months to 24 months; and
- Minnesota indicated that it obtained all types of the available data each month.

WEC's staff should work with WEC to establish a schedule for regularly obtaining each type of ERIC data.

ERIC data can help to ensure that Wisconsin's voter registration records are accurate and complete, as long as WEC obtains the data regularly and the data are acted upon before elections. WEC's staff should work with WEC to establish a schedule for regularly obtaining each type of data available from ERIC and a plan for acting on these data, including by deciding whether or not to inactivate relevant voter registration records. The schedule should allow sufficient time for WEC's staff and clerks to make such determinations before elections. In March 2021, WEC approved a schedule for obtaining each quarter the ERIC data on registered voters who may have moved within Wisconsin, who may have moved to and registered to vote in other states, or who submitted new address information to the National Change of Address program. These represent only one of the five types of data available from ERIC.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to establish a schedule for regularly obtaining each type of data available from the Electronic Registration Information Center and a plan for acting on these data; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to require WEC to regularly obtain ERIC data and use them to improve the accuracy and completeness of WisVote.

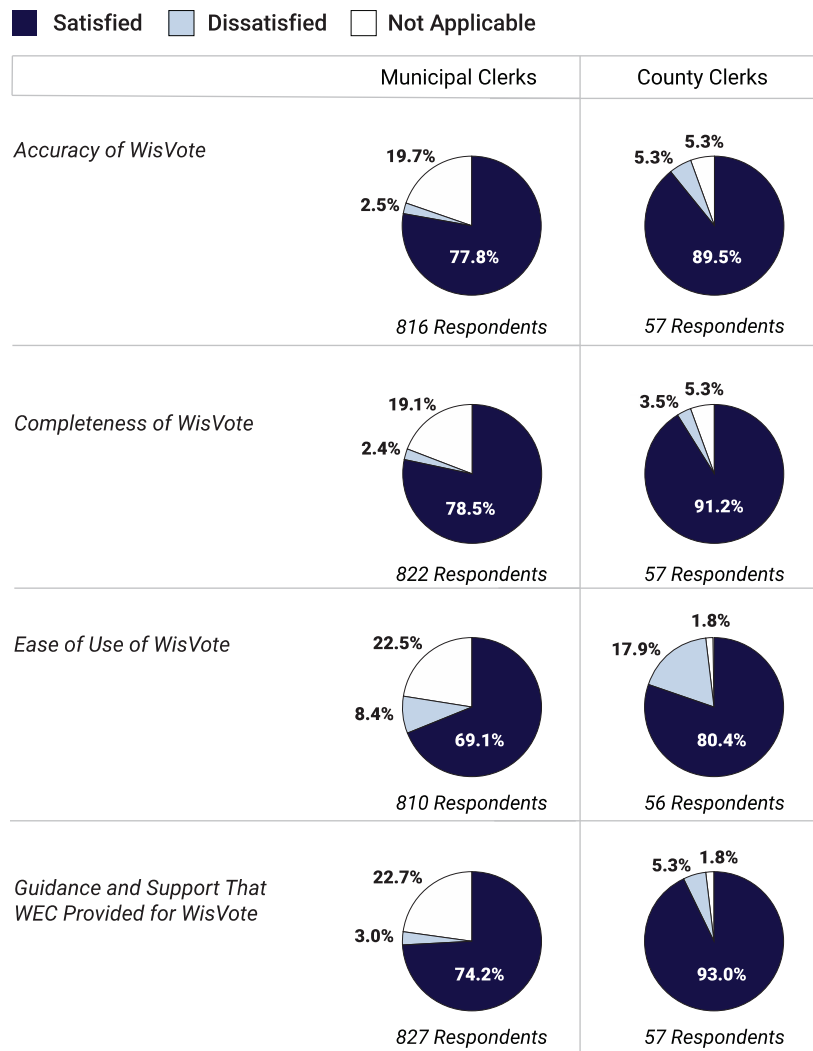
Currently, statutes do not require WEC to obtain and use ERIC data. The Legislature could consider modifying statutes to require WEC to regularly obtain ERIC data and use them to improve the accuracy and completeness of WisVote. For example, statutes could be modified to require WEC to regularly obtain every three or six months ERIC data for registered Wisconsin voters who may have moved to and registered to vote in other states, who may have voted in Wisconsin and other states, and who may have died in other states.

Satisfaction Levels of Clerks

Our April 2021 survey asked all municipal and county clerks about their satisfaction with WisVote. As shown in Figure 4, most of the municipal and county clerks who responded to our survey indicated that they were satisfied with the accuracy, completeness, and ease of use of WisVote, as well as with the guidance and support provided by WEC for using WisVote. County clerks indicated that they were more satisfied than municipal clerks with each of these aspects.

Figure 4

Satisfaction of Clerks with Aspects of WisVote¹



¹As indicated by municipal and county clerks who responded to our April 2021 survey.

Some clerks who responded to our survey commented on their satisfaction with WisVote. For example:

- one clerk indicated that WisVote is an “effective way to store and manage voter information;”
- a second clerk indicated that WisVote is a “wonderful, state of the art system;” and
- a third clerk indicated that WisVote is a “huge improvement” over SVRS, and that WEC’s staff resolved problems “very quickly with thorough notice.”

Other clerks who responded to our survey indicated their dissatisfaction with the accuracy of WisVote. For example:

- one clerk indicated that there have been data entry errors for many years; and
- a second clerk indicated that “a lot of the voter information,” such as the birth dates of individuals who had registered to vote before Wisconsin had an electronic voter registration system, was inaccurate when first entered into SVRS and remains inaccurate in WisVote.

■ ■ ■ ■

Absentee Ballots

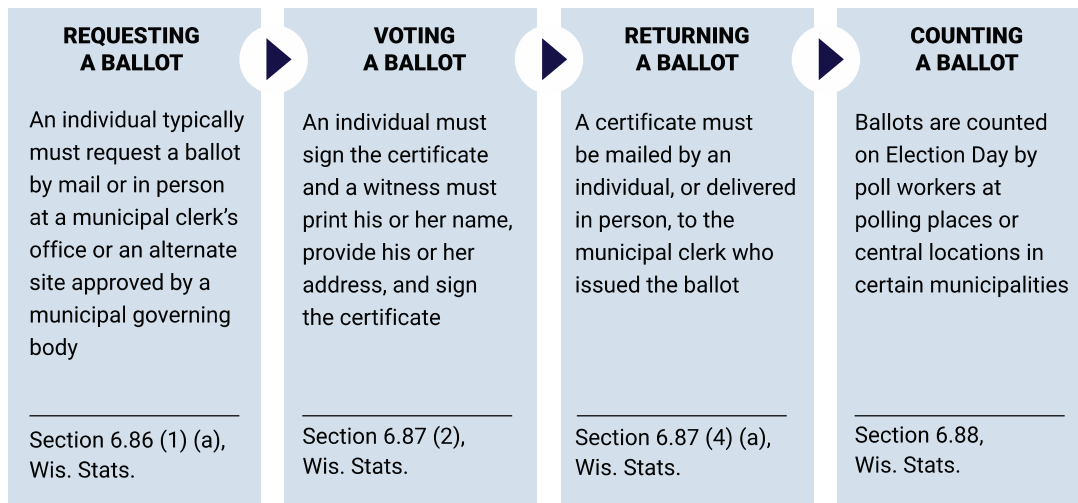
Statutes permit individuals to vote by absentee ballot.

Statutes permit individuals to vote by absentee ballot. An individual must complete an absentee ballot in the presence of a witness and typically must complete a certificate that includes the addresses and signatures of the individual and a witness. In most instances, certificates are the envelopes in which absentee ballots are returned. To examine issues pertaining to absentee ballots cast in the November 2020 General Election, we examined WEC's data, contacted 48 clerks, and physically examined 14,710 certificates returned by individuals who voted in 29 municipalities. If WEC believes municipal clerks should be permitted to take certain actions pertaining to absentee ballots, we recommend WEC's staff work with WEC to promulgate applicable administrative rules. We also include five issues for legislative consideration.

Voting by Absentee Ballot

Figure 5 summarizes the typical process by which an individual votes by absentee ballot. Statutes typically require an individual to request an absentee ballot by mail or in person at either the office of a municipal clerk or alternate sites approved by municipal governing bodies. After receiving an absentee ballot and selecting candidates, statutes require an individual to sign the certificate and a witness to print his or her name, provide his or her address, and sign the certificate. Statutes require a certificate to be mailed by the individual, or delivered in person, to the municipal clerk who issued the absentee ballot. Absentee ballots are counted on Election Day by poll workers at polling places or central locations in certain municipalities.

Figure 5

Typical Process for Voting by Absentee Ballot, as Statutorily Required

When requesting absentee ballots, statutes require that individuals provide photo identification, unless individuals:

- are indefinitely confined because of age, physical illness, or infirmity, or they are disabled for indefinite periods of time;
- are residents of a residential care facility or qualified retirement home voting in the presence of special voting deputies;
- are serving in the military or vote overseas; or
- previously voted absentee, provided photo identification, and have not changed their names or addresses since then.

November 2020 General Election

Considerably more absentee ballots were cast in the November 2020 General Election than had been cast in the November 2016 General Election.

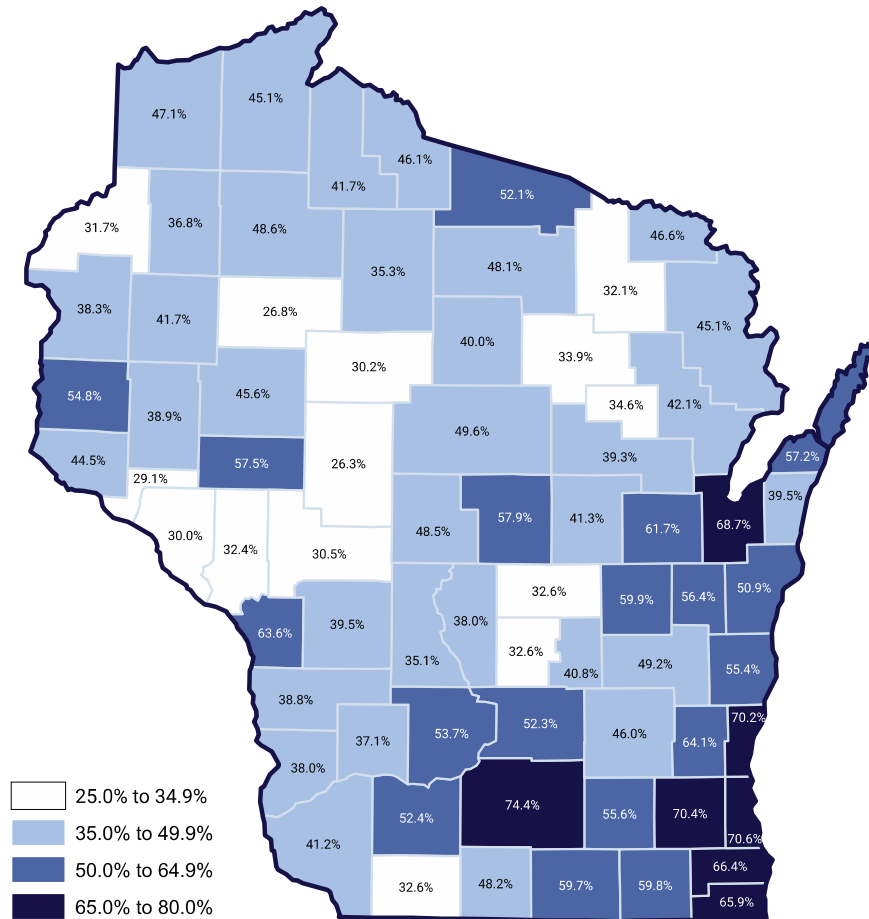
Considerably more absentee ballots were cast in the November 2020 General Election than had been cast in the November 2016 General Election. We found that:

- in November 2016, 819,316 absentee ballots were cast, which was 27.3 percent of all ballots cast; and
- in November 2020, 1,963,954 absentee ballots were cast, which was 59.6 percent of all ballots cast.

Figure 6 shows absentee ballots as a proportion of all ballots cast in each county in the November 2020 General Election. Dane County had the highest proportion of absentee ballots (74.4 percent), while Clark County had the lowest proportion (26.3 percent).

Figure 6

Absentee Ballots as a Proportion of All Ballots Cast, by County¹
November 2020 General Election



¹ According to information in WisVote as of September 2021.

In February 2021, WEC used WisVote information to report that 4,270 of all absentee ballots in the November 2020 General Election (0.2 percent of all absentee ballots returned) were rejected. These ballots were rejected for a variety of reasons, including because the certificates were incomplete, the ballots were returned after Election Day, the individuals who cast the ballots died before Election Day, or

individuals voted in person at polling places on Election Day after having returned absentee ballots.

Absentee Ballot Certificates

Before providing an absentee ballot, statutes typically require a municipal clerk to verify that an individual provided valid identification. Statutes typically require an individual to complete an absentee ballot in the presence of an adult witness who is a U.S. citizen.

An absentee ballot certificate must include the signature of the individual who cast the ballot, and a witness must write his or her printed name, address, and signature.

Section 6.87 (2), Wis. Stats., requires a certificate to include the address and signature of the individual who cast the ballot, and it requires a witness to write his or her printed name, address, and signature on the certificate. Statutes do not specify which components, such as a street name and number, an address must include. Statutes include provisions pertaining to an improperly completed or incomplete certificate that an individual returns to a municipal clerk, including:

- s. 6.87 (9), Wis. Stats., which indicates that a clerk may return a ballot and its certificate if an individual is able to correct an improperly completed certificate and return the ballot in time for it to be counted on Election Day, but statutes do not otherwise permit or prohibit clerks from correcting errors in witness addresses or adding missing witness address information; and
- s. 6.87 (6d), Wis. Stats., which indicates that a ballot shall not be counted if its accompanying certificate does not have a witness address.

Section 5.01 (1), Wis. Stats., indicates that elections-related requirements should be construed to give effect to the will of electors, even when full compliance with some statutory provisions does not occur. Section 6.84 (2), Wis. Stats., indicates that notwithstanding s. 5.01 (1), Wis. Stats., the statutory provisions that require certificates to have witness addresses are mandatory, and the ballots accompanying certificates that are missing this information shall not be counted. Section 6.84 (2), Wis. Stats., similarly indicates that ballots accompanying certificates without voter or witness signatures shall not be counted during a recount.

In October 2016, WEC approved written guidance indicating that municipal clerks must take action to correct errors in the witness addresses on certificates.

In October 2016, WEC approved written guidance indicating that municipal clerks must take action to correct errors in the witness addresses on certificates. This guidance indicated that clerks were not required to contact the individuals who cast the ballots but were required to include their initials next to any corrections they made to witness addresses. This guidance also indicated that a complete address must include at least a street name and number as well as a municipality. In October 2020, WEC's staff updated this guidance to indicate that clerks should attempt to resolve any missing witness

address information before Election Day, and this can be done by using reliable information, such as personal knowledge, voter registration information, or a telephone call with a voter or witness. The guidance indicates that a witness does not need to appear in person to add a missing address. If certificates did not have signatures or contained other errors, the updated guidance indicated that clerks must require the individuals who cast the ballots or the witnesses to resolve these issues.

Our April 2021 survey asked municipal clerks whether they had received for the November 2020 General Election any certificates with missing information. In response, 507 clerks (58.9 percent) indicated that they had received certificates with missing information, 324 clerks (37.6 percent) indicated that they had not received such certificates, and 30 clerks (3.5 percent) indicated that they were uncertain whether they had received such certificates.

Municipal clerks indicated that they took various actions when they received certificates that did not have some or all components of witness addresses.

We contacted 21 municipal clerks about actions they took when they received certificates with missing information. All but one clerk indicated that they contacted the individuals who cast the ballots in order to allow them the opportunity to provide missing witness addresses. These clerks indicated that they took various actions when they received certificates that did not have some or all components of witness addresses. For example:

- 10 clerks indicated that they did not write any components of witness addresses on the certificates;
- 8 clerks indicated that they wrote components of witness addresses on the certificates;
- 2 clerks indicated that they accepted ballots returned in certificates that did not have any components of witness addresses; and
- 1 clerk indicated having rejected a certificate that did not have a witness address because the certificate was received the day before the election, which left too little time to obtain the missing address.

Statutes do not require municipal clerks to verify the signatures of individuals who cast absentee ballots. We reviewed information from 30 states where election officials verify signatures and found that ballot signatures are compared to signatures on other documents, such as absentee ballot applications, voter registration forms, and driver's licenses. Six of the 30 states specify criteria for verifying signatures, such as the writing slant, letter spacing, and letter shapes. In 28 of the 30 states, election officials notify individuals if their signatures are not verified, and 2 states require election officials to be trained to verify signatures. As noted, we found that WEC did not comply with statutes that require it to obtain from DOT the signatures of individuals who register online to vote.

Review of Certificates

To determine the extent to which the certificates of absentee ballots cast for the November 2020 General Election contained statutorily required information, we selected certificates in 29 municipalities, including:

- 9 of the 10 municipalities where the most absentee ballots were cast, other than the City of Madison, which did not allow us to physically handle certificates;
- the 10 municipalities where absentee ballots made up the largest proportions of the total ballots cast; and
- 10 municipalities we chose at random from counties other than those in which the other 19 municipalities were located.

The certificates we reviewed included spaces for individuals to sign their names, and for witnesses to write their addresses and signatures. The certificate that WEC made available to municipalities statewide to use in the November 2020 General Election did not include spaces for witnesses to print their names, as required by statutes.

We physically reviewed 14,710 certificates in 29 municipalities.

We physically reviewed 14,710 certificates in the 29 municipalities, where a total of 470,028 absentee ballots were cast in the November 2020 General Election. We reviewed a random sample of certificates from 20 municipalities, all or almost all certificates from 8 municipalities, and a large number of certificates from 1 municipality. Because of the size of our random sample of certificates that we reviewed in the 20 municipalities, we can reasonably expect that the results of our review for a given municipality are representative of all certificates in that municipality during the November 2020 General Election. However, because we did not examine certificates other than in the 29 municipalities, we cannot reasonably expect that the results of our review are representative of certificates in municipalities statewide. Appendix 4 lists the 29 municipalities and selected results of our review of certificates.

Our review found that some certificates had incomplete witness addresses or did not have some statutorily required information.

Our review of the 14,710 certificates found that:

- 1,022 certificates (6.9 percent) in 28 municipalities had partial witness addresses because they did not have one or more components of a witness address, such as a street name, municipality, state, and zip code, including 799 certificates (5.4 percent) that did not have a zip code and 364 certificates (2.5 percent) that did not have a state;

- 15 certificates (0.1 percent) in 10 municipalities did not have a witness address in its entirety;
- 8 certificates (less than 0.1 percent) in 7 municipalities did not have a witness signature; and
- 3 certificates (less than 0.1 percent) in 2 municipalities did not have a voter's signature.

Our review of the 14,710 certificates found evidence that municipal clerks had corrected witness addresses on 66 certificates (0.4 percent). This evidence included clerk initials or pen marks in the ink colors that clerks had indicated were used to make corrections. As noted, WEC's written guidance in October 2016 indicated that clerks must include their initials next to any corrections to witness addresses.

On Election Day, poll workers remove the returned ballots from certificates, which are retained separately from the ballots. As a result, almost all certificates we reviewed no longer contained ballots. However, we found 17 certificates in 3 of the 29 municipalities contained absentee ballots. Clerks in these three municipalities indicated that the corresponding ballots were likely not counted on Election Day because of oversights. Most of these 17 certificates were not in the 14,710 certificates in our sample.

We question whether clerks in four municipalities consistently complied with the statutory requirement for them to initial certificates in certain situations.

Statutes require municipal clerks to write their initials on certificates in certain situations, including when individuals request absentee ballots in person at clerk offices. These initials indicate that clerks verified the identification provided by these individuals when they requested absentee ballots. Statutes indicate that a ballot must not be counted if the accompanying certificate is not initialed by a clerk, when such initials are required. In contrast, statutes do not require clerks to write their initials on certificates accompanying absentee ballots requested online by individuals. Such individuals are statutorily required to provide clerks with a copy of their photo identification. During our review of the 14,710 certificates, we found that less than 1.0 percent of all certificates we reviewed in four municipalities contained clerk initials. Clerks at these municipalities indicated that they did not initial certificates for multiple reasons, including because the individuals who requested the ballots were registered and eligible to receive them; the clerks printed the names and addresses of the individuals on the certificates to signify the individuals were eligible to receive the ballots; and the clerks initialed the ballots rather than the certificates. We question whether the clerks in these four municipalities consistently complied with the statutory requirement for them to initial certificates in certain situations.

Statutes require poll workers to complete a form that contains certain information.

In the 319 municipalities in our review, the forms we reviewed indicated that 2,187 ballots (0.6 percent) were remade and 231 absentee ballots (less than 0.1 percent) were rejected.

Election Day Forms

Statutes require poll workers to complete a form that contains certain information, including the number of individuals on the poll list and the number of ballots returned. These forms also contain incident logs, where poll workers can describe election-related occurrences at polling places, such as ballots remade by workers and absentee ballots rejected by poll workers. County clerks typically retain these forms after an election.

We selected a random sample of 319 municipalities and requested that the relevant county clerks provide us with all forms that poll workers in these municipalities completed on Election Day in November 2020 at polling places other than central count locations, which is where some municipalities specify that all absentee ballots are counted on Election Day. The 319 municipalities are located in 69 counties and listed in Appendix 5. We received forms for all 319 municipalities.

Poll workers are required by statutes to remake ballots if, for example, the electronic voting equipment cannot read ballots in poor condition, individuals select more candidates than allowed in a given contest, or individuals who are in the military or overseas return electronic ballots. When a ballot is remade, poll workers are statutorily required to complete a new ballot that reflects the choices made on the original ballot. Poll workers may reject absentee ballots if, for example, the accompanying certificates are incomplete or the voters who returned them died before Election Day. The 571 forms we reviewed indicated that a total of 392,177 ballots were cast in the 319 municipalities, including:

- 2,187 ballots (0.6 percent) remade in 146 municipalities; and
- 231 absentee ballots (less than 0.1 percent) rejected in 78 municipalities.

Improved Procedures

WEC's staff should work with WEC to ensure the certificates made available to municipalities comply with statutes by requiring witnesses to print their names, which will allow municipal clerks to more readily identify the witnesses. WEC's staff should provide municipal clerks with additional training on the statutory requirement to initial certificates in certain situations. If WEC believes that clerks should be permitted to correct or add missing witness addresses on certificates, WEC's staff should work with WEC to promulgate administrative rules to permit clerks to take such actions. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how clerks are to act when they receive certificates that do not have statutorily required information, and administrative rules carry the force of law.

☑ Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *ensure that the absentee ballot certificates made available to municipalities comply with statutes by requiring witnesses to print their names;*
- *provide municipal clerks with additional training on the statutory requirement to initial absentee ballot certificates in certain situations;*
- *promulgate administrative rules to allow municipal clerks to correct or add missing witness address information to absentee ballot certificates, if the Wisconsin Elections Commission believes municipal clerks should be permitted to take such actions; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Issues for Legislative Consideration

The Legislature could consider modifying statutes to specify the particular address components that a witness must provide on a certificate.

As noted, statutes do not define the components of a witness address that a certificate must contain, such as a street name and number, municipality, state, and zip code. The Legislature could consider modifying statutes to specify the particular address components that a witness must provide on a certificate. For example, witnesses could be required to provide, at a minimum, street names and numbers, as well as their municipalities. Such a definition would allow an absentee ballot to be counted if a witness address excluded a state and a zip code.

The Legislature could consider modifying statutes to clarify whether municipal clerks themselves can correct errors in witness addresses or add missing witness address information.

The Legislature could consider modifying statutes to clarify the extent to which municipal clerks are permitted themselves to correct errors in witness addresses or add missing witness address information. As noted, statutes allow a clerk to return a ballot and its certificate if an individual is able to correct an improperly completed certificate and return the ballot in time for it to be counted on Election Day, but statutes do not otherwise permit or prohibit clerks from correcting errors in witness addresses or adding missing witness address information.

The Legislature could consider modifying statutes to require municipal clerks to verify the signatures of individuals who cast absentee ballots.

As noted, statutes require a certificate to include the signature of the individual who cast the ballot. The Legislature could consider modifying statutes to require municipal clerks to verify the signatures of individuals who cast absentee ballots. In doing so, it could specify the documents that clerks should use to verify these signatures, such as voter registration forms and driver's licenses, and the methods that clerks should use to verify these signatures, such as examining the writing slant, letter spacing, and letter shapes. In addition, it could require clerks to be trained on how to verify signatures.

Collection of Absentee Ballots

Statutes require a certificate to be mailed by the individual, or delivered in person, to the municipal clerk who issued the ballot.

As noted, statutes require a certificate to be mailed by the individual, or delivered in person, to the municipal clerk who issued the ballot. Statutes allow a municipal governing body to designate a site other than a municipal clerk's office as the location where individuals may request, vote, and return absentee ballots for a given election. If such a site is designated, no functions related to voting and returning absentee ballots that are conducted at such a site may be conducted at a clerk's office. Statutes do not permit or prohibit ballot drop boxes.

In March 2020, WEC's staff issued written guidance indicating that municipal clerks can allow individuals to return absentee ballots to drop boxes that are secure, monitored, and emptied regularly, or return the ballots through mail slots at municipal facilities and book return slots at municipal libraries, as long as clerks collected such ballots daily. In July 2020, WEC's staff issued written guidance indicating that alternate sites for requesting, voting, and returning absentee ballots could be established according to the statutory requirements.

Drop Boxes

In response to our survey, 245 municipal clerks indicated that they used drop boxes for the November 2020 General Election.

Our survey asked municipal clerks to indicate whether they used drop boxes, other than mail slots at municipal facilities, to collect absentee ballots for the November 2020 General Election. In response to our survey:

- 610 clerks (71.3 percent) indicated that they did not use drop boxes; and
- 245 clerks (28.7 percent) indicated that they used drop boxes, and the municipalities of these clerks were located throughout the state, as shown in Figure 7.

Figure 7

Number of Municipalities That Used Ballot Drop Boxes, by Region¹
November 2020 General Election



¹ As indicated by 245 municipal clerks who responded to our April 2021 survey.

A total of 26 of the 47 municipal clerks we contacted indicated that they used drop boxes, municipal return slots, or similar receptacles for the November 2020 General Election. We found that:

- 25 clerks indicated that absentee ballots were collected from drop boxes at least daily, and 1 clerk indicated that ballots were collected three times per week from a drop box that was locked and under surveillance;
- 25 clerks indicated that their drop boxes were locked or had tamper-evident seals; and
- 14 clerks indicated that they used camera or local law enforcement surveillance to monitor their drop boxes.

Information from the National Conference of State Legislatures (NCSL) indicates that 11 states, which are listed in Appendix 9, allowed drop boxes as of September 2020. In June 2021, a law firm asked the Waukesha County Circuit Court for a declaratory judgement that statutes do not allow drop boxes. As of September 2021, the court had not issued its decision.

If WEC believes that municipal clerks should be permitted to establish drop boxes where individuals can return absentee ballots, WEC's staff should work with WEC to promulgate administrative rules to permit clerks to establish them. Such rules could establish minimum requirements for securing the drop boxes, as well as prescribe where clerks could locate drop boxes and how frequently clerks would be required to collect absentee ballots from drop boxes. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how individuals can return absentee ballots, and administrative rules carry the force of law.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *promulgate administrative rules to permit municipal clerks to establish drop boxes where individuals can return absentee ballots, if the Wisconsin Elections Commission believes municipal clerks should be permitted to establish drop boxes; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Special Events

Media reports indicated that at least one clerk collected absentee ballots at specified outdoor locations before the November 2020 General Election. Our survey asked municipal clerks to indicate whether they had held events at sites other than their offices to collect absentee ballots for the General Election. In response:

- 842 clerks (98.5 percent) indicated that they had not held such events; and
- 13 clerks (1.5 percent) indicated that they had held such events.

We contacted 11 municipal clerks about events at sites other than their offices to collect absentee ballots. Some clerks, particularly in smaller municipalities, indicated that they did not have offices in municipal buildings and performed election-related duties in their homes. To minimize the number of individuals in their homes during the public

health emergency, some clerks indicated that they had conducted in-person absentee voting at locations other than their homes. None of the 11 clerks indicated that their municipal governing bodies had designated alternate sites for in-person absentee voting. Among the 11 clerks:

- 7 clerks indicated that they had held special events at sites other than their offices, and individuals could return absentee ballots at these events;
- 4 clerks indicated that they had held special events at sites other than their offices, and individuals could both request and return absentee ballots at these events;
- 1 clerk indicated having conducted in-person absentee voting at the clerk’s home, which was not the clerk’s office; and
- 1 clerk indicated having conducted in-person absentee voting by visiting the homes of individuals who requested ballots.

Issue for Legislative Consideration

The Legislature could consider modifying statutes to clarify whether individuals are allowed to return absentee ballots to drop boxes.

The Legislature could consider modifying statutes to clarify whether individuals are allowed to return absentee ballots to drop boxes. Some individuals believe that statutes allow absentee ballots to be returned to drop boxes or in person to clerk staff at locations other than a clerk’s office, regardless of whether a municipal governing body established such locations. They believe that these actions are statutorily allowable because individuals requested ballots by statutorily allowable methods, the drop boxes were established by clerks, and clerk staff collected the ballots. Other individuals believe that statutes do not allow absentee ballots to be returned through drop boxes or to clerk staff at locations other than those designated by a municipal governing body.

Indefinitely Confined Individuals

Statutes allow individuals to sign statements indicating they are indefinitely confined because of age, physical illness, or infirmity.

Statutes allow individuals to sign statements indicating they are indefinitely confined because of age, physical illness, or infirmity, or because they are disabled for an indefinite period. Such individuals are not required to provide proof of their identification in order to receive absentee ballots. Instead, statutes allow them to submit signed statements from witnesses who observed them voting their ballots. These statements must contain the names and addresses of the individuals and verify the accuracy of this information.

The Wisconsin Supreme Court ruled that individuals must decide, based on their age, physical illness, or infirmity, whether they are indefinitely confined.

In March 2020, WEC provided guidance to municipal clerks indicating that indefinitely confined designations are determined by individuals and are based on their circumstances, do not require permanent or total inability to travel outside of the home, and should not be used in order to avoid providing photo identification for voting. On December 14, 2020, the Wisconsin Supreme Court ruled that individuals must decide, based on their age, physical illness, or infirmity, whether they are indefinitely confined.

Statutes require municipal clerks to automatically send absentee ballots to all indefinitely confined individuals unless:

- an individual does not cast and return an absentee ballot for a given election and does not respond within 30 days to a letter or a postcard mailed by a clerk;
- an individual requests to no longer be considered to be indefinitely confined; or
- a clerk receives reliable information that an individual is no longer indefinitely confined.

In the November 2020 General Election, 220,404 indefinitely confined individuals voted, including 169,901 individuals who first indicated in 2020 that they were indefinitely confined.

As shown in Table 6, 220,404 indefinitely confined individuals voted in the November 2020 General Election, including 169,901 individuals (77.1 percent) who first indicated in 2020 that they were indefinitely confined. We found that 1,001 individuals first indicated for the November 2020 General Election that they were indefinitely confined but, in fact, voted at the polls on November 3, 2020. Because these individuals were not indefinitely confined on Election Day, they are not included in the table.

Table 6

Indefinitely Confined Individuals Who Voted in the November 2020 General Election, by the Year When They First Indicated They Were Indefinitely Confined¹

Year	Number of Individuals	Percentage of Total
Before 2016	16,573	7.5%
2016	12,658	5.7
2017	2,928	1.3
2018	13,840	6.3
2019	4,504	2.0
2020	169,901	77.1
Total	220,404	100.0%

¹ According to WEC's data.

A total of 171,850 of the 220,404 indefinitely confined individuals (78.0 percent) had previously provided photo identification.

WEC's data indicated that 171,850 of the 220,404 indefinitely confined individuals (78.0 percent) had previously provided photo identification. According to WEC's data, the remaining 48,554 individuals (22.0 percent) had not previously voted by methods that required them to have provided photo identification or did not have photo identifications on file with clerks. These data indicated the locations from which 44,272 of the 48,554 individuals (91.2 percent) voted during the November 2020 General Election. We found that these individuals voted from each county in the state, as shown in Appendix 10.

Our survey asked municipal clerks to indicate whether they had sent absentee ballots to indefinitely confined individuals for the November 2020 General Election. In response to our survey:

- 829 clerks (95.6 percent) indicated that they had sent absentee ballots to indefinitely confined individuals;
- 36 clerks (4.2 percent) indicated that they had not sent ballots to such individuals; and
- 2 clerks (0.2 percent) indicated that they were uncertain whether they had sent ballots to such individuals.

We contacted seven municipal clerks regarding their perspectives on indefinite confinement and found that:

- four clerks indicated they had contacted individuals to verify their indefinitely confined status;
- two clerks indicated certain individuals who claimed indefinite confinement status did not meet the requirement, but they did not contact these individuals before sending them absentee ballots; and
- one clerk indicated postcards were not mailed to indefinitely confined individuals who had not returned absentee ballots in prior elections and, as a result, these individuals automatically received absentee ballots for the November 2020 General Election.

Information from NCSL indicated that nine other states, which are listed in Appendix 11, allow individuals with certain disabilities to automatically receive absentee ballots. Some states require physicians to verify that certain individuals are eligible to automatically receive absentee ballots, and states use various methods to determine when individuals are no longer eligible.

Special Voting Deputies

Statutes set forth the exclusive means of absentee voting in person in residential care facilities and qualified retirement homes.

Statutes set forth the exclusive means of absentee voting in person in residential care facilities and qualified retirement homes. A municipal clerk must appoint at least two special voting deputies to supervise absentee voting by individuals living in such facilities and homes, a clerk is required to send deputies to each such facility and home where five or more individuals live and are registered to vote, and deputies must arrange one or more visits to each such facility and home. Instead of providing proof of identification, individuals may submit statements that verify their names and addresses, and both deputies must sign the statements. The individuals must vote in the presence of the deputies. A clerk may send an absentee ballot to an individual who is unable to vote during two separate visits by the deputies.

In March 2020, WEC's staff issued written guidance indicating that municipal clerks should not send special voting deputies to facilities and homes but should instead mail absentee ballots to individuals living in such facilities and homes. WEC's staff did so based on WEC's interpretation that the deputies were "non-essential" individuals prohibited from visiting facilities and homes as a result of Executive Order 72 and DHS directives pertaining to the public health emergency. In May 2020, the Wisconsin Supreme Court blocked an extension of DHS's "Safer at Home" directive.

Written guidance that WEC provided to municipal clerks in June 2020 did not comply with statutes.

In June 2020, WEC's staff recommended to WEC a motion to direct municipal clerks to contact facilities and homes in order to determine if special voting deputies would be permitted entry. In June 2020, WEC directed clerks not to send or attempt to send deputies to facilities and homes for the remainder of 2020. Instead, WEC directed clerks to mail absentee ballots to individuals living in these facilities and homes who requested the ballots. WEC's written guidance provided to clerks in June 2020, as well as the written guidance that WEC's staff had provided to clerks in March 2020, did not comply with statutes.

Our survey asked municipal clerks to indicate whether they tried to send special voting deputies to facilities or homes before the November 2020 General Election. In response to our survey:

- 502 clerks (58.8 percent) indicated that they did not have such facilities or homes in their municipalities;
- 342 clerks (40.0 percent) indicated that they had not tried to send deputies to such facilities and homes; and
- 10 clerks (1.2 percent) indicated that they had attempted to send deputies to such facilities and homes.

We contacted nine municipal clerks about whether they had attempted to send special voting deputies to facilities or homes before the November 2020 General Election. Seven clerks told us that they had contacted facilities and homes, none of which permitted the deputies to enter, and two of these seven clerks indicated that staff of the facilities and homes helped individuals living there to complete absentee ballots.

In February 2021, the Joint Committee for Review of Administrative Rules determined that WEC's written guidance to municipal clerks not to send special voting deputies to facilities and homes but to instead mail absentee ballots to individuals living there met the definition of a rule. As a result, the Joint Committee directed WEC to promulgate an emergency rule within 30 days. In March 2021, WEC issued new written guidance that directed clerks to contact facilities and homes before the April 2021 Spring Election and determine if deputies would be permitted entry, schedule two televisits with administrators of facilities and homes where deputies would not be permitted entry, and mail absentee ballots to individuals living in such facilities and homes. WEC also directed its staff to create a scope statement for a proposed emergency rule based on the March 2021 guidance. In April 2021, WEC passed a motion to allow this scope statement to expire, in part, because no further statewide elections were scheduled to occur in 2021.

Improved Procedures

If WEC believes clerks should be permitted in certain situations not to send special voting deputies to residential care facilities and qualified retirement homes, WEC's staff should work with WEC to promulgate administrative rules to permit clerks to take alternative actions. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how clerks are to provide absentee ballots to individuals living in such facilities and homes, and administrative rules carry the force of law.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *promulgate administrative rules to specify the situations when municipal clerks should not send special voting deputies to residential care facilities and qualified retirement homes, if the Wisconsin Elections Commission believes municipal clerks should be permitted to take alternative actions in these situations; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to prescribe circumstances when clerks are not required to send special voting deputies to facilities and homes.

Currently, statutes require municipal clerks to attempt to send special voting deputies to residential care facilities and qualified retirement homes, regardless of the circumstances. During a public health or other emergency, clerks and special voting deputies may risk disenfranchising individuals living in such facilities and homes if they cannot obtain entry. The Legislature could consider modifying statutes to prescribe circumstances when clerks are not required to send special voting deputies to such facilities and homes, as well as the procedures clerks must follow in mailing and considering absentee ballots in such circumstances. In September 2021, WEC voted to request that the Governor categorize special voting deputies as essential visitors, which it indicated would allow the deputies entry into facilities and homes during a public health emergency.

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Ballot Processing

Statutes permit a municipal governing body to specify by ordinance that absentee ballots returned by individuals will be counted on Election Day at a central location.

Statutes permit a municipal governing body to specify by ordinance that absentee ballots returned by individuals will be counted on Election Day at a central location, rather than at each polling place. A municipal clerk, or an election official designated by a municipal or county clerk, must direct all central count proceedings, including counting ballots publicly. During the November 2020 General Election, 39 municipalities counted absentee ballots at central count locations. We contacted the clerks of all 39 municipalities and analyzed the written guidance WEC and its staff provided to clerks. We recommend WEC's staff work with WEC to retract statutorily noncompliant written guidance previously provided to municipal clerks, and WEC's staff should work with WEC to promulgate administrative rules if WEC believes clerks should be permitted to take certain actions. We also include two issues for legislative consideration.

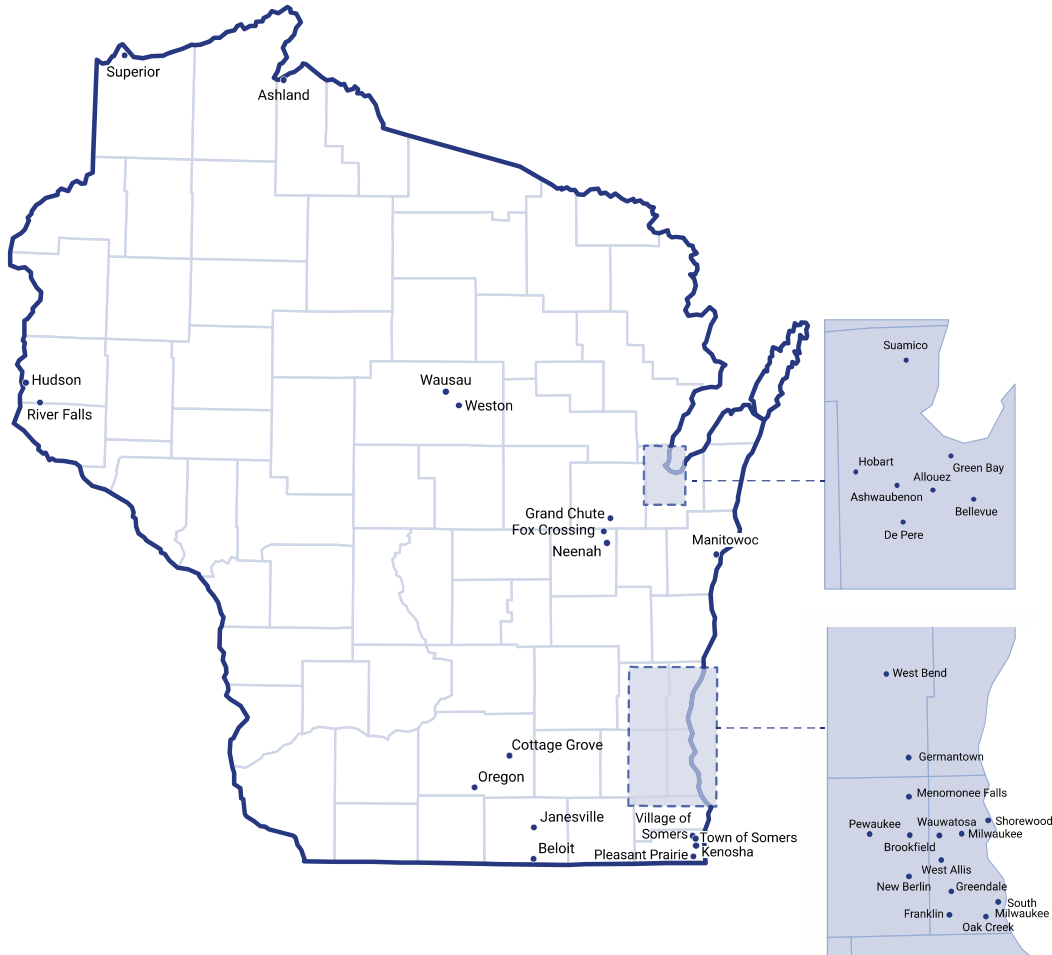
Central Count Locations

During the November 2020 General Election, 39 municipalities used central count locations.

Figure 8 shows the 39 municipalities that used central count locations during the November 2020 General Election. Municipal clerks indicated that 32 of the 39 municipalities authorized central count locations in 2016 or later, including 8 municipalities that authorized them in 2020.

Figure 8

Municipalities That Used Central Count Locations
November 2020 General Election



Election Day Forms

For the 39 municipalities that used central count locations, we reviewed 662 Election Day forms that poll workers completed for the November 2020 General Election for their central count locations. As noted, poll workers are required by statutes to remake ballots if, for example, the electronic voting equipment cannot read ballots in poor condition, individuals select more candidates than allowed in a given contest, or individuals who are in the military or overseas return electronic ballots. Absentee ballots may also be rejected on Election Day if, for example, the accompanying certificates are incomplete.

For the November 2020 General Election, 12,237 absentee ballots (1.4 percent) were remade in the 39 central count municipalities.

The 662 Election Day forms indicated that 12,237 ballots were remade at central count locations in the 39 municipalities during the November 2020 General Election, which was approximately 1.4 percent of all ballots cast in these municipalities. This proportion was higher than the 0.6 percent of all ballots remade in our sample of 319 municipalities. This higher proportion may be explained, in part, because individuals who vote in person at polling places are allowed to spoil their ballots and recast them, whereas poll workers at central count facilities processed only absentee ballots.

Central count poll workers in 2 municipalities remade considerably larger proportions of ballots than poll workers in the other 37 municipalities. We found that central count poll workers in the:

- Town of Grand Chute in Outagamie County remade 2,249 absentee ballots, which was approximately 16.3 percent of all ballots cast in the municipality. The Outagamie County clerk indicated to WEC's staff that they had encountered an issue when printing absentee ballots, which caused the ballots to be completely unreadable when inserted into electronic voting equipment. As a result, poll workers remade the ballots.
- City of West Bend remade 1,881 absentee ballots, which was approximately 10.3 percent of all ballots cast in the municipality. The municipal clerk indicated to us that creases in the absentee ballots caused the electronic voting equipment to register over-votes, which occur when a ballot includes more votes than allowed for a given contest. As a result of these over-votes, poll workers remade the ballots.

For the November 2020 General Election, 633 absentee ballots (less than 0.1 percent) were rejected in 33 of the 39 central count municipalities.

The 662 Election Day forms indicated that 633 absentee ballots were rejected at central count locations in 33 of the 39 municipalities during the November 2020 General Election, which was less than 0.1 percent of the total ballots cast in these 33 municipalities. This proportion was similar to the proportion that poll workers rejected in our previously described sample of 319 municipalities.

Ballot Security

Municipal clerks indicated that central count locations used a variety of security measures on Election Day. A total of 23 municipal clerks indicated that cameras, locked doors, and vaults provided security. In addition, 30 clerks indicated either that law enforcement officers had offices at or patrolled the central count locations, or that these locations were in municipal halls, which the clerks believed increased the level of security.

Absentee ballots returned by individuals are stored in the offices of municipal clerks before Election Day. Absentee ballots must be transported to a central count location on Election Day if such a location is separate from a clerk's office. Thirteen of the 39 municipal clerks indicated that the central count locations in November 2020 were separate from their municipal halls, although all 13 clerks indicated that these locations were within 15 minutes of travel time from their offices. Among the 13 clerks:

- 6 clerks indicated that they transported the absentee ballots to the central count locations;
- 6 clerks indicated that their staff, municipal employees, or poll workers transported the ballots; and
- 1 clerk indicated that law enforcement officers transported the ballots.

Poll Workers

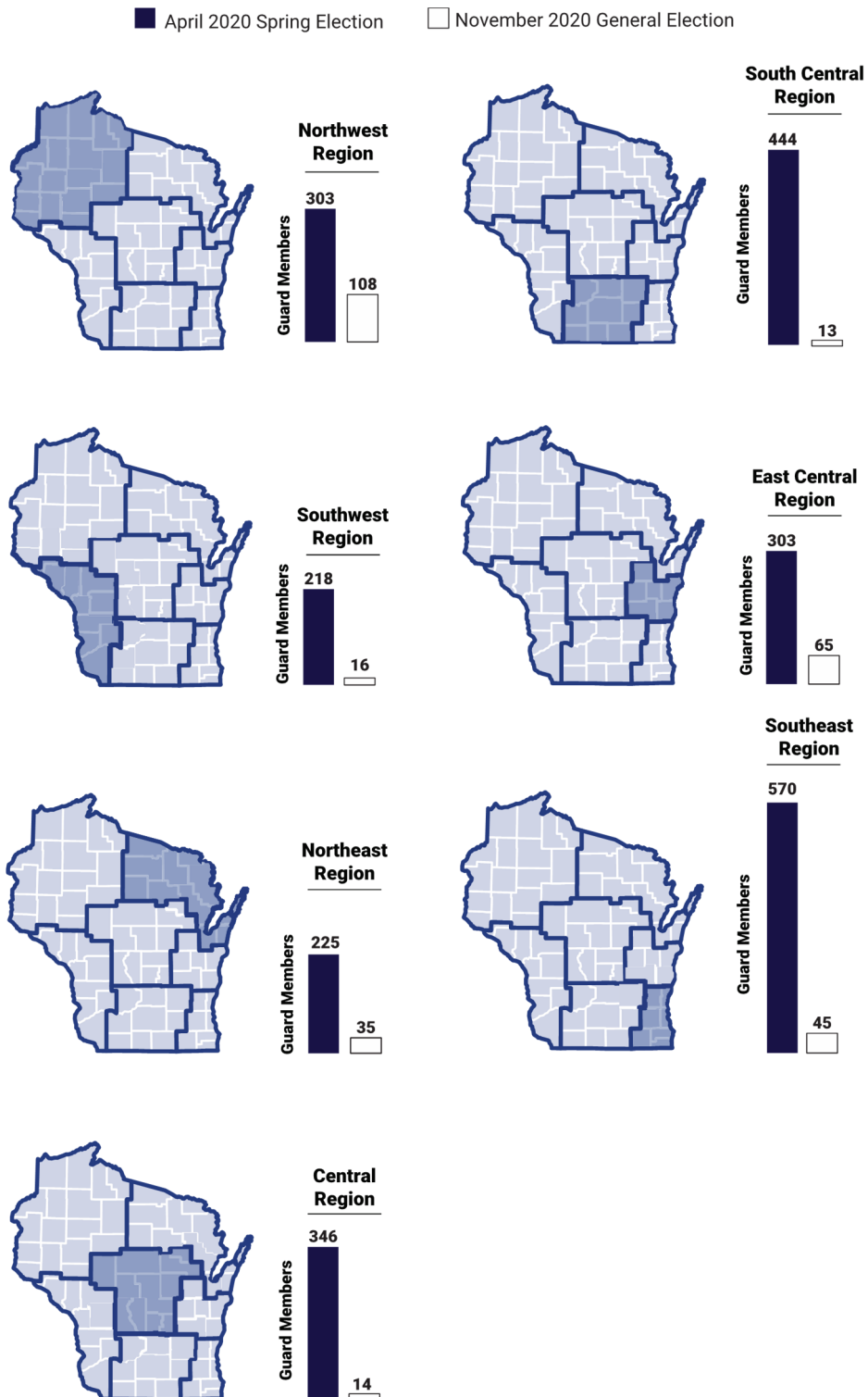
Statutes require at least five poll workers to serve at each polling place. Poll workers maintain order, ensure that ballot boxes and poll lists are secure, and ensure that electronic voting equipment works properly. To help address poll worker shortages in 2020, WEC requested assistance from the National Guard.

During four elections and primaries in 2020, 3,482 National Guard members worked at polling places in 71 counties.

Data provided by WEC's staff indicated that a total of 3,482 National Guard members worked at polling places in 71 counties during four elections and primaries from April 2020 through November 2020, including 2,409 members in April 2020 and 296 members in November 2020. A given member may have worked at multiple elections. Figure 9 shows the number of National Guard members who worked in each of seven regions in the April 2020 Spring Election and in the November 2020 General Election.

Figure 9

National Guard Members Who Worked at Polling Places, by Region¹
 April 2020 Spring Election and November 2020 General Election



¹ According to data provided by WEC's staff.

Statutes permit certain individuals other than poll workers to be present at polling places and central count locations. For example, a municipal governing body may authorize a municipal clerk to employ individuals to help count ballots, and trained technicians needed to operate automatic tabulating equipment may be present at central count locations. All proceedings at a central count location must be open to the public, but no individual other than those employed and authorized may touch any ballot, certificate, or electronic voting equipment. Statutes do not specify the actions and responsibilities that consultants are allowed to take at polling places and central count locations on Election Day.

Consultants associated with non-profit organizations worked at the central count locations in 2 of the 39 municipalities during the November 2020 General Election.

We asked the clerks of all 39 municipalities whether consultants worked at central count locations during the November 2020 General Election. Clerks indicated that consultants associated with non-profit organizations worked at the central count locations in 2 of the 39 municipalities. Specifically:

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

Issue for Legislative Consideration

The Legislature could consider modifying statutes to specify the actions and responsibilities for consultants at polling places and central count locations on Election Day.

The Legislature could consider modifying statutes to specify the actions and responsibilities for consultants at polling places and central count locations on Election Day. For example, statutes could specify the particular actions that consultants are permitted to take, as well as the responsibilities that they are allowed to assume while helping municipal clerks to administer elections.

Ballot Counting

Statutes require election officials to count ballots without adjourning until the counting is completed.

Written guidance that WEC's staff provided to municipal clerks in October 2020 did not comply with statutes.

Regardless of whether a municipality uses a central count location, statutes require election officials to count ballots without adjourning until the counting is completed. Within two hours of completing such counting on Election Night, municipalities must report the results to the relevant county clerks.

Because of the increased number of absentee ballots submitted in 2020, municipal clerks expressed concerns about their ability to count ballots without adjourning. In March 2020, WEC's staff issued written guidance indicating that clerks unable to count all absentee ballots on Election Day could reconvene the following morning. In April 2020, the U.S. Supreme Court ruled that all absentee ballots postmarked by Election Day for the Spring Election were valid, even if clerks did not receive them until after Election Day. In October 2020, WEC's staff issued written guidance indicating that although statutes do not permit adjourning while counting ballots and that clerks should complete all required tasks before adjourning on Election Night, inevitable circumstances may occur that require adjourning until the following day. This written guidance did not comply with statutes.

None of the clerks of the 39 municipalities with central count locations indicated to us that they had adjourned before having counted all ballots after the polls closed for the November 2020 General Election. Nevertheless, the potential exists that clerks could adjourn from counting ballots in future elections, based on written guidance from WEC's staff.

WEC's staff should retract their statutorily noncompliant written guidance indicating that although clerks should complete all required tasks before adjourning on Election Night, inevitable circumstances may occur that require adjourning until the following day. If WEC believes certain circumstances may justify adjourning before ballot counting is completed, WEC's staff should work with WEC to promulgate administrative rules to permit adjourning. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how clerks are to count ballots, and administrative rules carry the force of law.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *retract their statutorily noncompliant written guidance that indicates municipal clerks may adjourn before counting all ballots as a result of inevitable circumstances;*
- *promulgate administrative rules to allow municipal clerks to adjourn in certain circumstances before*

completing ballot counting, if the Wisconsin Elections Commission believes municipal clerks should be allowed to adjourn in these circumstances; and

- *report to the Joint Legislative Audit Committee by March 31, 2022, on its efforts to implement these recommendations.*

Polling Places

Statutes require a municipal governing body to establish polling places at least 30 days before an election.

Statutes require a municipal governing body to establish polling places at least 30 days before an election. In March 2020, the Governor issued Executive Order 72, which directed DHS to take all necessary and appropriate measures to respond to the public health emergency. DHS subsequently issued directives that barred nonessential individuals from visiting nursing homes and other licensed care facilities, where polling places are often located.

Written guidance that WEC provided to municipal clerks in March 2020 did not comply with statutes.

In March 2020, WEC approved written guidance indicating that municipal clerks can relocate polling places without approval from municipal governing bodies. Because Executive Order 72 had been issued less than 30 days before the April 2020 election, WEC's staff indicated that clerks needed the flexibility to quickly establish new polling places and ensure that individuals were not disenfranchised because nursing homes and licensed care facilities were closed to the public. As of August 2021, WEC had not retracted or modified its written guidance, even though municipal governing bodies have had the opportunity since March 2020 to establish new polling places that are open to the public.

WEC's staff should work with WEC to retract the statutorily noncompliant written guidance that indicates municipal clerks can relocate polling places without approval from municipal governing bodies. If WEC believes that certain circumstances may justify permitting clerks to relocate polling places without approval, such as during a public health or other emergency, WEC's staff should work with WEC to promulgate administrative rules to permit quick relocations. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how polling places are located, and administrative rules carry the force of law.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to retract the statutorily noncompliant written guidance for establishing polling places;*

- *promulgate administrative rules to specify the circumstances when municipal clerks can relocate polling places without approval from municipal governing bodies, if the Wisconsin Elections Commission believes municipal clerks should be allowed to relocate polling places in these circumstances; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement these recommendations.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to allow new polling places to be quickly established in certain situations.

The Legislature could consider modifying statutes to allow new polling places to be quickly established in certain situations, such as in a public health emergency or if a fire or a natural disaster were to damage a polling place to the extent that it could not be used on Election Day. Statutes could specify the situations, if any, in which a municipal clerk could establish polling places without approval from a municipal governing body. For example, a clerk could be given the authority to establish a new polling place for one election if certain types of situations occurred shortly before Election Day. Doing so would help to prevent individuals from being disenfranchised if a polling place were closed shortly before Election Day and insufficient time remained for a municipal governing body to establish a new polling place.

Reconciliation Process

Statutes require municipal clerks to electronically report to WEC certain information no later than 30 days after each primary and each election in which a state or national office is filled.

Statutes require municipal clerks to electronically report to WEC and the relevant county clerk certain information no later than 30 days after each primary and each election in which a state or national office is filled. This information must include the number of individuals who voted, the number who voted by absentee ballot, and the number who registered to vote before or on Election Day. Statutes require WEC to publish and then update this information on its website each month. After polls close on Election Day, poll workers record on the Election Day forms information such as the number of individuals who voted, as determined either by electronic voting equipment or poll workers who hand-counted the ballots. After an election, municipal clerks enter information from these forms into WisVote.

WEC's staff developed a reconciliation process to help municipal clerks accurately report the statutorily required information.

WEC's staff developed a reconciliation process to help municipal clerks accurately report the statutorily required information. WisVote informs clerks if information entered from the Election Day forms is inconsistent with other information in WisVote, such as the number of individuals who voted, and instructs them to determine the reasons for the inconsistencies. If inconsistencies cannot be reconciled, clerks enter into WisVote comments that WEC's staff subsequently review.

As of September 2021, clerks of:

- 1,679 municipalities (90.8 percent) had entered into WisVote consistent information about the number of individuals who had voted in the November 2020 General Election;
- 164 municipalities (8.9 percent) had not entered into WisVote consistent information pertaining to 0.1 percent of all ballots cast in the General Election; and
- 6 municipalities (0.3 percent) had not entered any of this information into WisVote.

Clerks for 106 of the 164 municipalities entered information indicating that a total of 2,840 more individuals had voted than the number of ballots cast. We reviewed comments that WEC's staff had received from clerks in the three municipalities where the number of individuals who voted exceeded by the largest amounts the number of ballots cast, and we asked WEC's staff to provide us with additional information. These comments and information indicated that:

- poll workers in one municipality did not use a sequential number of voting slips on Election Day, which made the number of individuals who voted erroneously appear to be larger than the number of ballots cast;
- poll workers in a second municipality did not enter information from the Election Day forms into WisVote about the number of absentee ballots cast, although the poll books indicated that the individuals who cast these absentee ballots had voted; and
- poll workers in a third municipality did not count 386 absentee ballots on Election Day, although the poll books indicated that the individuals who cast these absentee ballots had voted. These 386 absentee ballots were counted during the subsequent recount.

Clerks for 58 of the 164 municipalities entered information indicating that a total of 186 more ballots were cast than the number of individuals who signed the poll books. We reviewed comments that WEC's staff had received from clerks in the four municipalities where the number of ballots cast exceeded by the largest amounts the number of individuals who voted. These comments indicated that:

- One municipality reported that 41 more ballots were cast than the number of individuals who

signed the poll books. After paper jams occurred while electronic voting equipment was counting ballots, poll workers remade ballots that they were uncertain the equipment had counted.

- A second municipality reported that 19 more ballots were cast than the number of individuals who signed the poll books. This occurred, in part, as a result of paper jams. Poll workers erroneously believed that the electronic voting equipment had not counted the ballots before the jams occurred and thus had the equipment count the ballots a second time.
- Two municipalities each reported that 12 more ballots were cast than the number of individuals who signed the poll books. The two clerks indicated that electronic voting equipment issues caused the differences in the number of ballots cast and the number of individuals who signed the poll books. For example, paper jams resulted in one or more ballots being counted twice because poll workers erroneously believed that the equipment had not counted the ballots before the jams occurred and thus had the equipment count the ballots a second time.

The inconsistent information that municipal clerks entered into WisVote represented 0.1 percent of all ballots cast in the November 2020 General Election. Although some of the inconsistencies resulted from administrative errors, such as not entering information in WisVote, other inconsistencies resulted from ballots having not been properly counted on Election Day. Using the knowledge gained from the General Election, WEC's staff should take additional actions to address such circumstances and improve ballot processing in future elections. For example, WEC's staff could provide additional training to clerks.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *take additional actions to improve ballot processing in future elections, such as by providing additional training to clerks; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

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Electronic Voting Equipment

Statutes require WEC to approve the types of electronic voting equipment that municipalities are allowed to use, and statutes require municipal clerks to test the equipment.

Statutes require WEC to approve the types of electronic voting equipment municipalities are allowed to use, and statutes require municipal clerks to test each piece of equipment that will count ballots on Election Day. Municipalities with 7,500 or more residents must use electronic voting equipment, and all municipalities must equip each polling place with accessible voting equipment that permits individuals with disabilities to vote without assistance and with the same degree of privacy afforded to individuals without disabilities. All electronic voting equipment must generate a paper record of all votes cast. We contacted 47 clerks, reviewed 175 statutorily required tests that municipal clerks conducted on the equipment before the November 2020 General Election, and in July 2021 observed the results of the Special Election for the 37th Assembly District being electronically transmitted from polling places to the Dane County clerk's office. We recommend WEC's staff provide additional training to clerks on completing the pre-election tests, reviewing Election Day forms after each election, and investigating relevant issues. We also recommend WEC's staff work with WEC to promulgate statutorily required administrative rules to help ensure the security of software components in equipment. We also include two issues for legislative consideration.

Equipment Approval

Before WEC approves a given type of electronic voting equipment for use in Wisconsin, administrative rules require an equipment's vendor to submit certain documentation, including technical manuals, a list of the states and municipalities where the equipment is approved for use, and reports from an independent testing authority that demonstrate the equipment conforms to Federal Election Commission standards.

Administrative rules require WEC's staff to conduct three mock elections to ensure the equipment meets statutory requirements, including:

- generating a paper record of all votes cast;
- enabling individuals to vote in secrecy, for candidates from different parties, and for write-in candidates;
- allowing individuals to verify their votes, and change their votes or obtain replacement ballots;
- preventing individuals from voting in the primaries of multiple political parties, for more candidates than a contest permits, or multiple times for the same candidate;
- recording correctly and counting accurately every vote properly cast and maintaining a cumulative tally of votes that is retrievable if a power outage or malfunction occurs; and
- minimizing the possibility of disenfranchising individuals as a result of their inability to understand how the equipment operates.

Our review of the documentation submitted by the vendor of one type of equipment found that it included all information required by administrative rules. WEC's staff reviewed the documentation, tested the equipment, and recommended that WEC approve the equipment. In December 2019, WEC approved the equipment for use in Wisconsin.

Administrative rules allow WEC to convene an advisory panel of local election officials and electors to help it review electronic voting equipment being considered for approval. In April 2021, we observed a meeting of this panel, which reviewed two types of equipment being considered for approval for use in the state. During this meeting, the vendor demonstrated the equipment and responded to questions from panel members, who included municipal clerks. WEC's staff indicated that they used input from panel members, as well as the results of the three required mock elections that they later conducted, when WEC's staff subsequently recommended approval of both types of equipment. In June 2021, WEC approved both types of equipment for use in Wisconsin.

Types of Equipment Used

In November 2020, municipalities used seven types of electronic voting equipment that require individuals to mark their choices on paper ballots and then automatically tabulate these ballots. Municipalities

also used six types of accessible voting equipment in November 2020, including one type of direct recording equipment that presents individuals with electronic versions of the ballots, presents individuals with paper copies of their completed ballots, and counts their votes electronically. Municipalities that used this type of direct recording equipment hand-counted paper ballots that were not cast on the equipment.

In November 2020, 1,178 municipalities (63.7 percent) used automatic tabulating equipment, and 49 municipalities (2.7 percent) hand-counted all ballots.

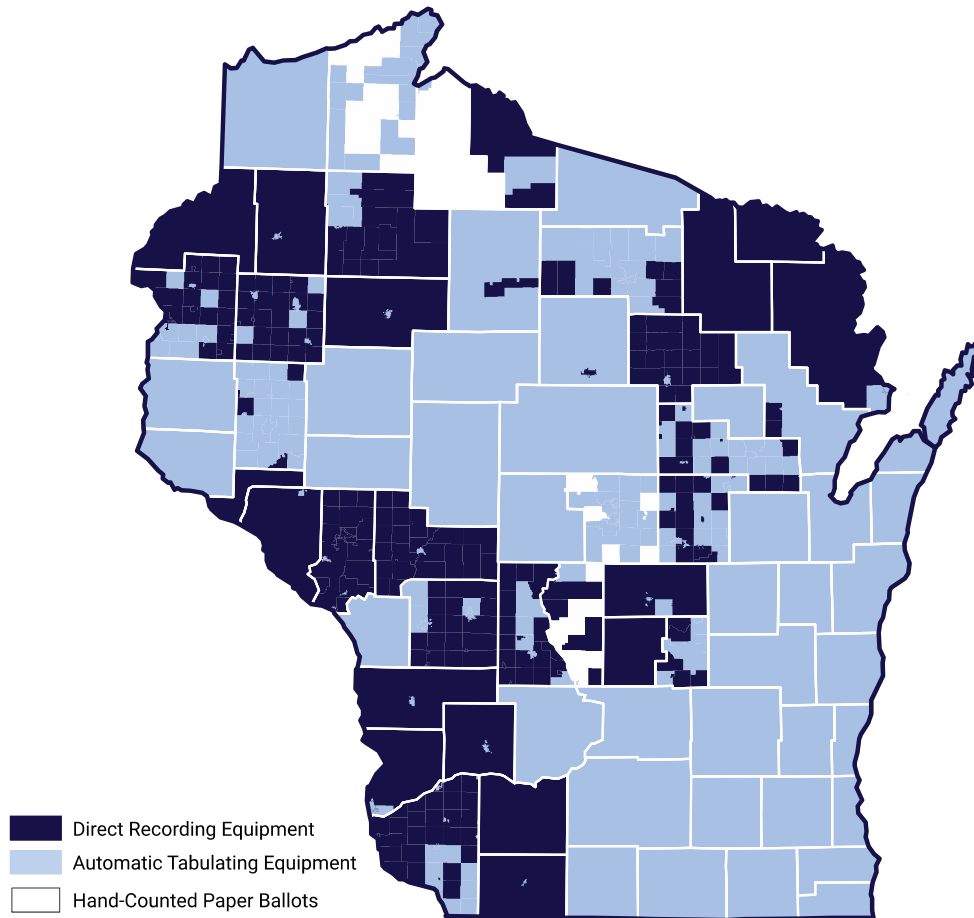
Figure 10 shows the extent to which 1,849 municipalities used electronic voting equipment or hand-counted paper ballots in November 2020. A total of 1,178 municipalities (63.7 percent) used automatic tabulating equipment, 622 municipalities (33.6 percent) used direct recording equipment to electronically count some ballots and hand-counted other ballots, and 49 municipalities (2.7 percent) hand-counted all ballots. In recent years, more municipalities began using electronic voting equipment. In report 14-14, we found that 921 municipalities (49.7 percent) used a type of automatic tabulating equipment, 899 municipalities (48.5 percent) hand-counted all ballots, and 32 municipalities (1.7 percent) used direct recording equipment in January 2014.

Administrative rules require vendors to inform WEC of any modifications they make to previously approved electronic voting equipment. WEC may require the equipment to be reapproved if the modifications are significant. Vendors may not offer for use, sale, or lease any modified equipment in Wisconsin if WEC notifies the vendors that the equipment must be reapproved. We reviewed materials for all meetings that WEC held from January 2020 through June 2021 and found that WEC's administrator approved 12 modifications, as permitted under the authority WEC delegated to the administrator, and informed WEC about these approvals. The materials indicated that WEC's staff had obtained and assessed information from the vendors before the administrator approved the modifications.

Statutes allow WEC to revoke its approval of a given type of electronic voting equipment at any time for cause. In September 2017, WEC approved a timeline to revoke its approval of one type of equipment, which WEC determined could no longer be used in Wisconsin beginning in January 2019 because of concerns that the equipment might not count ballots marked with writing utensils other than pencils and vendor-approved markers. WEC approved specific ballot-counting procedures that municipalities were required to implement if they continued to use the equipment before January 2019. We found that WEC's staff communicated these procedures to municipalities in a timely manner.

Figure 10

Use of Electronic Voting Equipment and Hand-Counted Paper Ballots¹
November 2020



¹ According to information reported by municipalities to WEC. Municipalities that used direct recording equipment also hand-counted ballots.

Issue for Legislative Consideration

The Legislature could consider modifying statutes to require municipal clerks to notify WEC’s administrator if they rent electronic voting equipment.

Statutes require municipal clerks to notify WEC’s administrator if they adopt and purchase a new or different type of electronic voting equipment. When municipalities rent equipment, such as to count absentee ballots at central count locations during elections at which many individuals are expected to vote, statutes do not require clerks to notify WEC’s administrator. The Legislature could consider modifying statutes to require clerks to notify WEC’s administrator if they rent electronic voting equipment. Doing so would allow WEC’s administrator, and therefore WEC, to know that all equipment used in the state has been approved by WEC.

Equipment Integrity

Statutes include provisions for helping to ensure the integrity of electronic voting equipment, including by requiring that:

- municipal clerks conduct pre-election tests of each piece of equipment that will be used to count ballots in an election; and
- poll workers ensure on Election Day that all equipment used to count ballots has a tamper-evident seal that is intact.

Pre-Election Tests

No more than 10 days before an election, statutes require a municipal clerk to publicly test each piece of electronic voting equipment that will count ballots on Election Day.

No more than 10 days before an election, statutes require a municipal clerk to publicly test each piece of electronic voting equipment that will count ballots on Election Day. Doing so helps to ensure that the equipment counts ballots accurately. During a test, a clerk must process a group of ballots marked to record a predetermined number of votes for each candidate. To determine whether the equipment properly rejects votes, a test must include more votes than allowed for each contest on the ballot, which is termed an over-vote. If the equipment errs in counting the votes, a clerk must determine the cause and correct the error. Statutes require each piece of equipment to make an errorless count before it can be used in an election.

We determined whether a sample of municipal clerks completed the statutorily required tests of electronic voting equipment before the November 2020 General Election and whether a sample of the tests indicated that the equipment counted the predetermined votes accurately. To do so, we requested the results of all pre-election tests that clerks in 29 municipalities throughout Wisconsin conducted and the ballots used in these tests. Appendix 6 summarizes the results of our analysis for each of the 29 municipalities, which included:

- 9 of the 10 municipalities where the most absentee ballots were cast, other than the City of Madison, which did not allow us to physically handle election-related materials;
- the 10 municipalities where absentee ballots made up the largest proportions of the total ballots cast; and
- 10 municipalities we chose at random from counties other than those in which the other 19 municipalities were located.

Statutes allow election-related materials to be destroyed after specified periods of time have elapsed after an election. For example, ballots, applications for absentee ballots, registration forms, or other records and papers requisite to voting in any federal election, other than registration cards, can be destroyed after 22 months. If statutes do not specify how long a particular type of election-related material must be retained, statutes indicate that the material may be destroyed after 90 days. WEC's staff indicated that statutes do not specify how long the pre-election test results must be retained, and clerks did not agree on how long they must be retained. Some clerks indicated that the results must be retained for 22 months, while other clerks indicated that the results must be retained for 90 days.

Clerks provided us with the results of all statutorily required pre-election tests in 16 of 29 municipalities.

Clerks provided us with all statutorily required pre-election test results in 16 of 29 municipalities, some test results in 9 municipalities, and no test results in 4 municipalities. Clerks in the nine municipalities provided us with either no results of some tests or incomplete documentation of tests that were conducted. Some of these clerks were unable to find complete test results or no longer retained the test results.

Municipal clerks conducted 88 of 175 pre-election tests (50.3 percent) within the statutorily prescribed 10 days before the November 2020 General Election.

Among the 175 pre-election test results that we examined, we found that municipal clerks:

- conducted 88 tests (50.3 percent) within the statutorily prescribed 10 days before the November 2020 General Election; and
- conducted 87 tests (49.7 percent) more than 10 days before the General Election. These 87 tests were conducted between 11 and 22 days before the General Election.

In total, 59 of the 60 pre-election test results we examined indicated that the electronic voting equipment had accurately counted the votes for presidential candidates.

We reviewed in greater detail 60 of the 175 pre-election test results and determined whether the electronic voting equipment had accurately counted the votes for presidential candidates. To do so, we hand-counted the number of votes for each candidate, as indicated on the predetermined paper ballots used in the tests, and compared the results to the number of votes the equipment had counted during the tests. We found that:

- 59 of the 60 test results indicated that the equipment had accurately counted the votes for presidential candidates; and
- 1 test result included insufficient documentation, which prevented us from determining whether the equipment had accurately counted the votes for presidential candidates.

Our review of the 60 pre-election test results also found that three pre-election tests conducted in three municipalities excluded the statutorily required over-votes on the predetermined ballots. One clerk indicated unfamiliarity with testing over-votes on newly purchased electronic voting equipment, a second clerk indicated that the test mistakenly excluded the over-votes, and a third clerk indicated that over-votes were never included in the tests.

WEC's staff should provide additional training to municipal clerks on completing the statutorily required pre-election tests of electronic voting equipment. Such training should emphasize the statutory requirement for clerks to complete the pre-election tests within 10 days before an election and for the tests to include over-votes on the predetermined ballots.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *provide additional training to municipal clerks on completing the statutorily required pre-election tests of electronic voting equipment; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Tamper-Evident Seals

Statutes require each piece of electronic voting equipment that will count ballots to have a tamper-evident seal.

Statutes require each piece of electronic voting equipment that will count ballots to have a tamper-evident seal. These seals are affixed after clerks have conducted the pre-election tests in order to secure the equipment in preparation for an upcoming election. On Election Day, statutes require poll workers to sign an Election Day form indicating that they verify having examined the seals and that they certify the integrity of the seals. These forms include spaces for chief election inspectors to write their initials and thereby certify the integrity of the seals when the polls opened and when the polls closed.

We selected a random sample of 319 municipalities and requested that the relevant county clerks provide us with all of the Election Day forms that poll workers in these municipalities completed on Election Day in November 2020 at polling locations other than central count locations. These municipalities, which are located in 69 counties, are listed in Appendix 5. We received forms for all 319 municipalities.

A total of 513 of 589 Election Day forms (87.1 percent) contained the expected initials of poll workers, who thereby certified the integrity of the tamper-evident seals.

Among the 589 Election Day forms we included in this analysis:

- 513 forms (87.1 percent) contained the expected initials of poll workers, who thereby certified the integrity of the tamper-evident seals when the polls opened and when they closed; and
- 76 forms (12.9 percent) did not contain all of the expected initials of poll workers, including 42 forms without initials certifying seal integrity when the polls opened and when they closed, 31 forms without initials certifying seal integrity when the polls closed, and 3 forms without initials certifying seal integrity when the polls opened. The forms without initials may indicate poll workers found problems with the seals or forgot to initial the forms.

WEC's staff indicated that some poll workers may be hesitant to certify the integrity of the tamper-evident seals, in part, because of unfamiliarity with the electronic voting equipment and uncertainty about how to ascertain seal integrity. However, WEC's staff indicated that certifying seal integrity helps to instill confidence in the public that the equipment has not been tampered with before an election. WEC's staff should provide training to municipal clerks on reviewing the Election Day forms after each election and investigating relevant issues, such as forms on which poll workers have not certified the integrity of the tamper-evident seals on electronic voting equipment. By investigating such issues, a clerk could ascertain whether poll workers forgot to initial the forms or the seals were not intact and, as a result, a given clerk needs to investigate the ramifications of seals that were not intact. Investigating such issues may reveal the need for clerks to provide additional training to poll workers.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *provide training to municipal clerks on reviewing Election Day forms after each election and investigating relevant issues, including those related to tamper-evident seals; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to explicitly require materials related to the pre-election tests of electronic voting equipment to be retained for 22 months.

The Legislature could consider modifying statutes to explicitly require materials related to the pre-election tests of electronic voting equipment to be retained for 22 months after a federal election. Doing so would ensure that these pre-election test materials, which indicate whether electronic voting equipment counted ballots accurately, are retained for the same period of time as other election-related materials such as ballots and applications for absentee ballots.

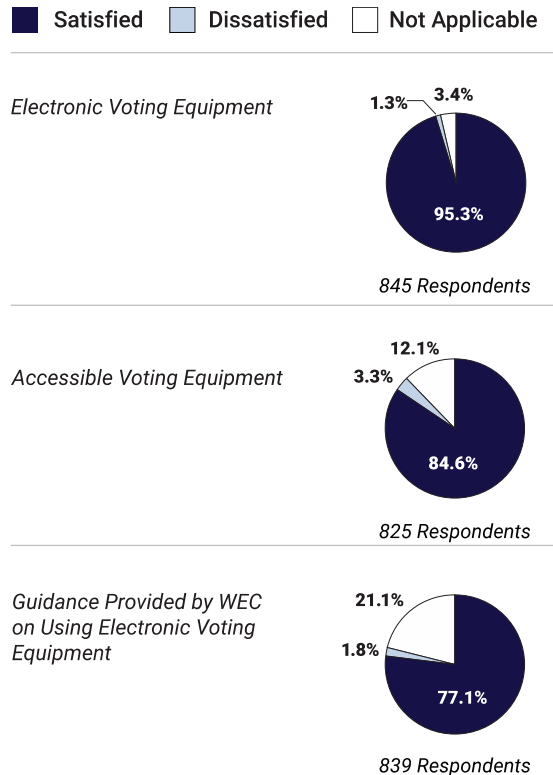
Satisfaction Levels of Clerks

Most municipal clerks who responded to our survey were satisfied with the electronic voting equipment.

Our April 2021 survey asked municipal clerks about their electronic voting equipment. As shown in Figure 11, most municipal clerks who responded to our survey were satisfied with the electronic voting equipment, the accessible voting equipment, and guidance from WEC on using this equipment.

Figure 11

Satisfaction of Municipal Clerks with the Electronic Voting Equipment Used in the November 2020 General Election¹



¹ As indicated by municipal clerks who responded to our April 2021 survey.

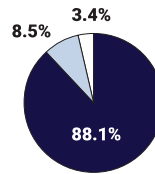
Our survey asked county clerks about the assistance they provided to municipalities. As shown in Figure 12, most county clerks who responded to our survey indicated that they helped municipalities to purchase and program electronic voting equipment. Approximately one-third of county clerks indicated that they helped municipalities to physically or electronically secure the equipment.

Figure 12

Types of Assistance that County Clerks Provided to Municipalities¹

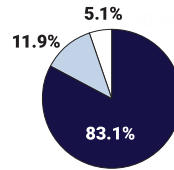
■ Provided ■ Did Not Provide □ Not Applicable

*Purchase
Electronic Voting
Equipment*



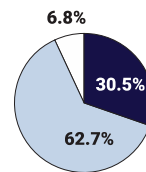
59 Respondents

*Program
Electronic Voting
Equipment*



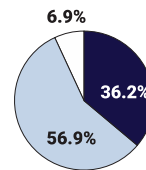
59 Respondents

*Physically Secure
Electronic Voting
Equipment*



59 Respondents

*Electronically Secure
Electronic Voting
Equipment*



58 Respondents

¹ As indicated by county clerks who responded to our April 2021 survey.

We contacted 40 municipal and 7 county clerks to obtain additional information. Similar to our survey results, these clerks indicated general satisfaction with the electronic voting equipment. For example:

- one clerk indicated that the equipment accurately counted ballots;
- a second clerk indicated that the security and reliability of the equipment was fantastic; and
- a third clerk indicated that WEC's staff frequently provided updated information, webinars, and other materials that enabled the clerk to handle all types of issues on Election Day.

We contacted clerks who had indicated in their survey responses dissatisfaction with the electronic voting equipment. For example:

- one clerk indicated that accessible voting equipment is expensive, requires significant storage space between elections, and is rarely used on Election Day;
- a second clerk indicated that the equipment is complicated, difficult to understand, and expensive; and
- a third clerk indicated that a printing error prevented absentee ballots from being fed into the equipment correctly and, as a result, a poll worker needed to remake ballots.

Administrative Rule Promulgation

WEC did not comply with statutes by promulgating administrative rules to address security-related issues for electronic voting equipment.

Statutes require WEC to promulgate administrative rules that ensure the security, review, and verification of the software components used with electronic voting equipment approved by WEC. Administrative rules contained requirements for vendors to submit certain documents that allow WEC's staff to review and verify such equipment, including the software components. However, we found that the administrative rules did not address security-related issues.

WEC's staff should work with WEC to promulgate the statutorily required administrative rules. These administrative rules should include provisions that help to ensure the security of the software components in electronic voting equipment approved by WEC.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to promulgate statutorily required administrative rules for helping to ensure the security of software components in approved electronic voting equipment; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

■ ■ ■ ■

Post-Election Audit

After each General Election, statutes require WEC to audit the performance of each type of electronic voting equipment.

After each General Election, statutes require WEC to audit the performance of each type of electronic voting equipment and determine the equipment's error rate in counting ballots. If the error rate exceeds the standards of the Federal Election Commission that were in effect on October 29, 2002, statutes require WEC to take remedial action and order affected counties and municipalities to take remedial action to ensure compliance with the standard. We reviewed the results of the audit completed after the November 2020 General Election. We recommend WEC's staff provide municipal clerks with additional training and guidance on ensuring that ballots are counted accurately when paper jams occur in equipment, as well as comply with statutes by calculating an error rate for each type of equipment. We also include two issues for legislative consideration.

Post-Election Audit Procedures

Statutes do not stipulate how the post-election audits are to be conducted. In September 2020, WEC established that the audit for electronic voting equipment to be used in the November 2020 General Election should include:

- each piece of equipment used in a sample of 5.0 percent of the state's 3,698 reporting units, which are either a single ward or multiple wards that report combined election results;
- at least one piece of equipment used in each county;

- at least five reporting units that used each type of equipment certified for use in the state; and
- the equipment used in up to four reporting units in the cities of Milwaukee and Madison, up to three reporting units in the 20 other largest municipalities, and up to one reporting unit in all other municipalities.

WEC's staff selected 190 reporting units to include in the post-election audit, but these included 7 reporting units in which no individuals voted in November 2020. As a result, the audit included 183 reporting units in 163 municipalities, and we found that it complied with the selection procedures that WEC had approved in September 2020.

Municipal clerks and local election officials completed the post-election audit work based on procedures provided by WEC's staff.

Municipal clerks and local election officials completed the post-election audit work based on procedures provided by WEC's staff. The procedures specified that at least two individuals should hand-count each ballot based on how the electronic voting equipment would have counted it, without considering voter intent. For example, if a voter had circled the name of a candidate on a ballot but had not filled in the oval next to the candidate's name, the equipment likely would not have considered that to be a vote for the candidate. The procedures instructed auditors to compare their hand-counted results to the results provided by the equipment on Election Day and provide reasonable explanations for any discrepancies in the results. We contacted 10 municipal clerks who were involved in the post-election audit. These clerks indicated that they were generally satisfied with the audit procedures and training that WEC's staff had provided them.

Statutes do not specify the date by which the audit must be completed. In report 14-14, we found that local election officials had conducted the electronic voting equipment audits associated with the November 2008, November 2010, and November 2012 General Elections and informed GAB that they had done so. However, not until October 2013 did GAB's staff complete the statutorily required post-election audits of the equipment that had been used in these three elections. In our current audit, we found that WEC established a deadline for completing the post-election audit before December 1, 2020, which was the statutory deadline for certifying the election results. All municipalities conducted their audits by that date.

WEC voted to reimburse municipalities \$50 per reporting unit, plus \$0.35 per audited ballot. According to information that WEC's staff provided to WEC in February 2021, 154 municipalities had requested reimbursement totaling \$55,400.

Post-Election Audit Results

According to WEC's Election Day manual, electronic voting equipment indicates when an individual votes for more candidates than allowed in a given contest, which is termed an over-vote. When this occurs, the manual instructs poll workers to offer individuals who vote in person at

polling places the opportunity to spoil their ballots and record their votes on new ballots. The manual instructs poll workers to review absentee ballots containing over-votes and, if voter intent can be determined, remake absentee ballots so that the equipment will count the votes.

WEC's staff determined that the electronic voting equipment for the most part accurately counted ballots, but they identified an issue with one type of equipment.

WEC's staff compiled the audit results provided by municipal clerks into a February 2021 report to WEC. This report indicated that 145,100 ballots were hand-counted during the audit, which determined that the electronic voting equipment for the most part accurately counted ballots in the November 2020 General Election. However, the report identified an issue with the equipment in 2 of the 28 reporting units that were audited and used this equipment. When absentee ballots were folded for mailing and creases ran through the write-in fields for certain contests, the equipment considered the creases to be votes because it was programmed to read marks in the write-in fields. If an individual actually voted for a candidate in one of these contests, the equipment concluded that the individual had voted both for that candidate and a write-in candidate. When an individual casts a ballot containing an over-vote, the equipment does not count any vote for that contest. WEC's staff reported that administrative procedures, rather than malfunctioning equipment, caused this issue, which affected 26 of the 2,747 ballots cast in these two reporting units.

In February 2021, WEC directed its staff to obtain reports from county clerks on the number of over-votes counted by the particular type of electronic voting equipment statewide. In March 2021, WEC's staff reported to WEC that municipalities in 19 counties had used this equipment in the November 2020 General Election, including municipalities in 12 counties that had used equipment programmed to read only marks in the ovals next to the names of write-in candidates. WEC's staff determined that the equipment did not count as over-votes the creases in ballots cast in these 12 counties. In contrast, municipalities in seven counties had used equipment programmed to read marks both in the ovals and the write-in fields and, as a result, the equipment counted as over-votes the creases in ballots cast in these seven counties.

WEC's staff examined 1,109 ballots cast in the seven counties and determined that:

- 724 over-votes occurred because of creases through the write-in fields;
- 376 over-votes occurred because of marks made by individuals who had, for example, voted for multiple candidates in a given contest or attempted to correct errors that they had made on ballots; and
- 72 over-votes occurred for other inadvertent reasons, such as ink that bled through ballots because individuals had voted for candidates on both sides of a given ballot.

Table 7 shows the seven counties and the contests in which the 724 over-votes occurred because of ballot creases. WEC's staff

determined that the over-votes did not change the outcome of any contest. A total of 336 of the 724 over-votes (46.4 percent) occurred in uncontested contests. If the over-votes had not occurred on the ballots for the state senator contest in Winnebago County, 202 votes would have been counted for the losing candidate and 129 votes would have been counted for the winning candidate, who won by more than 16,000 votes.

Table 7

Over-Votes Caused by Ballot Creases, by County and Contest¹
November 2020 General Election

County	President	State Senator	Assembly Representative	County Treasurer ²	County Register of Deeds ²	Total
Door	1					1
Green					87	87
Ozaukee		2		163		165
Vilas		1	5		37	43
Walworth	1		16		1	18
Washington	1	11		7	42	61
Winnebago	1	331	17			349
Total	4	345	38	170	167	724

¹ As determined by WEC's staff.

² All contests except for the Walworth County Register of Deeds were uncontested.

We reviewed 1,109 over-voted ballots cast in seven counties and found 468 over-votes occurred for reasons other than ballot creases.

We reviewed electronic copies of all 1,109 ballots from the seven counties that contained over-votes. We found that 468 over-votes occurred for reasons other than ballot creases, including 391 over-votes that occurred because of marks on the ballots made by individuals, 42 over-votes that occurred because ink bled through ballots, and 35 over-votes that occurred because a vertical line printed on ballots made marks in write-in fields. The electronic voting equipment did not count how the individuals voted in the contests involving the 468 over-votes.

In March 2021, WEC's staff indicated to WEC that they planned to emphasize in future training sessions for municipal clerks the importance of reviewing over-votes. We found that WEC's staff subsequently provided municipal clerks with additional training materials, including a webinar. We reviewed these materials and the webinar and found that they included information on ballots with over-votes and provided detailed instructions on how to remake them. We reviewed the post-election audit results reported by municipal clerks to WEC's staff and found no differences between the Election

Day results and the audit results in 110 of the 183 reporting units (60.1 percent), but we found differences in 73 reporting units (39.9 percent). Most of these differences involved one vote or one ballot. One difference involved 21 ballots, which was the largest difference and which occurred because of ballot creases through the write-in fields. The most-common reason for a difference was a paper jam when ballots were fed into the equipment or the paper roll on which ballots were printed was replaced in the equipment, which occurred in 22 reporting units.

WEC's staff should ensure equipment vendors provide municipal clerks with additional training on ensuring that ballots are counted accurately when paper jams occur in electronic voting equipment.

Paper jams do not always result in electronic voting equipment inaccurately counting ballots. However, when paper jams occur, poll workers need to know how to ensure that ballots are counted accurately. Given the results of the post-election audit, WEC's staff should ensure equipment vendors provide municipal clerks with additional training on ensuring that ballots are counted accurately when paper jams occur in equipment.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *ensure equipment vendors provide additional training to municipal clerks on ensuring that ballots are counted accurately when paper jams occur in electronic voting equipment; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Equipment Error Rate

As noted, statutes require WEC to determine an error rate for each type of electronic voting equipment after each General Election. The Federal Election Commission's standards that were in effect on October 29, 2002, specified that equipment should have an error rate that does not exceed one vote per 500,000 ballot positions, which is every choice that an individual could make when marking a ballot, including for write-in candidates. For example, if a ballot allowed an individual to vote for three candidates or write in a candidate, that ballot would have four ballot positions. If a given type of equipment exceeds the error rate, statutes require WEC to take remedial action and order affected counties and municipalities to take remedial action to ensure compliance with the standard. WEC's staff indicated that such remedial action may include amending the certification of the equipment, decertifying the equipment, or providing updated guidance to clerks on using the equipment.

WEC's staff did not report to WEC the statutorily required error rates for any types of electronic voting equipment used in the November 2020 General Election.

WEC's staff did not report to WEC the statutorily required error rates for any types of electronic voting equipment used in the November 2020 General Election. The report WEC's staff provided to WEC in February 2021 indicated that the error rate is intended for equipment certification testing conducted in laboratory settings under optimized conditions, including by using ballots marked according to instructions, rather than typical absentee ballots that contain imperfections. The report also indicated that post-election audits require municipal clerks to use their best judgement when determining how the equipment counted ballots with ambiguous marks.

WEC's staff recommended that WEC amend the certification for the electronic voting equipment that had considered ballot creases through write-in fields to be votes. In February 2021, WEC approved this recommendation to require that the equipment be programmed to ensure that creases or marks in the write-in fields are not counted as votes. We found that WEC's staff sufficiently informed county and municipal clerks about the amended certification. Nevertheless, WEC's staff should comply with statutes by calculating an error rate for each type of equipment after each General Election.

☑ Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *comply with statutes by calculating an error rate for each type of electronic voting equipment used in each General Election; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement this recommendation.*

Post-Election Audits in Other States

In Wisconsin, a post-election audit determines whether the electronic voting equipment counted ballots according to how it was programmed to count them. However, such an audit does not determine the validity of election results because it does not consider voter intent, and it does not necessarily review a sufficiently large sample of ballots needed to determine the validity of election results.

A risk-limiting audit uses statistical methods to review a sample of ballots cast in order to determine voter intent and the validity of the election results.

Figure 13 summarizes key characteristics of three types of post-election audits, including the traditional type used in Wisconsin and a procedural audit. A risk-limiting audit uses statistical methods to review a sample of ballots cast in order to determine voter intent and the validity of the election results. The number of ballots reviewed in a risk-limiting audit depends on the election results. If a given candidate's margin of victory is small, more ballots must be reviewed. If the initial results of the audit do not confirm the election results, additional ballots must be reviewed until the audit confirms the election results. If the additional ballots do not

confirm the election results, a full recount may need to be conducted in order to determine the results.

Figure 13

Types of Post-Election Audits¹

TRADITIONAL	PROCEDURAL	RISK-LIMITING
Examines a fixed proportion of reporting units or electronic voting equipment and compares paper ballot results to equipment-generated results; and audits the same number of ballots regardless of election results	Ensures prescribed processes and procedures were followed during an election	Uses statistical methods to review a sample of ballots cast in order to determine voter intent and the validity of the election results; reviews more ballots when a candidate’s margin of victory is small

¹ According to information from NCSL.

Information from NCSL in February 2020 indicated that at least six states—Colorado, Georgia, Indiana, Nevada, Rhode Island, and Virginia—conducted risk-limiting audits or planned to conduct them, and four states—California, Ohio, Oregon, and Washington—provided options for different types of audits, including risk-limiting audits, that can be conducted. Counties typically conducted these audits.

The cost of risk-limiting audits varies. Such an audit may be less expensive when the winning candidate has a large margin of victory, but it may be more expensive in tighter contests or when the initial audit results do not match the election results and the audit must be expanded to review more ballots or to conduct a full recount.

Issues for Legislative Consideration

The Legislature could consider modifying statutes to reflect the current federal standards for an acceptable equipment error rate.

As noted, statutes require WEC to take remedial action if the error rate found in electronic voting equipment exceeds the federal standards that were in effect on October 29, 2002, which was one vote per 500,000 ballot positions. We found that these standards were updated in 2015 to specify that the maximum acceptable error rate is 1 vote per 125,000 contests counted by a given type of equipment. Calculating the error rate based on the number of contests, rather than the number of ballot positions, is more straightforward because ballot positions may vary within and among municipalities, depending on the number of

candidates in each contest. The Legislature could consider modifying statutes to reflect the current federal standards for an acceptable equipment error rate.

The Legislature could consider modifying statutes to require WEC to conduct risk-limiting post-election audits.

The Legislature could consider modifying statutes to require WEC to conduct risk-limiting post-election audits. Such audits are intended to determine voter intent and determine the validity of the election results, which may be preferable to the current audits that confirm whether the equipment counted ballots according to how it was programmed. As noted, one type of equipment was programmed in such a way that it counted ballot creases as votes in some counties during the November 2020 General Election.

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Complaints Filed with Clerks

Our April 2021 survey asked all municipal and county clerks about the written complaints they had received concerning the November 2020 General Election.

Our April 2021 survey asked all municipal and county clerks about the written complaints they had received concerning the November 2020 General Election. We defined a complaint to include issues identified in writing by individuals, including those who identified themselves and those who were anonymous. A total of 59 county clerks (81.9 percent of the total) and 848 municipal clerks (46.2 percent) responded to our survey questions about election-related complaints. Most respondents indicated that they had received no written complaints about the General Election. We contacted 43 clerks, including 33 municipal clerks and 10 county clerks, in order to obtain additional information about complaints they had received and actions they had taken in response to the complaints.

Number of Complaints

In response to our survey, most clerks indicated that they had received no written complaints about the November 2020 General Election.

Our survey asked clerks to indicate a range that described the number of written complaints they had received about the November 2020 General Election. Of the 848 municipal clerks and 59 county clerks who responded to our survey:

- 791 municipal clerks (93.3 percent) and 38 county clerks (64.4 percent) indicated that they had received no written complaints; and
- 57 municipal clerks (6.7 percent) and 21 county clerks (35.6 percent) indicated that they had each received from 1 to 25 written complaints. Appendix 12 lists the locations of these clerks.

Our survey asked the 57 municipal clerks and the 21 county clerks to indicate the issues discussed in the written complaints they had received about the November 2020 General Election. As shown in Table 8, 35 clerks indicated that they had received written complaints pertaining to absentee ballots. Clerks could indicate having received written complaints about multiple issues.

Table 8

Written Complaints That Clerks Received about the November 2020 General Election, by Issue¹
As of April 2021

Issue	Number of Clerks		
	Municipal Clerks	County Clerks	Total
Absentee Ballots	27	8	35
Alleged Voter Fraud	16	7	23
Electronic Voting Systems	9	9	18
Polling Place Practices	10	4	14
Voter Registration	5	0	5
Other ²	23	7	30

¹ As indicated by 57 municipal clerks and 21 county clerks who responded to our April 2021 survey. Clerks could indicate having received written complaints about multiple issues.

² Includes complaints about the MyVote Wisconsin website, polling place locations, potential illegal activity, in-person voting, and possible election misinformation.

We contacted 43 clerks to obtain additional information about complaints they had received. We selected most of these clerks because they had indicated in their survey responses that they had received written complaints about the November 2020 General Election, but we also contacted five clerks who had not responded to our survey.

A total of 25 of the 43 clerks (58.1 percent) we contacted indicated that they had received written complaints about the November 2020 General Election, and 30 of the 43 clerks (69.8 percent) indicated that they had received verbal complaints about the General Election. The number of complaints that a given clerk received was not related to the population of that clerk's municipality or county. Clerks reported having received verbal complaints regarding topics that were similar to those raised in the written complaints that they reported in the survey. Nine clerks indicated that they had received at least one complaint that was based on a media report a complainant had heard or read.

Clerk Actions

In response to our survey, 44 clerks indicated that they had investigated issues pertaining to at least one written complaint.

Our survey asked clerks whether they had taken specific actions after having received written complaints about the November 2020 General Election. As shown in Table 9, 44 clerks indicated that they had investigated issues pertaining to at least one written complaint.

Table 9

**Actions Taken by Clerks Who Received Written Complaints
about the November 2020 General Election¹**
As of April 2021

Action Taken	Number of Clerks		
	Municipal Clerks	County Clerks	Total
Conducted an investigation	38	6	44
Provided an individual with information about filing a complaint with WEC	11	7	18
Referred a complaint to a district attorney	4	1	5
Other ²	6	4	10

¹ As indicated by 57 municipal clerks and 21 county clerks who responded to our April 2021 survey. Clerks could indicate having taken multiple actions.

² Includes providing information to individuals about election laws and procedures and forwarding complaints to local law enforcement agencies.

Many of the 43 clerks we contacted provided us with specific examples of how they had handled complaints about the November 2020 General Election. For example:

- One municipal clerk reported having received one verbal complaint by a voter who was upset about having been asked at a polling place to remove a hat with a political statement on it. The clerk explained to the voter that wearing political apparel at a polling place, which is a form of electioneering, is prohibited by state law.
- A second municipal clerk reported having received from 10 to 20 written complaints about various misunderstandings about election laws and procedures. The clerk also reported having received from 10 to 20 verbal complaints, most of which pertained to issues about absentee ballots. The clerk

indicated having provided all of these individuals with information to address their complaints.

- A third municipal clerk reported having received one verbal complaint about an individual who allegedly did not live in the municipality but was registered to vote there. The clerk referred the complaint to WEC. The clerk also reported having received one written complaint from an individual who alleged that all registered voters had received absentee ballots. After reviewing information in WisVote, the clerk determined that the individual had received an absentee ballot because the individual had previously registered as being indefinitely confined. At the individual's request, the clerk removed the individual from the list of indefinitely confined individuals.
- A fourth municipal clerk reported having received at least 70 verbal complaints about a variety of issues, including difficulties receiving and returning absentee ballots, the public health implications of in-person voting, and voter records not being updated immediately after an election. The clerk provided the complainants with information about election laws and procedures. The clerk also reported having received one written complaint about individuals who registered to vote using the address of a UPS mailbox. The clerk found that multiple individuals were registered to vote using this address and referred the issue to WEC and the district attorney. Media reports indicate that the district attorney determined these individuals were eligible voters and declined to file charges against them.
- A fifth municipal clerk reported having received from one to three verbal complaints from individuals whose voting records on the MyVote Wisconsin website had not been updated immediately after the election. The clerk explained to the individuals that clerks have 45 days after an election to update voting records.
- A county clerk reported having received one written complaint from a municipal clerk regarding an Illinois resident who had a Wisconsin driver's license and was registered to vote in the county. Using information from the Chicago Board of Election Commissioners, the county clerk determined that the individual had voted in Wisconsin and Illinois, referred the issue to WEC, and believed that the district attorney became involved.

A number of clerks indicated that handling complaints and administering the November 2020 General Election had caused them distress.

A number of clerks indicated that handling complaints and administering the November 2020 General Election had caused them distress. For example:

- A municipal clerk described stress caused by the need to send out four times the number of absentee ballots as had been sent out for prior presidential elections. The clerk indicated that this task had kept the clerk from fulfilling other job duties. The clerk indicated that potentially being required to send absentee ballots to every registered voter would be an impossible task and, therefore, caused the clerk to consider resigning from the position.
- A second municipal clerk indicated that a number of clerks had talked about resigning from their positions because of the disruptive effects of pre-election rule changes and increased rhetoric regarding elections administration. The clerk indicated an intention to not serve in the position during another presidential election.

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Complaints and Concerns Filed with WEC

Individuals can file election-related complaints and concerns with WEC in multiple ways.

Individuals can file election-related complaints and concerns with WEC in multiple ways. Statutes allow WEC to investigate sworn, written complaints alleging violations of election laws, as well as sworn, written complaints submitted by electors alleging that election officials acted contrary to the law in administering elections. In addition, individuals can provide election-related concerns through forms on WEC's website, email messages, and telephone calls. We found that WEC's staff informed WEC about the status of submitted complaints and handled complaints in a timely manner, but that WEC's staff did not have written policies for handling complaints and did not track how they responded to concerns, which are not sworn complaints. We recommend WEC's staff work with WEC to promulgate administrative rules for handling complaints and tracking concerns, and we include an issue for legislative consideration.

Number of Complaints

Statutes allow WEC to investigate an alleged violation of election laws if a reasonable suspicion exists that a violation occurred or is occurring, and it allows WEC to retain a special investigator. Anyone may submit a sworn, written complaint to WEC alleging such a violation. WEC's staff indicated that the \$25,000 appropriated annually for investigations from FY 2016-17 through FY 2020-21 was lapsed each year because WEC has never retained a special investigator.

Statutes allow WEC to investigate whether an election official did not comply with legal requirements pertaining to issues such as elections administration, nominations, candidate qualifications, voting qualifications, ballot preparation, and election conduct. Individuals

may submit a sworn, written complaint to WEC alleging such a violation by an election official in whose jurisdiction they vote.

Statutes allow individuals to submit sworn, written complaints that challenge the nomination papers of a candidate for elected office or the eligibility of a candidate to hold an elected office. WEC's staff consider such complaints to be ballot access challenges. For example, an individual may allege that an individual circulating nomination papers did not properly certify them after obtaining signatures, or that some of the obtained signatures are invalid. WEC's staff separately track this type of complaint because administrative rules require ballot access challenges to be filed within three days after the deadline for filing nomination papers, as well as because a challenge can prevent candidates from being placed on a ballot.

*As of late-May 2021,
WEC had received
45 complaints regarding
the November 2020
General Election.*

As of late-May 2021, WEC had received 45 complaints regarding the November 2020 General Election, as shown in Table 10. This total included 18 complaints about the conduct of election officials, 16 complaints about alleged violations of election laws, and 11 ballot access challenges. Individuals who submitted 38 of the 45 complaints indicated that their allegations were based on firsthand knowledge of issues described in their complaints.

Table 10

Complaints Filed with WEC Regarding the November 2020 General Election¹
As of late-May 2021

Type of Complaint	Number	Percentage of Total
Conduct of Election Officials	18	40.0%
Alleged Violations of Election Laws	16	35.6
Subtotal	34	75.6
Ballot Access Challenges	11	24.4
Total	45	100.0%

¹ According to information provided by WEC's staff.

Complaint Resolution

Statutes allow WEC to resolve complaints alleging violations of election laws by taking various actions, including assessing a financial penalty up to \$2,500 or referring an issue to a district attorney. Statutes allow WEC to resolve complaints about the conduct of election officials by ordering officials to comply with legal requirements, refrain from taking

actions contrary to legal requirements, or correct an action or decision inconsistent with legal requirements. In February 2020, WEC authorized its administrator, in consultation with its chairperson, to resolve complaints about the conduct of election officials.

WEC's staff did not have written policies for considering complaints.

We found that WEC's staff did not have written policies for considering complaints. WEC's staff indicated that they relied on provisions in statutes and administrative rules to guide how they considered complaints. We note that administrative rules promulgated in 1994 describe procedures for considering complaints about the conduct of election officials. However, these administrative rules are no longer in effect for complaints alleging violations of election laws because statutes were modified by 2007 Wisconsin Act 1, which created GAB.

We found that WEC's staff did not request additional information from the individuals who had submitted 42 of the 45 complaints we examined, but they requested additional information from the individuals who had submitted 3 complaints. WEC's staff indicated that they try to minimize the number of times they request additional information from complainants and respondents in order to maintain their impartiality and avoid influencing a complaint's outcome. WEC's staff indicated that they represent WEC in legal matters and do not serve as the attorneys for complainants.

WEC's staff electronically tracked information about individual complaints and regularly informed WEC with relevant information about complaints.

We found that WEC's staff electronically tracked information about individual complaints. Such information included the date a given complaint was received, its ongoing status, the date it was resolved, and how it was resolved. We also found that WEC's staff regularly provided WEC with relevant information about complaints, including responses of individuals accused in the complaints. WEC's staff also recommended actions for WEC to take to resolve the complaints, including recommending that WEC dismiss 11 complaints, refer 3 complaints to district attorneys, deny ballot access based on 6 complaints, allow ballot access based on 2 complaints, and take other actions in response to 2 complaints.

WEC decided how to resolve 24 complaints, including 15 complaints that alleged violations of election laws and 9 ballot access challenges. According to the available minutes and materials from WEC's meetings from January 2020 through June 2021, WEC voted to fully implement its staff's recommendations for 18 of the 24 complaints, partially implement its staff's recommendations for 3 complaints, and reject its staff's recommendations for 3 complaints. In addition, WEC dismissed one complaint that its administrator in consultation with its chairperson had previously dismissed but that the complainant had appealed to WEC.

A total of 25 of 34 complaints about the conduct of election officials and alleged violations of election laws were dismissed.

We used information provided by WEC's staff to determine the resolution as of early-June 2021 of the 34 complaints about the conduct of election officials and alleged violations of election laws. As shown in Table 11:

- 25 complaints were dismissed by WEC or its administrator in consultation with its chairperson,

including because reasonable suspicion or probable cause were not established, or because a violation was determined to be unintentional;

- 6 complaints were not yet resolved;
- 2 complaints were withdrawn by the individuals who had submitted them; and
- 1 complaint was resolved by the administrator in consultation with its chairperson. The decision directed an election official to follow election laws.

Table 11

Resolution of Complaints Filed with WEC Regarding the November 2020 General Election¹
As of early-June 2021

Resolution	Number	Percentage of Total
Dismissed	25	73.5%
Unresolved	6	17.6
Withdrawn	2	5.9
Decision Issued	1	2.9
Total	34	100.0%

¹ According to information provided by WEC’s staff. Excludes ballot access challenges.

Information provided by WEC’s staff for the 11 ballot access challenges included in our review indicated that:

- 7 challenges resulted in a total of 5 candidates being denied ballot access;
- 2 challenges resulted in candidates being provided ballot access;
- 1 challenge was determined not to have been submitted in a timely manner; and
- 1 challenge was withdrawn.

Statutes and administrative rules do not specify the number of days by which WEC must resolve complaints. However, statutes limit the number of days that may pass between specific steps during the complaint process, such as between when WEC’s staff receive a complaint and when they forward the complaint to the accused

individual. We found that WEC’s staff met these statutorily specified time periods and that the administrator in consultation with the chairperson acted in a timely manner when considering complaints about the conduct of election officials.

Concerns

Individuals can provide election-related concerns to WEC through various methods, including forms on WEC’s website.

Election-related concerns are not sworn complaints, and individuals can remain anonymous when providing concerns. Individuals can provide election-related concerns to WEC through various methods, including forms on WEC’s website, email messages, and telephone calls.

WEC’s staff indicated that they collect election-related concerns to help identify and resolve issues. WEC’s staff may take a variety of actions in response to concerns, including requesting additional information, providing individuals with information about submitting sworn complaints, and contacting clerks and other officials about the concerns. WEC’s staff indicated that they try to quickly resolve concerns about the accessibility of polling places on Election Day by contacting clerks and poll workers.

Through May 2021, WEC’s staff did not track whether or how they had responded to concerns.

Through May 2021, WEC’s staff did not systematically track whether or how they had responded to concerns. However, WEC’s staff tracked some information about concerns provided through forms on WEC’s website, including the text of the concerns and the names and contact information of individuals who submitted concerns, if this information was provided. WEC’s staff indicated that they retained email messages conveying concerns but kept these messages in multiple electronic files, and that they did not systematically track or retain information about concerns conveyed through telephone calls. WEC’s staff indicated that the large number of concerns they received hindered their ability to track additional information about these concerns and how they responded to them.

WEC’s staff provided us with information about 1,521 election-related concerns that had been provided through forms on WEC’s website from January 2020 through mid-April 2021. Not all of these concerns pertained to the November 2020 General Election. We reviewed each concern and determined the types of issues discussed in them. Individuals could discuss multiple issues in a given concern.

A total of 611 of the 1,521 concerns provided through forms on WEC’s website from January 2020 through mid-April 2021 pertained to absentee ballots.

As shown in Table 12, we found that 611 of the 1,521 concerns (40.2 percent) provided through forms on WEC’s website from January 2020 through mid-April 2021 pertained to absentee ballots. Individuals indicated, for example, that they had not received absentee ballots they had requested or had not received them in a timely manner, and they had questions about the security of absentee ballots and whether such ballots were counted.

Table 12

Election-Related Concerns Provided to WEC through Forms on its Website, by Issue¹
January 2020 through mid-April 2021

Issue	Number	Percentage of Total
Absentee Ballots	611	40.2%
Public Health Crisis	574	37.7
Polling Place Location and Practices	366	24.1
Electioneering or External Group Involvement in Elections	110	7.2
Voter Registration	86	5.7
MyVote Wisconsin Website	82	5.4
Electronic Voting Equipment	34	2.2
Accessibility	28	1.8
Other ²	119	7.8

¹ According to information WEC's staff provided on 1,521 election-related concerns. Individuals could discuss multiple issues in a given concern.

² Includes requests for information from WEC and concerns about WEC's integrity.

According to minutes and materials from WEC's meetings from January 2020 through June 2021, WEC's staff informed WEC about concerns on three occasions. On two of these occasions, WEC's staff informed WEC about the number of concerns that had been provided in a given time period.

Improving Procedures

In report 14-14, we found that GAB's staff did not have written policies for considering complaints and did not track information regarding all complaints.

In report 14-14, we found that GAB's staff did not have written policies for considering complaints and did not track information regarding all complaints. Therefore, we recommended that GAB's staff present written policies for considering complaints to GAB for its approval. We also recommended that GAB's staff maintain complete, centralized information about all complaints received. 2015 Wisconsin Act 118 required WEC to implement the recommendations in report 14-14.

In our current audit, we found that WEC's staff relied on statutes to guide their considerations, as well as administrative rules for considering complaints about the conduct of election officials. We were unable to determine how WEC's staff considered election-related concerns because they did not track such information through May 2021. In June 2021, WEC executed a two-year \$93,000 contract with a firm to provide software that is intended, in part, to track election-related concerns and how its staff responded to these

concerns. WEC's staff indicated that they plan to implement this software later in 2021.

Improvements should be made to how election-related complaints and concerns are considered.

Improvements should be made to how election-related complaints and concerns are considered. Because administrative rules for considering complaints alleging violations of election laws are no longer in effect, WEC's staff should work with WEC to promulgate rules for considering such complaints. Administrative rules could, for example, describe the types of information that should be included in complaints and allow a complainant to respond to any information provided to WEC's staff by the subject of a complaint. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how WEC's staff consider complaints, and administrative rules carry the force of law.

WEC's staff should also use the recently purchased software to track information about concerns, including those provided through forms on WEC's website, email messages, and telephone calls. Such information should at a minimum include the types of concerns received and how WEC's staff responded to these concerns. WEC's staff should regularly provide summary information about these concerns to WEC. Doing so will help WEC and staff managers to ensure that staff are taking consistent and appropriate actions, as well as to better understand the scope and breadth of the concerns provided.

Recommendation

We recommend staff of the Wisconsin Elections Commission:

- *work with the Wisconsin Elections Commission to promulgate administrative rules for considering complaints alleging violations of election laws;*
- *use recently purchased software to track election-related concerns and regularly provide summary information about these concerns to the Wisconsin Elections Commission; and*
- *report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to comply with these recommendations.*

Issue for Legislative Consideration

The Legislature could consider modifying statutes to require WEC to report to it certain information about election-related concerns every six months.

Currently, statutes do not require WEC to report any information to the Legislature about the considerable number of election-related concerns that it receives from individuals. The Legislature could consider modifying statutes to require WEC to report to it certain information about election-related concerns every six months. Such information could include the number of election-related concerns that individuals had provided to WEC, the types of issues addressed in these concerns, and how WEC's staff addressed these concerns.

■ ■ ■ ■

Election Recount Costs

If more than 4,000 votes are cast in an election, statutes permit a candidate trailing by no more than 1.0 percent of the total votes cast to petition for a recount.

If more than 4,000 votes are cast in an election, statutes permit a candidate trailing by no more than 1.0 percent of the total votes cast to petition for a recount. Upon receiving a recount petition, statutes require either clerks or WEC to estimate the costs of the recount. After the November 2016 General Election, a presidential candidate requested a statewide recount. After the November 2020 General Election, a different presidential candidate requested a recount in Dane and Milwaukee counties. In both counties, the estimated recount costs and the actual recount costs increased considerably from 2016 to 2020. In both counties, the actual recount costs in 2016 were lower than the estimated recount costs, and the actual recount costs in 2020 were lower than the estimated recount costs. Statutes do not require WEC to ensure that the estimated costs and the actual costs are reasonable and appropriate. We include two issues for legislative consideration.

If the difference in a vote total exceeds 0.25 percent, statutes require a petitioning candidate to prepay the estimated recount costs before a recount begins. If the actual cost of a recount differs from the estimated cost, a petitioning candidate either owes an additional amount or is refunded the excess amount that had been prepaid. If an election outcome changes because of a recount, the petitioning candidate is not required to pay. On November 18, 2020, a presidential candidate who trailed in the vote total by 0.62 percent filed a petition for a recount in Dane and Milwaukee counties and prepaid WEC \$3.0 million. On November 19, 2020, WEC ordered a recount.

Statutes require a recount to be conducted by the county board of canvassers, which includes the county clerk and two qualified electors appointed by the county clerk for two-year terms. One of these two electors must belong to a political party other than the county clerk's

party. A recount must begin no later than 9:00 a.m. on the third day after receipt of a recount order from WEC and be completed no later than 13 days after receipt of a recount order. Milwaukee County completed the recount on November 27, and Dane County completed it on November 29.

Estimated Recount Costs

In anticipation of a statewide recount, WEC provided all county clerks with a template for estimating recount costs.

In anticipation of a possible statewide recount after the November 2020 General Election, WEC advised all county clerks to estimate their recount costs and provided them with a template that:

- suggested allowable cost categories and indicated that certain costs were not reimbursable, including those for alcoholic beverages, traffic citations, and child care;
- included a link to a given county's estimated and actual recount costs in 2016 and indicated that clerks could use this information to estimate recount costs in 2020; and
- included a signature line for a clerk to attest that a county's estimated costs were accurate, reasonable, and necessary.

Although statutes require WEC to prescribe standard forms and procedures for conducting a recount, WEC's staff indicated that county clerks were not required to use the template to estimate recount costs. WEC's staff indicated that WEC interprets this statutory requirement to relate to the recount process, such as how ballots are counted, but not to how clerks should estimate recount costs.

We reviewed the estimated costs that all 72 county clerks provided to WEC for the 2016 and the 2020 recounts and found that these estimated costs:

- increased in 58 counties, including from \$6,100 to \$45,300 in Juneau County, where the 642.6 percent change was the largest percentage increase among all counties; and
- decreased in 14 counties, including from \$141,000 to \$20,000 in Pierce County, where the 85.8 percent change was the largest percentage decrease among all counties.

From 2016 to 2020, the estimated cost of the recount increased in Milwaukee and Dane counties.

From 2016 to 2020, the estimated cost of the recount increased by 279.9 percent in Milwaukee County and by 116.1 percent in Dane County, as shown in Table 13. The percentage increase in Milwaukee County was the 12th largest among all counties, and the percentage increase in Dane County was the 32nd largest. For all other counties combined, the estimated cost for the 2020 recount was 69.0 percent greater than the estimated cost for the 2016 recount.

Table 13

Estimated Costs of the Recounts¹

Recounts Conducted after the November 2016 and November 2020 General Elections

	2016	2020	Percentage Increase
Milwaukee County	\$536,700	\$2,039,000	279.9%
Dane County	342,800	740,800	116.1

¹ According to information that counties provided to WEC.

Many factors can affect recount costs, including the number of ballots to be recounted. From 2016 to 2020, the number of ballots cast increased by 11.4 percent in Dane County, 4.2 percent in Milwaukee County, and 12.0 percent in all other counties combined. In addition, WEC provided county clerks with guidance on costs that were reasonable to include in 2020 because of the public health emergency. Such costs included additional space rental to allow for social distancing, personal protective equipment, hand sanitizer and masks, and plexiglass dividers, as well as the costs of safely allowing recount observers and livestreaming services if in-person space was limited. In 2020, Milwaukee County included \$15,500 for public health emergency-specific items in its estimated costs, and Dane County included \$14,500. However, both counties indicated that most types of costs were affected by the public health emergency.

The estimated per-ballot cost of the recount increased from:

- \$1.11 in 2016 to \$2.15 in 2020 (93.7 percent) in Dane County;
- \$1.22 in 2016 to \$4.44 in 2020 (263.9 percent) in Milwaukee County; and
- \$1.36 in 2016 to \$2.05 in 2020 (50.7 percent) in all other counties combined.

WEC’s staff indicated that they briefly reviewed the estimated and actual recount cost information that county clerks provided before sending this information to petitioning candidates. WEC’s staff indicated that WEC does not believe it has the statutory authority to question the cost information.

We question whether WEC’s staff sufficiently reviewed the cost information in 2016 before sending it to the petitioning candidate. We found that WEC’s staff:

- informed the petitioning candidate that the recount’s estimated cost was \$3.5 million, even though counties had provided estimated costs totaling \$3.9 million; and
- did not realize the actual cost information provided by Dane County included \$25,600 in duplicated costs, which the petitioning candidate subsequently paid.

Actual Recount Costs

In 2016 and 2020, the actual costs of the recount were lower than the estimated costs in Milwaukee and Dane counties.

As shown in Table 14, the actual costs of the recount in 2016 in Milwaukee and Dane counties were lower than the estimated costs, and the actual costs in 2020 in both counties were lower than the estimated costs. For all other counties in 2016, the average estimated cost was \$43,100 per county, and the average actual cost was \$21,900. Thirteen counties had actual costs that exceeded estimated costs by a total of \$14,000.

Table 14

Comparison of Estimated Costs and Actual Costs of Recounts¹

Recounts Conducted after the November 2016 and November 2020 General Elections

County	2016		2020	
	Estimated Costs	Actual Costs	Estimated Costs	Actual Costs
Milwaukee	\$536,700	\$271,500	\$2,039,000	\$1,719,200
Dane	342,800	201,700	740,800	729,700

¹ According to information that counties provided to WEC.

We examined in greater detail the actual costs of the recounts in 2016 and 2020. 2017 Wisconsin Act 120, which was enacted in

November 2017, allowed WEC to include its own recount-related costs in the amounts paid by petitioning candidates. For the 2020 recount, the petitioning candidate paid \$6,200 for WEC's costs.

The actual cost of the 2020 recount totaled \$2.4 million in Milwaukee and Dane counties.

As shown in Table 15, the actual cost of the 2020 recount totaled \$2.4 million for Milwaukee and Dane counties, which was more than five times greater than the \$473,100 charged by the two counties for the 2016 recount. From 2016 to 2020:

- Milwaukee County's actual costs increased by 533.3 percent, and its per-ballot costs increased from \$0.62 to \$3.74; and
- Dane County's actual costs increased by 261.9 percent, and its per-ballot costs increased from \$0.65 to \$2.12.

Table 15

Actual Costs of the Recounts¹

Recounts Conducted after the November 2016 and November 2020 General Elections

	2016	2020	Percentage Change
Milwaukee County			
Facilities	\$ 7,500	\$ 623,000	8,206.7%
Election Systems and Equipment	45,500	499,100	996.9
Staffing	167,200	408,800	144.5
Security	33,900	141,000	315.9
Other ²	17,300	47,400	174.0
Subtotal	271,500	1,719,200	533.2
Dane County			
Staffing	125,500	279,400	122.6
Election Systems and Equipment	–	151,600	–
Facilities	22,200	144,100	549.1
Security	–	113,000	–
Other ²	54,000 ³	41,600	(23.0)
Subtotal	201,700	729,700	261.8
Total	\$473,100	\$2,449,000	417.6

¹ According to information that Dane and Milwaukee counties provided to WEC. Excludes \$6,200 in WEC's costs in 2020.

² Includes supplies and municipal costs.

³ Includes \$25,600 in double-counted costs that the petitioning candidate paid.

We examined the reasons that the actual costs of the recounts in Dane and Milwaukee counties increased from 2016 to 2020. To do so, we reviewed cost information the two counties provided. The two counties did not consistently report similar types of information.

Staffing

Statutes indicate that a board of canvassers may employ individuals to help complete recount work and that these individuals must be paid a reasonable daily compensation or a proportionate hourly rate. WEC's staff indicated that each county determines how much to pay. County staff and municipal employees may also complete recount work.

From 2016 to 2020, Dane County's recount costs for staffing increased from \$125,500 to \$279,400.

From 2016 to 2020, Dane County's recount costs for staffing increased from \$125,500 to \$279,400. Information provided by the county indicated that:

- From 2016 to 2020, the total cost of individuals it hired increased from \$102,000 to \$243,100.
- In 2016, the county paid all individuals it hired \$20 per hour. In 2020, it paid 199 individuals \$30 per hour, 5 individuals \$45 per hour, and 1 individual \$60 per hour. The county indicated that hourly rates increased, in part, because of cost of living adjustments and the need to ensure adequate staffing levels during a public health emergency.
- The county paid no overtime to individuals it hired in 2016, but it paid \$19,300 for 373.5 hours of overtime to individuals it hired in 2020.
- In 2016, the costs of recount work performed by county staff totaled \$21,800, including \$7,000 for the county clerk. In 2020, county staff costs totaled \$34,900, excluding work performed by the county clerk, for which the county did not seek reimbursement. The county indicated that although it was reimbursed for the costs of staff time, staff did not receive additional compensation for recount work.

From 2016 to 2020, Milwaukee County's recount costs for staffing increased from \$167,200 to \$408,800.

From 2016 to 2020, Milwaukee County's recount costs for staffing increased from \$167,200 to \$408,800. Each municipality in the county hired individuals and determined the amounts to pay them. Information provided by the county indicated that:

- The City of Milwaukee paid individuals it hired \$15 per hour in 2016 and \$23.91 in 2020. It indicated that it increased the hourly pay because of

recruiting difficulties caused, in part, because Dane County paid individuals \$30 per hour.

- In 2020, the cities of Milwaukee and West Allis paid individuals \$138,500 for 3,691.4 hours of overtime, which accounted for 96.3 percent of all hours reported by these two cities.
- In 2016, the costs of recount work performed by county staff totaled \$33,200. In 2020, county staff costs totaled \$34,400, including the cost of 64 hours of work performed by the county clerk, for which the county sought reimbursement. The county indicated that although it was reimbursed for the costs of staff time, its staff did not receive additional compensation for recount work.

Facilities

In deciding on a facility in which to conduct a recount, counties consider factors such as accessibility, space, and cost. Facility costs may include rent, parking, and meals.

***From 2016 to 2020,
Dane County's
facility costs increased
from \$22,200 to \$144,100.***

From 2016 to 2020, Dane County's facility costs increased from \$22,200 to \$144,100. Information provided the county indicated that:

- In 2016, the county used the Madison City-County Building to conduct the recount at a cost of \$8,000. In 2020, it paid \$103,400 to rent space at the Monona Terrace Community and Convention Center. The county indicated that it did not use the City-County Building because it needed more space to allow social distancing for recount workers and observers.
- In 2020, the county considered renting space at the Monona Terrace or the Alliant Energy Center but did not obtain a cost estimate for the Alliant Energy Center. The county indicated that it chose the Monona Terrace because of its proximity to the City-County Building and because the Alliant Energy Center was being used for public health emergency-related purposes.
- The contract with the Monona Terrace required the county to rent space and pay for catered meals for 13 days, which is the statutorily stipulated amount of time to complete a recount. After the county completed its recount in 10 days, it paid a \$6,100 cancellation fee and was refunded a portion of the costs of meals it no longer needed.

From 2016 to 2020, Milwaukee County's facility costs increased from \$7,500 to \$623,000.

From 2016 to 2020, Milwaukee County's facility costs increased from \$7,500 to \$623,000. Information provided by the county indicated that:

- In 2016, the county used a Milwaukee Election Commission warehouse to conduct the recount and reported no costs. In 2020, it paid \$510,400 to rent space at the Wisconsin Center. The county indicated that it did not use the warehouse, in part, because the City of Milwaukee did not make the warehouse available, the county needed more space to allow social distancing, and the Wisconsin Center provided catering and security.
- Before renting space at the Wisconsin Center, the county considered using the Milwaukee County Sports Complex, the Fiserv Forum, and 501 West Michigan Avenue, where the City of Milwaukee had conducted its central count on Election Day.
- The county completed its recount in 8 days, but it paid to rent space at the Wisconsin Center for 12 days, including 2 days when voting equipment and other recount supplies were on-site.

A county may provide meals to individuals helping with a recount. The Department of Administration's (DOA's) guidelines indicate that state employees can be reimbursed up to \$10 for lunch and \$20 for dinner when traveling for work in the state. Statutes do not limit meal costs for recounts or require counties to follow DOA's meal reimbursement guidelines.

According to information provided by the counties, meal costs were included in the total facility costs in 2020. Information provided indicated:

- From 2016 to 2020, Dane County's meal costs increased from \$4,000 to \$28,400. The Monona Terrace catered box lunches for \$10 per person and dinners for \$20 per person.
- From 2016 to 2020, Milwaukee County's meal costs increased from \$7,500 to \$72,300. The Wisconsin Center catered box lunches for \$23 per person but did not provide dinners.

Election Systems and Equipment

From 2016 to 2020, Dane County's election systems and equipment costs increased from \$0 to \$151,600.

In 2016, Dane County reported no costs for election systems and equipment because it recounted ballots by hand. In 2020, the county reported \$151,600 in such costs, in part, because it used four automatic tabulating machines to complete most of the recount. This amount included \$9,700 for various costs at Monona Terrace, including four television screens, two document cameras, two laptops, two web cameras, and microphones.

From 2016 to 2020, Milwaukee County's election systems and equipment costs increased from \$45,500 to \$499,100.

From 2016 to 2020, Milwaukee County's election systems and equipment costs increased from \$45,500 to \$499,100. Information provided by the county indicated that:

- In 2016, the county counted ballots with four automatic tabulating machines provided by the City of Milwaukee, including two machines rented for \$34,400 from the vendor of the machines and two machines provided at no cost by the city. In 2020, the city provided seven machines and charged the county \$117,000 for costs associated with wear and tear. This amount was one-half of the amount that the manufacturer would have charged to rent the machines.
- In 2020, a portion of the Wisconsin Center's costs included technology, such as approximately \$355,100 for audio-visual production and streaming, electronic systems, and equipment.

Issues for Legislative Consideration

We reviewed whether other midwestern states limit the amount of recount costs that can be charged to petitioning candidates. We found that:

- Minnesota requires each jurisdiction where a recount is conducted to make available at no cost all necessary equipment and facilities; and
- Michigan requires petitioning candidates to pay statutorily predetermined amounts of up to \$250 per precinct, regardless of their actual recount costs.

If the Legislature wanted to limit the types of recount costs charged to petitioning candidates, it could modify statutes to require that only certain types of costs could be charged.

If the Legislature wanted to limit the types of recount costs charged to petitioning candidates, it could modify statutes to require that only certain types of costs could be charged. For example, it could stipulate that petitioning candidates not be charged costs associated with facilities, certain types of equipment, or the salaries and fringe benefits of government employees, who may be expected to fulfill at no cost all duties pertaining to administering elections. Similarly, it could stipulate that recounts must occur in government facilities whenever possible, or require counties to show that they rented reasonably priced private facilities. However, circumstances such as a public health emergency could result in counties incurring new and unanticipated types of costs, and taxpayer funds could end up financing a portion of the recount costs that petitioning candidates currently cover.

If the Legislature wanted to limit the total recount costs charged to petitioning candidates, it could modify statutes to determine the amount that could be charged.

If the Legislature wanted to limit the total recount costs charged to petitioning candidates, it could modify statutes to determine the total amount that could be charged. For example, statutes could stipulate an amount per ballot to be recounted, and statutes could stipulate that this amount would increase over time, such as by the rate of inflation. Doing so would ensure a petitioning candidate knew in advance the cost of a recount. However, actual costs could vary considerably among counties, and taxpayer funds could end up financing a portion of the recount costs that petitioning candidates currently cover, particularly if costs increase during circumstances such as a public health emergency.



Appendices

Appendix 1

WEC Commissioners, by Appointing Authority
October 2021

Commissioner	Appointing Authority
Marge Bostelmann	Governor
Julie Glancey	Governor
Ann Jacobs	Senate Minority Leader
Dean Knudson	Assembly Speaker
Robert Spindell, Jr.	Senate Majority Leader
Mark Thomsen	Assembly Minority Leader

Appendix 2

Eight Groups Involved with Elections Administration Issues That We Contacted

Disability Rights Wisconsin

League of Wisconsin Municipalities

League of Women Voters of Wisconsin

Wisconsin Counties Association

Wisconsin County Clerks Association

Wisconsin Election Integrity

Wisconsin Municipal Clerks Association

Wisconsin Towns Association

Appendix 3

Municipal Clerks and County Clerks That We Contacted, by County

County	Clerk	County	Clerk
Adams	Adams, Town of	Dane	Christiana, Town of
	Jackson, Town of		Cottage Grove, Town of
Ashland	Ashland, City of		Dane County
Barron	Barron County		Deerfield, Town of
	Chetek, City of		Madison, City of
	Stanfold, Town of		Maple Bluff, Village of
Brown	Allouez, Village of		Mount Horeb, Village of
	Ashwaubenon, Village of		Oregon, Town of
	Bellevue, Village of		Perry, Town of
	De Pere, City of		Rutland, Town of
	Green Bay, City of	Stoughton, City of	
	Hobart, Village of	Sun Prairie, City of	
	Rockland, Town of	Verona, City of	
Buffalo	Suamico, Village of	Westport, Town of	
	Belvidere, Town of	Dodge	Chester, Town of
	Cross, Town of		Dodge County
	Milton, Town of		Lebanon, Town of
Burnett	Sand Lake, Town of		Rubicon, Town of
	Union, Town of	Door	Door County
Calumet	Brillion, City of		Egg Harbor, Town of
	Chilton, Town of		Jacksonport, Town of
	Harrison, Town of		Liberty Grove, Town of
	New Holstein, City of	Douglas	Superior, City of
Chippewa	Chippewa Falls, City of		Dunn
	Cornell, City of	Eau Claire	Eau Claire, City of
	Tilden, Town of	Fond du Lac	Campbellsport, Village of
Clark	Hendren, Town of		Fond du Lac, City of
	Loyal, City of		Fond du Lac County
	Thorp, City of		Friendship, Town of
	Withee, Village of	Grant	Bloomington, Town of
Columbia	Cambria, Village of		Platteville, City of
	Lodi, City of	Green Lake	Berlin, City of
Crawford	Lynxville, Village of		Brooklyn, Town of

County	Clerk
Jackson	Alma, Town of
	Curran, Town of
Jefferson	Oakland, Town of
	Watertown, City of
Juneau	Juneau County
	Lemonweir, Town of
	Marion, Town of
	New Lisbon, City of
Kenosha	Kenosha, City of
	Kenosha County
	Pleasant Prairie, Village of
	Somers, Town of
	Somers, Village of
Kewaunee	Kewaunee County
La Crosse	La Crosse, City of
	Medary, Town of
Lafayette	Blanchardville, Village of
Langlade	Antigo, City of
Manitowoc	Manitowoc, City of
Marathon	Day, Town of
	Marathon City, Village of
	Marathon County
	Wausau, City of
	Weston, Village of
Marinette	Marinette County
	Niagara, City of
Marquette	Neshkoro, Town of
Menominee	Menominee County
Milwaukee	Franklin, City of
	Greendale, Village of
	Greenfield, City of
	Milwaukee, City of
	Milwaukee County
	Oak Creek, City of
	Shorewood, Village of
	South Milwaukee, City of
	Wauwatosa, City of
West Allis, City of	
	Whitefish Bay, Village of

County	Clerk
Monroe	Sparta, City of
	Wells, Town of
Oconto	Little River, Town of
	Oconto, City of
Outagamie	Grand Chute, Town of
	Little Chute, Village of
	Oneida, Town of
	Outagamie County
Ozaukee	Cedarburg, City of
	Port Washington, City of
Pepin	Durand, City of
	Stockholm, Town of
Pierce	Ellsworth, Town of
	River Falls, City of
Polk	Farmington, Town of
Portage	Sharon, Town of
Price	Price County
Racine	Mount Pleasant, Village of
	North Bay, Village of
Richland	Marshall, Town of
Rock	Beloit, City of
	Janesville, City of
	Johnstown, Town of
	Spring Valley, Town of
Rusk	Grant, Town of
	Willard, Town of
Sawyer	Sawyer County
	Winter, Village of
Shawano	Bartelme, Town of
Sheboygan	Holland, Town of
	Mitchell, Town of
	Random Lake, Village of
	Sheboygan Falls, City of
St. Croix	Baldwin, Village of
	Hudson, City of
	Roberts, Village of
	St. Croix County
	Star Prairie, Town of

County	Clerk
Taylor	Greenwood, Town of
Vernon	Forest, Town of
	Viroqua, City of
Vilas	Lac du Flambeau, Town of
	Vilas County
Walworth	Elkhorn, City of
	Walworth County
	Whitewater, City of
Washington	Barton, Town of
	Erin, Town of
	Germantown, Village of
	Jackson, Town of
	Jackson, Village of
	Richfield, Village of
	Washington County
	West Bend, City of
Waukesha	Brookfield, City of
	Menomonee Falls, Village of
	New Berlin, City of
	Oconomowoc, City of
	Ottawa, Town of
	Pewaukee, City of
Waupaca	Little Wolf, Town of
	Waupaca County
Waushara	Richford, Town of
Winnebago	Algoma, Town of
	Clayton, Town of
	Fox Crossing, Village of
	Menasha, City of
	Neenah, City of
	Oshkosh, City of
	Winnebago County
Wood	Arpin, Town of
	Marshfield, City of
	Wisconsin Rapids, City of

Appendix 4

Review of a Sample of Absentee Ballot Certificates in the November 2020 General Election

This appendix provides an overview of the 14,710 certificates we reviewed in 29 municipalities. We determined the extent to which these certificates had partial witness addresses. For purposes of our analysis, we determined a partial witness address to exclude one or more of the following: street name and number, municipality, state, and zip code. We also determined the extent to which these certificates did not have entire witness addresses, witness signatures, or voter signatures. The following tables present the results of our review.

Descriptions of key terms follow.

Total Certificates is the total number of certificates associated with absentee ballots cast in the November 2020 General Election in a given municipality, according to WisVote data.

Certificates We Reviewed includes the number of certificates we reviewed in a given municipality, the number of certificates that we found to have an issue (e.g., certificates with partial witness addresses), and the percentage of certificates that we found to have an issue (e.g., certificates with partial witness addresses).

Estimated Total Number of Certificates that had a given issue (e.g., certificates with partial witness addresses) presents our low estimate and high estimate of the number of all certificates in a given municipality that had a given issue. Based on statistical approximation, we are 95.0 percent confident that the total number of certificates with a given issue in a municipality is between these low and high estimates. If the certificates we reviewed did not indicate that a given issue occurred in a given municipality, we do not provide estimates for that municipality.

Because we reviewed all or almost all certificates in 8 of the 29 municipalities, we instead provide the actual total number of certificates in a given municipality that had a given issue.

In the City of Sun Prairie, we reviewed a large sample of certificates that we did not select randomly, so we cannot use statistical approximation to estimate the total number of certificates that had a given issue.

Certificates with Partial Witness Addresses¹

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates with Partial Witness Addresses ²	Actual Total Number of Certificates with Partial Witness Addresses
		Number	Number with Partial Witness Addresses	Percentage with Partial Witness Addresses		
Appleton, City of	24,196	551	15	2.72%	401	1,075
Bayside, Village of	2,689	521	46	8.83	180	312
Brookfield, City of	20,923	760	287	37.76	7,195	8,634
Eau Claire, City of	22,348	469	15	3.20	436	1,165
Franklin, Town of (Jackson County)	30	30	1	3.33		1
Glendale, City of	7,010	499	1	0.20	3	79
Green Bay, City of	32,051	485	39	8.04	1,904	3,463
Greenfield, Town of (La Crosse County)	744	744	66	8.87		66
Highland, Village of	186	186	8	4.30		8
Janesville, City of	22,515	631	27	4.28	666	1,386
Kekoskee, Village of	162	162	62	38.27		62
Kenosha, City of	30,434	520	3	0.58	60	512
Ledgeview, Town of (Brown County)	4,297	533	13	2.44	62	178
Little Suamico, Town of (Oconto County)	1,772	886	67	7.56	107	169
Loyal, Town of (Clark County)	62	62	11	17.74		11
McFarland, Village of	4,902	541	0	0.0		
Middleton, City of	11,202	507	6	1.18	61	287
Milwaukee, City of	169,208	597	1	0.17	51	1,596
Oshkosh, Town of (Winnebago County)	901	899	68	7.56		68
Racine, City of	20,739	506	7	1.38	140	587
Rib Lake, Village of	139	139	2	1.44		2

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates with Partial Witness Addresses ²		Actual Total Number of Certificates with Partial Witness Addresses
		Number	Number with Partial Witness Addresses	Percentage with Partial Witness Addresses	Low Estimate	High Estimate	
Shorewood, Village of	7,947	521	141	27.06%	1,862	2,467	
Shorewood Hills, Village of	1,439	722	14	1.94	17	47	
Sullivan, Village of	146	146	3	2.05			3
Sun Prairie, City of ³	16,758	1,000	24	2.40			
Verona, City of	7,095	504	13	2.58	108	310	
Waukesha, City of	26,355	563	33	5.86	1,108	2,140	
Wauwatosa, City of	25,508	524	27	5.15	910	1,886	
Whitefish Bay, Village of	8,270	502	22	4.38	241	542	
Totals	470,028	14,710	1,022	6.95			

¹ Certificates did not have one or more address components, including street name and number, municipality, state, and zip code.

² Based on statistical approximation, we are 95.0 percent confident that the total number of certificates with partial witness addresses is between the low and high estimates.

³ Statistical approximation cannot be used to estimate the total number of certificates because we did not randomly select certificates for review.

Certificates without an Entire Witness Address

Municipality	Total Certificates	Certificates We Reviewed			Percentage without an Entire Witness Address	Estimated Total Number of Certificates without an Entire Witness Address ¹		Actual Total Number of Certificates without an Entire Witness Address
		Number	Number without an Entire Witness Address	Number without an Entire Witness Address		Low Estimate	High Estimate	
Appleton, City of	24,196	551	0	0	0.0%			
Bayside, Village of	2,689	521	2	0	0.38	3	38	
Brookfield, City of	20,923	760	0	0	0.0			
Eau Claire, City of	22,348	469	0	0	0.0			
Franklin, Town of (Jackson County)	30	30	0	0	0.0			0
Glendale, City of	7,010	499	0	0	0.0			
Green Bay, City of	32,051	485	2	0	0.41	37	478	
Greenfield, Town of (La Crosse County)	744	744	0	0	0.0			0
Highland, Village of	186	186	0	0	0.0			0
Janesville, City of	22,515	631	0	0	0.0			0
Kekoskee, Village of	162	162	0	0	0.0			0
Kenosha, City of	30,434	520	0	0	0.0			
Ledgeview, Town of (Brown County)	4,297	533	1	0	0.19	2	46	
Little Suamico, Town of (Oconto County)	1,772	886	1	0	0.11	1	12	
Loyal, Town of (Clark County)	62	62	4	0	6.45			4
McFarland, Village of	4,902	541	0	0	0.0			
Middleton, City of	11,202	507	0	0	0.0			
Milwaukee, City of	169,208	597	0	0	0.0			
Oshkosh, Town of (Winnebago County)	901	899	0	0	0.0			0
Racine, City of	20,739	506	1	0	0.20	8	231	
Rib Lake, Village of	139	139	1	0	0.72			1

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates without an Entire Witness Address ¹		Actual Total Number of Certificates without an Entire Witness Address
		Number	Number without an Entire Witness Address	Percentage without an Entire Witness Address	Low Estimate	High Estimate	
Shorewood, Village of	7,947	521	0	0.0%			
Shorewood Hills, Village of	1,439	722	0	0.0			
Sullivan, Village of	146	146	1	0.68			1
Sun Prairie, City of ²	16,758	1,000	0	0.0			
Verona, City of	7,095	504	1	0.20	3	80	
Waukesha, City of	26,355	563	0	0.0			
Wauwatosa, City of	25,508	524	0	0.0			
Whitefish Bay, Village of	8,270	502	1	0.20	3	93	
Totals	470,028	14,710	15	0.10			

¹ Based on statistical approximation, we are 95.0 percent confident that the total number of certificates without an entire witness address is between the low and high estimates.

² Statistical approximation cannot be used to estimate the total number of certificates because we did not randomly select certificates for review.

Certificates without a Witness Signature

Municipality	Total Certificates	Certificates We Reviewed			Percentage without a Witness Signature	Estimated Total Number of Certificates without a Witness Signature ¹		Actual Total Number of Certificates without a Witness Signature
		Number	Number without a Witness Signature ²	Number without a Witness Signature		Low Estimate	High Estimate	
Appleton, City of	24,196	551	0	0.0%				
Bayside, Village of	2,689	521	0	0.0				
Brookfield, City of	20,923	760	0	0.0				
Eau Claire, City of	22,348	469	1	0.21	9	268		
Franklin, Town of (Jackson County)	30	30	0	0.0			0	
Glendale, City of	7,010	499	1	0.20	3	79		
Green Bay, City of	32,051	485	0	0.0				
Greenfield, Town of (La Crosse County)	744	744	0	0.0			0	
Highland, Village of	186	186	0	0.0			0	
Janesville, City of	22,515	631	2	0.32	20	259		
Kekoskee, Village of	162	162	0	0.0			0	
Kenosha, City of	30,434	520	1	0.19	11	329		
Ledgeview, Town of (Brown County)	4,297	533	0	0.0				
Little Suamico, Town of (Oconto County)	1,772	886	0	0.0				
Loyal, Town of (Clark County)	62	62	0	0.0			0	
McFarland, Village of	4,902	541	0	0.0				
Middleton, City of	11,202	507	0	0.0				
Milwaukee, City of	169,208	597	0	0.0				
Oshkosh, Town of (Winnebago County)	901	899	0	0.0			0	
Racine, City of	20,739	506	0	0.0				
Rib Lake, Village of	139	139	1	0.72			1	

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates without a Witness Signature ¹		Actual Total Number of Certificates without a Witness Signature
		Number	Number without a Witness Signature ²	Percentage without a Witness Signature	Low Estimate	High Estimate	
Shorewood, Village of	7,947	521	0	0.0%			
Shorewood Hills, Village of	1,439	722	0	0.0			
Sullivan, Village of	146	146	1	0.68			1
Sun Prairie, City of ³	16,758	1,000	0	0.0			
Verona, City of	7,095	504	0	0.0			
Waukesha, City of	26,355	563	0	0.0			
Wauwatosa, City of	25,508	524	0	0.0			
Whitefish Bay, Village of	8,270	502	1	0.20	3	93	
Totals	470,028	14,710	8	0.05			

¹ Based on statistical approximation, we are 95.0 percent confident that the total number of certificates without a witness signature is between the low and high estimates.

² Individuals who returned five of the eight certificates without a witness signature voted in-person absentee, which typically involves clerk staff writing the witness signature.

³ Statistical approximation cannot be used to estimate the total number of certificates because we did not randomly select certificates for review.

Certificates without a Voter Signature

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates without a Voter Signature ¹		Actual Number of Certificates without a Voter Signature
		Number	Number without a Voter Signature	Percentage without a Voter Signature	Low Estimate	High Estimate	
Appleton, City of	24,196	551	0	0.0%			
Bayside, Village of	2,689	521	0	0.0			
Brookfield, City of	20,923	760	0	0.0			
Eau Claire, City of	22,348	469	1	0.21	9	268	
Franklin, Town of (Jackson County)	30	30	0	0.0			0
Glendale, City of	7,010	499	0	0.0			
Green Bay, City of	32,051	485	0	0.0			
Greenfield, Town of (La Crosse County)	744	744	0	0.0			0
Highland, Village of	186	186	0	0.0			0
Janesville, City of	22,515	631	2	0.32	20	259	
Kekoskee, Village of	162	162	0	0.0			0
Kenosha, City of	30,434	520	0	0.0			
Ledgeview, Town of (Brown County)	4,297	533	0	0.0			
Little Suamico, Town of (Oconto County)	1,772	886	0	0.0			
Loyal, Town of (Clark County)	62	62	0	0.0			0
McFarland, Village of	4,902	541	0	0.0			
Middleton, City of	11,202	507	0	0.0			
Milwaukee, City of	169,208	597	0	0.0			
Oshkosh, Town of (Winnebago County)	901	899	0	0.0			0
Racine, City of	20,739	506	0	0.0			
Rib Lake, Village of	139	139	0	0.0			0

Municipality	Total Certificates	Certificates We Reviewed			Estimated Total Number of Certificates without a Voter Signature ¹			Actual Number of Certificates without a Voter Signature
		Number	Number without a Voter Signature	Percentage without a Voter Signature	Low Estimate	High Estimate		
Shorewood, Village of	7,947	521	0	0.0%				
Shorewood Hills, Village of	1,439	722	0	0.0				
Sullivan, Village of	146	146	0	0.0			0	
Sun Prairie, City of ²	16,758	1,000	0	0.0				
Verona, City of	7,095	504	0	0.0				
Waukesha, City of	26,355	563	0	0.0				
Wauwatosa, City of	25,508	524	0	0.0				
Whitefish Bay, Village of	8,270	502	0	0.0				
Totals	470,028	14,710	3	0.02				

¹ Based on statistical approximation, we are 95.0 percent confident that the total number of certificates without a voter signature is between the low and high estimates.

² Statistical approximation cannot be used to estimate the total number of certificates because we did not randomly select certificates for review.

Appendix 5

**319 Municipalities for Which We Reviewed
Election Day Forms, by County**

County	Municipality	County	Municipality	
Adams	Big Flats, Town of	Clark	Beaver, Town of	
	Colburn, Town of		Dewhurst, Town of	
	Friendship, Village of		Hewett, Town of	
	New Haven, Town of		Mentor, Town of	
Barron	Barron, Town of	Columbia	Neillsville, City of	
	Cameron, Village of		Sherwood, Town of	
	Cumberland, Town of		Warner, Town of	
	Haugen, Village of		York, Town of	
	Prairie Farm, Village of		Lodi, City of	
	Turtle Lake, Village of		Lodi, Town of	
Bayfield	Barksdale, Town of	Crawford	Friesland, Village of	
	Hughes, Town of		Marcellon, Town of	
	Mason, Village of		Newport, Town of	
Brown	Ashwaubenon, Village of		Dane	West Point, Town of
	Howard, Village of			Wyocena, Town of
	Lawrence, Town of			Eastman, Town of
	Wrightstown, Village of	Freeman, Town of		
Buffalo	Canton, Town of	Dane		Marietta, Town of
	Maxville, Town of			Mount Sterling, Village of
Burnett	Meenon, Town of		Dane	Soldiers Grove, Village of
	Roosevelt, Town of			Steuben, Village of
	Sand Lake, Town of			Bristol, Town of
	Scott, Town of			Cottage Grove, Village of
	Siren, Town of	Cross Plains, Town of		
	Wood River, Town of	Dane, Town of		
Calumet	Brillion, City of	Dane	DeForest, Village of	
	Potter, Village of		Dunn, Town of	
	Stockbridge, Village of		Oregon, Town of	
Chippewa	Anson, Town of		Dane	Vermont, Town of
	Arthur, Town of			Verona, City of
	Bloomer, City of			York, Town of
	Edson, Town of			
	New Auburn, Village of			

County	Municipality
Dodge	Beaver Dam, Town of
	Calamus, Town of
	Clyman, Village of
	Fox Lake, Town of
	Herman, Town of
	Iron Ridge, Village of
	LeRoy, Town of
	Reeseville, Village of
Door	Ephraim, Village of
	Sister Bay, Village of
Douglas	Amnicon, Town of
	Highland, Town of
	Lakeside, Town of
	Maple, Town of
	Parkland, Town of
Dunn	Colfax, Town of
	Peru, Town of
	Weston, Town of
Eau Claire	Clear Creek, Town of
	Eau Claire, City of
	Lincoln, Town of
Florence	Commonwealth, Town of
	Fern, Town of
	Florence, Town of
Fond du Lac	Byron, Town of
	Campbellsport, Village of
	Eden, Village of
	Eldorado, Town of
	Lamartine, Town of
	Marshfield, Town of
	Ripon, City of
Forest	Alvin, Town of
	Blackwell, Town of
	Freedom, Town of
	Popple River, Town of

County	Municipality
Grant	Bagley, Village of
	Boscobel, Town of
	Castle Rock, Town of
	Cuba City, City of
	Hazel Green, Village of
	Lancaster, City of
	Little Grant, Town of
	Millville, Town of
	Montfort, Village of
	Mount Hope, Town of
Green	Mount Ida, Town of
	Platteville, Town of
	Wyalusing, Town of
Green Lake	Cadiz, Town of
	York, Town of
Iowa	St. Marie, Town of
	Clyde, Town of
	Eden, Town of
	Linden, Village of
	Mifflin, Town of
Jackson	Pulaski, Town of
	Black River Falls, City of
	City Point, Town of
	Garfield, Town of
	Melrose, Town of
Juneau	Taylor, Village of
	Germantown, Town of
	Kildare, Town of
	Kingston, Town of
	Lemonweir, Town of
	Marion, Town of
	Wonewoc, Village of
Kenosha	Somers, Village of
Kewaunee	Ahnapee, Town of
La Crosse	Hamilton, Town of
	Shelby, Town of

County	Municipality
Lafayette	Argyle, Village of
	Benton, Town of
	Blanchard, Town of
	Blanchardville, Village of
	Elk Grove, Town of
	Fayette, Town of
	Gratiot, Town of
	Shullsburg, City of
Langlade	Antigo, Town of
	Elcho, Town of
	Evergreen, Town of
	Norwood, Town of
Lincoln	Bradley, Town of
	Harrison, Town of
	Merrill, Town of
	Pine River, Town of
	Rock Falls, Town of
Manitowoc	Scott, Town of
	Gibson, Town of
	Maple Grove, Town of
	Mishicot, Village of
Marathon	Rockland, Town of
	Cassel, Town of
	Eau Pleine, Town of
	Franzen, Town of
	Green Valley, Town of
	Hewitt, Town of
	Kronenwetter, Village of
	Maine, Village of
	Marathon, Town of
	Marathon City, Village of
	Reid, Town of
	Schofield, City of
	Spencer, Town of
	Spencer, Village of
	Wausau, Town of

County	Municipality
Marinette	Athelstane, Town of
	Coleman, Village of
	Crivitz, Village of
	Lake, Town of
	Niagara, City of
Marquette	Wagner, Town of
	Montello, City of
	Neshkoro, Village of
Menominee	Newton, Town of
	Menominee, Town of
Milwaukee	Bayside, Village of
	Greendale, Village of
	Wauwatosa, City of
Monroe	Warrens, Village of
Onconto	Lena, Village of
	Little River, Town of
Oneida	Little Rice, Town of
	Monico, Town of
	Newbold, Town of
Outagamie	Schoepke, Town of
	Dale, Town of
	Deer Creek, Town of
	Kimberly, Village of
	Seymour, City of
Ozaukee	Seymour, Town of
	Belgium, Village of
Pepin	Frankfort, Town of
	Pepin, Town of
	Waterville, Town of
Pierce	Ellsworth, Village of
	Elmwood, Village of
	Gilman, Town of
	Maiden Rock, Village of
	Trenton, Town of
	Union, Town of

County	Municipality
Polk	Balsam Lake, Village of
	Clayton, Town of
	Clear Lake, Village of
	Georgetown, Town of
	Johnstown, Town of
	Laketown, Town of
	St. Croix Falls, City of
	Sterling, Town of
Portage	Almond, Village of
	Junction City, Village of
	Sharon, Town of
	Stevens Point, City of
Price	Catawba, Village of
	Fifield, Town of
	Hill, Town of
	Knox, Town of
	Park Falls, City of
	Worcester, Town of
Racine	Waterford, Town of
Richland	Richland Center, City of
	Richwood, Town of
	Sylvan, Town of
Rock	Fulton, Town of
	Spring Valley, Town of
Rusk	Glen Flora, Village of
	Grow, Town of
	Hubbard, Town of
	Ingram, Village of
	Murry, Town of
	South Fork, Town of
	Strickland, Town of
	Stubbs, Town of
	Washington, Town of
Sauk	Dellona, Town of
	Fairfield, Town of
	Lake Delton, Village of
	La Valle, Town of
	Loganville, Village of
	Washington, Town of

County	Municipality
Sawyer	Ojibwa, Town of
	Radisson, Village of
	Round Lake, Town of
	Weirgor, Town of
	Winter, Village of
Shawano	Aniwa, Village of
	Hartland, Town of
	Lessor, Town of
	Richmond, Town of
	Shawano, City of
	Wittenberg, Town of
Sheboygan	Wittenberg, Village of
	Cascade, Village of
	Elkhart Lake, Village of
	Oostburg, Village of
	Plymouth, Town of
	Sheboygan, City of
St. Croix	Cylon, Town of
	Eau Galle, Town of
	Forest, Town of
	Richmond, Town of
	Roberts, Village of
Taylor	Star Prairie, Village of
	Warren, Town of
	Chelsea, Town of
	Deer Creek, Town of
	Gilman, Village of
Trempealeau	Medford, City of
	Stetsonville, Village of
	Taft, Town of
	Eleva, Village of
Vernon	Trempealeau, Town of
	Trempealeau, Village of
	Bergen, Town of
	Coon, Town of
	Forest, Town of
	Franklin, Town of
	Greenwood, Town of
Ontario, Village of	
Stark, Town of	

County	Municipality
Vilas	Land O' Lakes, Town of
	Lincoln, Town of
Walworth	Fontana, Village of
	Lake Geneva, City of
Washburn	Brooklyn, Town of
	Minong, Town of
	Minong, Village of
	Spooner, Town of
	Springbrook, Town of
	Stinnett, Town of
	Stone Lake, Town of
Washington	Kewaskum, Town of
Waukesha	Brookfield, City of
	Eagle, Town of
	Eagle, Village of
	Elm Grove, Village of
	Genesee, Town of
	Lannon, Village of
	Muskego, City of
	Nashotah, Village of
	New Berlin, City of
	Oconomowoc Lake, Village of
	Waupaca
Dupont, Town of	
Fremont, Town of	
Matteson, Town of	
Waushara	Warren, Town of
Winnebago	Black Wolf, Town of
	Wolf River, Town of
Wood	Arpin, Town of
	Cranmoor, Town of
	Hewitt, Village of
	Marshfield, Town of
	Saratoga, Town of

Appendix 6

Review of a Sample of Electronic Voting Equipment Test Results Tests Conducted by Municipal Clerks before the November 2020 General Election

Municipal clerks conducted statutorily required tests of electronic voting equipment before the November 2020 General Election. This appendix provides an overview of the pre-election test results we requested from 29 municipalities.

Descriptions of key terms follow.

Pre-Election Tests Conducted by Clerks within 10 Days before the General Election indicates the number of test results that we examined in each municipality, as well as the number and percentage of test results that we found municipal clerks had conducted within 10 days before the General Election, as statutorily required. We examined a total of 175 test results for this analysis. In some municipalities, we examined all test results. In others, we examined a sample of test results.

Pre-Election Tests That Accurately Counted Votes indicates the number of test results that we examined in each municipality, as well as the number and percentage of test results that we found had accurately counted votes for the presidential contest. We examined a total of 60 test results for this analysis.

The following tables present the results of our review.

Pre-Election Tests Conducted by Clerks within 10 Days before the General Election

Municipality	Number of Tests We Reviewed	Number of Reviewed Tests Conducted within 10 Days Before the Election	Percentage of Reviewed Tests Conducted within 10 Days Before the Election
Appleton, City of ¹	–	–	–
Bayside, Village of	1	0	0.0%
Brookfield, City of	34	34	100.0
Eau Claire, City of	23	1	4.3
Franklin, Town of (Jackson County)	1	1	100.0
Glendale, City of	1	0	0.0
Green Bay, City of	44	8	18.2
Greenfield, Town of (La Crosse County)	1	1	100.0
Highland, Village of	1	1	100.0
Janesville, City of	5	5	100.0
Kekoskee, Village of	1	0	0.0
Kenosha, City of	23	1	4.3
Ledgeview, Town of (Brown County)	2	2	100.0
Little Suamico, Town of (Oconto County)	2	2	100.0
Loyal, Town of (Clark County)	1	1	100.0
McFarland, Village of	6	6	100.0
Middleton, City of ¹	–	–	–
Milwaukee, City of	1	0	0.0
Oshkosh, Town of (Winnebago County)	2	2	100.0
Racine, City of ¹	–	–	–
Rib Lake, Village of	1	1	100.0
Shorewood, Village of	1	0	0.0
Shorewood Hills, Village of	1	1	100.0
Sullivan, Village of	1	1	100.0
Sun Prairie, City of	16	16	100.0
Verona, City of	4	4	100.0
Waukesha, City of ¹	–	–	–
Wauwatosa, City of	1	0	0.0
Whitefish Bay, Village of	1	0	0.0
Totals	175	88	

¹ This municipality did not provide us with any pre-election test results.

Pre-Election Tests That Accurately Counted Votes

Municipality	Number of Tests We Reviewed	Number of Reviewed Tests That Accurately Counted Votes	Percentage of Reviewed Tests That Accurately Counted Votes
Appleton, City of ¹	–	–	–
Bayside, Village of	1	1	100.0%
Brookfield, City of	8	8	100.0
Eau Claire, City of	12	12	100.0
Franklin, Town of (Jackson County)	1	1	100.0
Glendale, City of	1	1	100.0
Green Bay, City of ²	8	7	87.5
Greenfield, Town of (La Crosse County)	1	1	100.0
Highland, Village of	1	1	100.0
Janesville, City of	5	5	100.0
Kekoskee, Village of	1	1	100.0
Kenosha, City of	1	1	100.0
Ledgeview, Town of (Brown County)	2	2	100.0
Little Suamico, Town of (Oconto County)	2	2	100.0
Loyal, Town of ³ (Clark County)	–	–	–
McFarland, Village of	2	2	100.0
Middleton, City of ¹	–	–	–
Milwaukee, City of	1	1	100.0
Oshkosh, Town of (Winnebago County)	2	2	100.0
Racine, City of ¹	–	–	–
Rib Lake, Village of	1	1	100.0
Shorewood, Village of	1	1	100.0
Shorewood Hills, Village of	1	1	100.0
Sullivan, Village of	1	1	100.0
Sun Prairie, City of	2	2	100.0
Verona, City of	3	3	100.0
Waukesha, City of ¹	–	–	–
Wauwatosa, City of	1	1	100.0
Whitefish Bay, Village of	1	1	100.0
Totals	60	59	

¹ This municipality did not provide us with any pre-election test results.

² One pre-election test result included insufficient documentation, which prevented us from determining whether the equipment had accurately counted the votes for presidential candidates.

³ This municipality provided us with incomplete pre-election test results.

Appendix 7

Report Recommendations, by Chapter

We recommend staff of the Wisconsin Elections Commission report to the Joint Legislative Audit Committee by March 31, 2022, on their efforts to implement our report recommendations.

Training (p. 9)

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to modify ch. EL 12, Wis. Adm. Code, to reflect current statutory requirements for elections (p. 10).

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to modify ch. EL 12.02 (7), Wis. Adm. Code, to specify how the governing bodies of municipalities will be notified when municipal clerks do not report having completed training required by administrative rules (p. 13); and
- consistently comply with administrative rules (p. 13).

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to promulgate statutorily required administrative rules prescribing the contents of training that municipal clerks provide to special voting deputies and election inspectors (p. 17).

Maintenance of Voter Registration Records (p. 19)

We recommend staff of the Wisconsin Elections Commission:

- before January 1, 2022, work with the Wisconsin Elections Commission to execute with the Department of Transportation a new written data-sharing agreement that includes provisions for verifying the information provided by individuals who register to vote by all methods and that specifies the procedures for verifying this information (p. 24);

- establish a system to regularly review and update the data-sharing agreement ([p. 24](#)); and
 - comply with statutes by working with the Department of Transportation to obtain the electronic signatures of individuals who register online to vote, or request that the Legislature modify the statutory requirement that the Wisconsin Elections Commission obtain them ([p. 24](#)).
-

We recommend staff of the Wisconsin Elections Commission:

- improve how they identify potential duplicate voter registration records in WisVote by comparing driver's license and state identification card numbers of all registered voters each night ([p. 25](#)).
-

We recommend staff of the Wisconsin Elections Commission:

- before January 1, 2022, work with the Wisconsin Elections Commission to execute a new written data-sharing agreement with the Department of Health Services ([p. 28](#)); and
 - establish a system to regularly review and update the data-sharing agreement ([p. 28](#)).
-

We recommend staff of the Wisconsin Elections Commission:

- before January 1, 2022, work with the Wisconsin Elections Commission to execute a new data-sharing agreement with the Department of Corrections ([p. 30](#)); and
 - establish a system to regularly review and update the data-sharing agreement ([p. 30](#)).
-

We recommend staff of the Wisconsin Elections Commission:

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

Absentee Ballots (p. 37)

We recommend staff of the Wisconsin Elections Commission:

- ensure that the absentee ballot certificates made available to municipalities comply with statutes by requiring witnesses to print their names (p. 45);
- provide municipal clerks with additional training on the statutory requirement to initial absentee ballot certificates in certain situations (p. 45); and
- promulgate administrative rules to allow municipal clerks to correct or add missing witness address information to absentee ballot certificates, if the Wisconsin Elections Commission believes municipal clerks should be permitted to take such actions (p. 45).

We recommend staff of the Wisconsin Elections Commission:

- promulgate administrative rules to permit municipal clerks to establish drop boxes where individuals can return absentee ballots, if the Wisconsin Elections Commission believes municipal clerks should be permitted to establish drop boxes (p. 48).

We recommend staff of the Wisconsin Elections Commission:

- promulgate administrative rules to specify the situations when municipal clerks should not send special voting deputies to residential care facilities and qualified retirement homes, if the Wisconsin Elections Commission believes municipal clerks should be permitted to take alternative actions in these situations (p. 53).

Ballot Processing (p. 55)

We recommend staff of the Wisconsin Elections Commission:

- retract their statutorily noncompliant written guidance that indicates municipal clerks may adjourn before counting all ballots as a result of inevitable circumstances (p. 61); and
- promulgate administrative rules to allow municipal clerks to adjourn in certain circumstances before completing ballot counting, if the Wisconsin Elections Commission believes municipal clerks should be allowed to adjourn in these circumstances (p. 61).

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to retract the statutorily noncompliant written guidance for establishing polling places ([p. 62](#)); and
- promulgate administrative rules to specify the circumstances when municipal clerks can relocate polling places without approval from municipal governing bodies, if the Wisconsin Elections Commission believes municipal clerks should be allowed to relocate polling places in these circumstances ([p. 63](#)).

We recommend staff of the Wisconsin Elections Commission:

- take additional actions to improve ballot processing in future elections, such as providing additional training to clerks ([p. 65](#)).

Electronic Voting Equipment ([p. 67](#))

We recommend staff of the Wisconsin Elections Commission:

- provide additional training to municipal clerks on completing the statutorily required pre-election tests of electronic voting equipment ([p. 73](#)).

We recommend staff of the Wisconsin Elections Commission:

- provide training to municipal clerks on reviewing Election Day forms after each election and investigating relevant issues, including those related to tamper-evident seals ([p. 74](#)).

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to promulgate statutorily required administrative rules for helping to ensure the security of software components in approved electronic voting equipment ([p. 78](#)).

Post-Election Audit (p. 79)

We recommend staff of the Wisconsin Elections Commission:

- ensure equipment vendors provide additional training to municipal clerks on ensuring that ballots are counted accurately when paper jams occur in electronic voting equipment (p. 83).

We recommend staff of the Wisconsin Elections Commission:

- comply with statutes by calculating an error rate for each type of electronic voting equipment used in each General Election (p. 84).

Complaints and Concerns Filed with WEC (p. 93)

We recommend staff of the Wisconsin Elections Commission:

- work with the Wisconsin Elections Commission to promulgate administrative rules for considering complaints alleging violations of election laws (p. 99); and
- use recently purchased software to track election-related concerns and regularly provide summary information about these concerns to the Wisconsin Elections Commission (p. 99).

Appendix 8

Legislative Considerations, by Chapter

Training (p. 9)

Currently, statutes require municipal clerks to attend training at least once every two years, and WEC's administrative rules require clerks to complete three hours of training in order to receive initial certification for the two-year period in which the training is received. However, statutes and administrative rules do not specify when a new clerk must complete the training for initial certification, and they do not require clerks to be certified before administering an election for the first time. As a result, a clerk could administer an election before having completed the initial training. The Legislature could consider modifying statutes to require clerks to complete the initial training before administering an election. Statutes could exempt from this training requirement those individuals who became clerks only shortly before an election (p. 13).

Currently, statutes do not require individuals to inform WEC of the dates they began working as municipal clerks, and WEC's staff indicated that they are not consistently informed of these dates. The Legislature could consider modifying statutes to require a municipal governing body to notify WEC within 30 days when there is turnover in the clerk position. If WEC were better informed, it could more accurately track whether clerks completed all required training (p. 13).

Maintenance of Voter Registration Records (p. 19)

As noted, DOT currently provides information that does not indicate precisely why a given non-match occurred because DOT does not provide WEC with any personally identifiable information. The Legislature could consider modifying statutes to require that DOT provide additional information to WEC when DOT attempts to verify the personally identifiable information provided by registrants. For example, statutes could be modified to require DOT to provide WEC with the names, dates of birth, and driver's license or state identification card numbers for individuals whose information did not match. WEC's staff and clerks we contacted indicated that this additional information would help them to identify and correct errors in voter registration records, such as misspelled names and typos (p. 24).

Currently, statutes do not require WEC to obtain and use ERIC data. The Legislature could consider modifying statutes to require WEC to regularly obtain ERIC data and use them to improve the accuracy and completeness of WisVote. For example, statutes could be modified to require WEC to regularly obtain every three or six months ERIC data for registered Wisconsin voters who may have moved to and registered to vote in other states, who

may have voted in Wisconsin and other states, and who may have died in other states (p. 34).

Absentee Ballots (p. 37)

As noted, statutes do not define the components of a witness address that a certificate must contain, such as a street name and number, municipality, state, and zip code. The Legislature could consider modifying statutes to specify the particular address components that a witness must provide on a certificate. For example, witnesses could be required to provide, at a minimum, street names and numbers, as well as their municipalities. Such a definition would allow an absentee ballot to be counted if a witness address excluded a state and a zip code (p. 45).

The Legislature could consider modifying statutes to clarify the extent to which municipal clerks are permitted themselves to correct errors in witness addresses or add missing witness address information. As noted, statutes allow a clerk to return a ballot and its certificate if an individual is able to correct an improperly completed certificate and return the ballot in time for it to be counted on Election Day, but statutes do not otherwise permit or prohibit clerks from correcting errors in witness addresses or adding missing witness address information (p. 45).

As noted, statutes require a certificate to include the signature of the individual who cast the ballot. The Legislature could consider modifying statutes to require municipal clerks to verify the signatures of individuals who cast absentee ballots. In doing so, it could specify the documents that clerks should use to verify these signatures, such as voter registration forms and driver's licenses, and the methods that clerks should use to verify these signatures, such as examining the writing slant, letter spacing, and letter shapes. In addition, it could require clerks to be trained on how to verify signatures (p. 46).

The Legislature could consider modifying statutes to clarify whether individuals are allowed to return absentee ballots to drop boxes. Some individuals believe that statutes allow absentee ballots to be returned to drop boxes or in person to clerk staff at locations other than a clerk's office, regardless of whether a municipal governing body established such locations. They believe that these actions are statutorily allowable because individuals requested ballots by statutorily allowable methods, the drop boxes were established by clerks, and clerk staff collected the ballots. Other individuals believe that statutes do not allow absentee ballots to be returned through drop boxes or to clerk staff at locations other than those designated by a municipal governing body (p. 49).

Currently, statutes require municipal clerks to attempt to send special voting deputies to residential care facilities and qualified retirement homes, regardless of the circumstances. During a public health or other emergency, clerks and special voting deputies may risk disenfranchising individuals

living in such facilities and homes if they cannot obtain entry. The Legislature could consider modifying statutes to prescribe circumstances when clerks are not required to send special voting deputies to such facilities and homes, as well as the procedures clerks must follow in mailing and considering absentee ballots in such circumstances. In September 2021, WEC voted to request that the Governor categorize special voting deputies as essential visitors, which it indicated would allow the deputies entry into facilities and homes during a public health emergency ([p. 54](#)).

Ballot Processing ([p. 55](#))

The Legislature could consider modifying statutes to specify the actions and responsibilities for consultants at polling places and central count locations on Election Day. For example, statutes could specify the particular actions that consultants are permitted to take, as well as the responsibilities that they are allowed to assume while helping municipal clerks to administer elections ([p. 60](#)).

The Legislature could consider modifying statutes to allow new polling places to be quickly established in certain situations, such as in a public health emergency or if a fire or a natural disaster were to damage a polling place to the extent that it could not be used on Election Day. Statutes could specify the situations, if any, in which a municipal clerk could establish polling places without approval from a municipal governing body. For example, a clerk could be given the authority to establish a new polling place for one election if certain types of situations occurred shortly before Election Day. Doing so would help to prevent individuals from being disenfranchised if a polling place were closed shortly before Election Day and insufficient time remained for a municipal governing body to establish a new polling place ([p. 63](#)).

Electronic Voting Equipment ([p. 67](#))

Statutes require municipal clerks to notify WEC's administrator if they adopt and purchase a new or different type of electronic voting equipment. When municipalities rent equipment, such as to count absentee ballots at central count locations during elections at which many individuals are expected to vote, statutes do not require clerks to notify WEC's administrator. The Legislature could consider modifying statutes to require clerks to notify WEC's administrator if they rent electronic voting equipment. Doing so would allow WEC's administrator, and therefore WEC, to know that all equipment used in the state has been approved by WEC ([p. 70](#)).

The Legislature could consider modifying statutes to explicitly require materials related to the pre-election tests of electronic voting equipment to be retained for 22 months after a federal election. Doing so would ensure that these pre-election test materials, which indicate whether electronic voting equipment counted ballots accurately, are retained for the same

period of time as other election-related materials such as ballots and applications for absentee ballots (p. 75).

Post-Election Audit (p. 79)

As noted, statutes require WEC to take remedial action if the error rate found in electronic voting equipment exceeds the federal standards that were in effect on October 29, 2002, which was one vote per 500,000 ballot positions. We found that these standards were updated in 2015 to specify that the maximum acceptable error rate is 1 vote per 125,000 contests counted by a given type of equipment. Calculating the error rate based on the number of contests, rather than the number of ballot positions, is more straightforward because ballot positions may vary within and among municipalities, depending on the number of candidates in each contest. The Legislature could consider modifying statutes to reflect the current federal standards for an acceptable equipment error rate (p. 85).

The Legislature could consider modifying statutes to require WEC to conduct risk-limiting post-election audits. Such audits are intended to determine voter intent and determine the validity of the election results, which may be preferable to the current audits that confirm whether the equipment counted ballots according to how it was programmed. As noted, one type of equipment was programmed in such a way that it counted ballot creases as votes in some counties during the November 2020 General Election (p. 86).

Complaints and Concerns Filed with WEC (p. 93)

Currently, statutes do not require WEC to report any information to the Legislature about the considerable number of election-related concerns that it receives from individuals. The Legislature could consider modifying statutes to require WEC to report to it certain information about election-related concerns every six months. Such information could include the number of election-related concerns that individuals had provided to WEC, the types of issues addressed in these concerns, and how WEC's staff addressed these concerns (p. 100).

Election Recount Costs (p. 101)

If the Legislature wanted to limit the types of recount costs charged to petitioning candidates, it could modify statutes to require that only certain types of costs could be charged. For example, it could stipulate that petitioning candidates not be charged costs associated with facilities, certain types of equipment, or the salaries and fringe benefits of government employees, who may be expected to fulfill at no cost all duties pertaining to administering elections. Similarly, it could stipulate that recounts must occur in government facilities whenever possible, or require counties to show that they rented reasonably priced private facilities. However, circumstances

such as a public health emergency could result in counties incurring new and unanticipated types of costs, and taxpayer funds could end up financing a portion of the recount costs that petitioning candidates currently cover (*p. 110*).

If the Legislature wanted to limit the total recount costs charged to petitioning candidates, it could modify statutes to determine the total amount that could be charged. For example, statutes could stipulate an amount per ballot to be recounted, and statutes could stipulate that this amount would increase over time, such as by the rate of inflation. Doing so would ensure a petitioning candidate knew in advance the cost of a recount. However, actual costs could vary considerably among counties, and taxpayer funds could end up financing a portion of the recount costs that petitioning candidates currently cover, particularly if costs increase during circumstances such as a public health emergency (*p. 110*).

Appendix 9

Statutory Provisions Related to Drop Boxes in Other States¹

State	Summary of Selected Statutory Provisions
California	Individuals may return absentee ballots to drop boxes that are secure receptacles established by election officials.
Colorado	Individuals may deposit their mail-in ballots in any drop box designated by a county clerk and recorder. A county clerk and recorder must provide at least one drop box per 30,000 registered electors in a county. Drop boxes must be located to provide the greatest convenience to electors.
Georgia	A county Board of Registrars or absentee ballot clerk must establish at least one drop box. A drop box must prevent ballots from being tampered with or removed, be designed to minimize the ability for liquid to be poured into them, and must be labeled "Official Absentee Ballot Drop Box." Such drop boxes are required to be emptied daily.
Hawaii	Clerks may designate securely maintained places of deposit to which individuals can return ballots during the five business days before an election.
Illinois	Election authorities may maintain one or more collection sites for vote-by-mail ballots. These sites must be secured by locks that can be opened only by election authorities, who must collect ballots at the close of business each day.
Montana	An election administrator may designate places of deposit, other than his or her office, to which individuals may return ballots. These places of deposit must be staffed by at least two election officials at all times.
Nevada	Drop boxes are permitted during emergency declarations passed by the Legislature. A county or city clerk must establish at least one location for a ballot drop box to which individuals could return their ballots. A drop box must be constructed of metal or other rigid material, with the capability of being locked, and placed in an accessible and convenient location.
New Jersey	A county Board of Elections must establish at least 10 drop boxes. A drop box must be monitored by camera surveillance, and its location must meet accessibility requirements.
New Mexico	An individual may deposit an absentee ballot in a secured container made available by a county clerk. A secured container must be monitored by camera surveillance and have signage. A county clerk or full-time deputy clerk must collect ballots at least daily from a secured container.
Oregon	A county clerk may designate ballot drop sites that display signage. Individuals may return their ballots to any drop site. The Secretary of State is required to establish by rule security requirements and dates and times of use for drop sites.
Washington	County auditors must provide a ballot drop box at each voting center and at least one other location. County auditors must establish at least one drop box per 15,000 registered voters and at least one drop box in each city, town, and census-designated place with a post office. Ballots must be removed by at least two individuals. After removal, ballots must be transported in secured containers to a counting center.

¹ According to information provided by NCSL, as of September 2020.

Appendix 10

**Number of Indefinitely Confined Individuals Who Voted
Without Providing Photo Identification, by County¹**

County	Number	County	Number
Adams	93	Langlade	81
Ashland	120	Lincoln	224
Barron	168	Manitowoc	633
Bayfield	79	Marathon	1,048
Brown	2,455	Marinette	326
Buffalo	49	Marquette	72
Burnett	73	Menominee	9
Calumet	237	Milwaukee	8,592
Chippewa	367	Monroe	189
Clark	99	Oconto	200
Columbia	346	Oneida	357
Crawford	74	Outagamie	1,340
Dane	3,643	Ozaukee	855
Dodge	577	Pepin	25
Door	217	Pierce	201
Douglas	488	Polk	216
Dunn	215	Portage	399
Eau Claire	741	Price	76
Florence	32	Racine	1,938
Fond du Lac	794	Richland	103
Forest	45	Rock	1,237
Grant	319	Rusk	78
Green	216	Sauk	466
Green Lake	113	Sawyer	110
Iowa	127	Shawano	221
Iron	66	Sheboygan	961
Jackson	60	St. Croix	423
Jefferson	425	Taylor	66
Juneau	151	Trempealeau	101
Kenosha	1,627	Vernon	99
Kewaunee	149	Vilas	166
La Crosse	1,027	Walworth	929
Lafayette	76	Washburn	75

County	Number
Washington	1,045
Waukesha	3,793
Waupaca	384
Waushara	129
Winnebago	1,277
Wood	560
Total	44,272

¹ According to WEC's data on individuals who voted in the November 2020 General Election and who had not previously voted by methods that required them to provide photo identification or did not have photo identification on file with a municipal clerk.

Appendix 11

Statutory Provisions Related to Permanent Absentee Voting for Individuals with Disabilities in Other States¹

State	Summary of Selected Statutory Provisions
Alabama	Qualified individuals with permanent disabilities that prevents them from going to the polls may apply and be placed on a list that allows ballots to be automatically mailed to them before each election. An application for this process must be signed and notarized by an individual's primary physician. Individuals are required to apply on an annual basis.
Connecticut	An individual who is permanently disabled is eligible for permanent absentee status, which allows the individual to receive an absentee ballot before each election. An individual must provide a certification from a primary care provider stating that the individual is permanently disabled and unable to appear in person at a polling place. Annually, written notices are required to be sent to individuals with permanent absentee status. If such notices are not returned within 30 days these individuals must be removed from permanent absentee status.
Delaware	An individual who is sick or physically disabled may apply in writing for permanent absentee status. Absentee ballots must be sent before each election to all individuals with this status. This status must be removed if an absentee ballot or other correspondence is mailed to an individual and returned as undeliverable, if the individual dies or is otherwise disqualified, or if written notification of a change in status is provided by the individual.
Kansas	An individual with a permanent disability or illness may apply for permanent advance voting status. If an individual fails to vote in four consecutive general elections a notice may be mailed to inform the individual of removal of such status if the individual does not renew their status within 30 days.
Louisiana	An individual who is physically disabled or unable to vote in person, as well as those older than 65 or in nursing or veterans homes, may apply for the Automatic Absentee Ballot Program. An individual must provide a letter from a physician, current mobility impaired identification, or documentation showing eligibility for disability benefits. Individuals will remain within the program until they request to be removed, or until a mailed absentee ballot is returned to the Registrar of Voters Office as undeliverable.
Mississippi	An individual who is permanently physically disabled may apply to automatically receive absentee ballots before each election. An individual must provide a signed statement from a physician or nurse practitioner asserting that the individual is permanently physically disabled and would have difficulty voting in person.
New York	An individual who claims permanent illness or physical disability may apply to receive absentee ballots for all subsequent elections. The mailing of ballots will continue until the individual's registration is cancelled.
Tennessee	A county election commission must establish a permanent absentee voting register for individuals unable to vote in person due to sickness, hospitalization, or physical disability. To be placed on the register, an individual must file a statement from a physician asserting that the individual is medically unable to vote in person.
West Virginia	An individual who is physically disabled and unable to vote in person may apply to be placed on a special absentee voting list. An individual must provide a statement describing the disability and a second statement signed by a physician who concurs with this description. Individuals may remain on such a list until they request to be removed, they are no longer eligible or registered to vote, an absentee ballot is returned as undeliverable, the individual is no longer disabled, or the individual dies.

¹ According to information provided by NCSL, as of September 2020.

Appendix 12

Clerks Who Indicated Receiving Written Complaints about the November 2020 General Election, By County¹

County	Clerk	County	Clerk
Barron	Barron County	Manitowoc	Manitowoc, City of
Brown	Ashwaubenon, Village of	Marathon	Kronenwetter, Village of
	Hobart, Village of	Marquette	Mecan, Town of
	Howard, Village of	Milwaukee	Greendale, Village of
Calumet	Calumet County		Greenfield, City of
Chippewa	Cleveland, Town of		Milwaukee, City of
Columbia	Lodi, City of		Milwaukee County
Dane	Dane County		Oak Creek, City of
	Deerfield, Town of		Shorewood, Village of
	Madison, City of		Wauwatosa, City of
	Maple Bluff, Village of	Onconto	Oconto County
	McFarland, Village of	Oneida	Woodboro, Town of
	Mount Horeb, Village of	Outagamie	Buchanan, Town of
	Stoughton, City of	Ozaukee	Ozaukee County
	Sun Prairie, City of		Port Washington, City of
Dodge	Chester, Town of	Pierce	River Falls, City of
Door	Door County	Price	Harmony, Town of
	Sevastopol, Town of		Price County
Dunn	Sherman, Town of	Racine	Mount Pleasant, Village of
Eau Claire	Eau Claire, City of		North Bay, Village of
Fond du Lac	Friendship, Town of		Union Grove, Village of
Grant	Grant County	Richland	Marshall, Town of
Green	Brooklyn, Town of		Richland County
	Green County	Rock	Beloit, City of
	Spring Grove, Town of		Rock County
Jefferson	Jefferson County	Sheboygan	Sheboygan County
Juneau	Kingston, Town of	St. Croix	Warren, Town of
	Lemonweir, Town of	Taylor	Taylor County
Kenosha	Kenosha, City of	Trempealeau	Burnside, Town of
	Kenosha County	Vernon	Bergen, Town of
	Pleasant Prairie, Village of	Vilas	Vilas County
	Twin Lakes, Village of	Walworth	Elkhorn, City of
Kewaunee	Algoma, City of		Walworth County
La Crosse	La Crosse, City of	Washburn	Spoooner, Town of

County	Clerk
Washington	Jackson, Town of
	Richfield, Village of
	Washington County
	West Bend, City of
Waukesha	New Berlin, City of
	Oconomowoc, City of
Waupaca	Waupaca County
Winnebago	Nekimi, Town of
	Oshkosh, Town of
	Winnebago County

¹ As indicated by clerks who responded to our April 2021 survey.