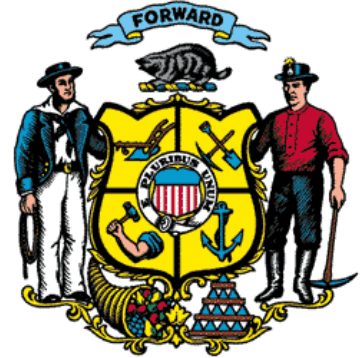


# State of Wisconsin Government Accountability Board



## **EARLY VOTING IN WISCONSIN: FINAL DRAFT REPORT**

**Public Comment Sought  
Until on Monday,  
November 30, 2009**



### **Background on the Examination of Early Voting in Wisconsin.**

Response to the Early Voting Listening Sessions.  
Options and Analysis. A Final Report and Recommendations  
will be submitted to the

### **Government Accountability Board**

(For consideration at its December 14, 2009, Meeting).



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November 6, 2009

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*“Our goal is to improve absentee voting while maintaining our commitment to open, fair, cost-effective, secure, and transparent elections conducted with the highest possible integrity.”*

- Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

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## **Early Voting Final Draft Report An Examination of Early Voting in Wisconsin**

### **Part 1: Background**

#### **Introduction**

In Wisconsin, Election Day, November 4, 2008, ran very smoothly. The days leading up to the election, however, were not necessarily as trouble-free. Due to the large volume of voters who cast their ballots before Election Day, there were a number of problems for people voting or clerks processing in-person absentee ballots. First, there were long lines, some lasting between 2 and 3 hours, for voters waiting to cast their ballots at the clerk's office. Second, many clerks and staff had to work late into the night on election eve to enter voter registrations and absentee applications in the Statewide Voter Registration System (SVRS), and prepare absentee ballot logs for the next day. In a few cases, municipalities were unable to enter all of their absentee applications on election eve, and found themselves playing catch up, entering absentee applications in SVRS even as they tried to administer voting on Election Day.

Before and after the November 2008 General and Presidential Election, many municipal clerks, elected officials, and registered voters began to question whether Wisconsin's current system of no-excuse, in-person absentee voting was the best system to handle the strain of a large election. Specifically, the question was asked whether early voting systems in place in other states could better serve the people of Wisconsin. It was thought if early voters could cast their ballots directly into a machine, it would save time and the expense of an absentee ballot envelope. On Election Day, votes could be tabulated much more efficiently. Editorials appeared in the Sheboygan Press, the Badger Herald, the Wisconsin Rapids Tribune, and the Racine Journal Times suggesting that the state could benefit from a switch to early voting. Many local and statewide officials endorsed early voting and called on the Governor and Legislature to adopt it in Wisconsin.

The Government Accountability Board (Board) began a study of early voting in November 2008. The Board's objective was to determine whether early voting in Wisconsin could increase voter satisfaction, maintain the integrity of the vote-counting process, relieve the workload of local elections officials, and control election costs. The review examined academic studies of early voting and procedures in other states, identified best practices, and then adapted those practices to Wisconsin's unique election environment. This analysis was then posted on the Board website, and presented at over 20 separate listening sessions where Board staff received comments and responded to questions.

Attendees included county and municipal clerks, voter rights groups, members of the legislature, political scientists, and other interested and concerned citizens. Surveys were distributed and collected to gather opinions on the current in-person absentee voting procedure,

the demand for early voting, whether clerks could conduct early voting with current voting machines and staff, and what the costs of early voting might be.

This document combines the G.A.B.'s previous examination of early voting with suggestions and comments from many of the 1,922 county and municipal clerks who administer Wisconsin elections, and the 3.4 million registered voters who cast their ballots. This report discusses whether change is necessary, how early voting in Wisconsin might work, and what the costs of implementing early voting might be. This report presents policy questions raised when considering changes to the current in-person absentee balloting system. Finally, this report presents a series of recommendations on what changes should be made.

### **Current Procedure and Definitions**

Wisconsin currently allows interested voters to vote in their municipal clerk's office before Election Day, via absentee ballot. Since 2000, no excuse is necessary to obtain an absentee ballot, and since 1976 voters may register at the same time they vote. Voters fill out an absentee ballot application, receive and mark their ballot, and then enclose it in a certificate ballot envelope. The certificate on the ballot envelope is signed by the voter and that signature is witnessed by another elector. All certificate ballot envelopes are held and secured in a large carrier envelope or container by the municipal clerk before the election. The ballot envelopes are then transported to the polling place or central count facility on Election Day. At the polling place or central count facility, the ballot envelopes are removed from the large carrier envelope or container, and each absentee elector's name is announced as it appears on the ballot envelope. Each ballot envelope is then reviewed by the poll worker to determine if it was open or resealed, and whether it meets the signature requirements. Once the ballot envelope is found to be sufficient, it is opened and the absentee ballot is removed for tabulation. The absentee ballot can be challenged at any time before it is processed for tabulation at the poll polling place or central count facility on Election Day.

- **Absentee In-Person:** Voting absentee in-person means voting by absentee ballot in the clerk's office before Election Day. An absentee application and envelope are required. This report only discusses changes to procedures for voting absentee in-person, not voting absentee by mail or other methods.
- **Absentee by Mail:** Voting absentee by mail means an absentee ballot is requested by mail, email, or fax, delivered to the voter by mail, email or fax, and returned by mail. This report does not propose any changes to voting absentee by mail.
- **Other Absentee Voting Methods:** Other methods of voting absentee include voting via a special voting deputy at a nursing home, retirement home or community based residential facility, and special procedures for hospitalized electors and sequestered jurors. This report does not propose any changes to voting absentee using these methods.
- **Early Voting:** A voter completes and casts a ballot by placing it in a tabulating machine or other secure receptacle before Election Day. No absentee application or envelope is required. Unless an absentee voter number is written on the back of the ballot, there would be no way to retrieve the ballot if the voter dies, or changes his or her mind. There would be no way to challenge a ballot after it has been placed in the machine. Ballots are not tabulated until Election Day.

### **Preliminary Examination of Early Voting Options**

The Board's initial report on early voting set out a framework of how early voting might be implemented in Wisconsin. Early voting options were designed to meet several goals, including increasing voter satisfaction, protecting the accuracy, secrecy, and security of the ballot, reducing the burden of unnecessary paperwork on election officials, and controlling costs.

There are several challenges to implementing early voting in Wisconsin. Wisconsin administers elections at the municipal level, rather than at the county level as in most other states. Since most municipalities have smaller populations, budgets, and staff than counties, they may not have the resources to offer early voting, or enough interested voters to justify the expense.

Other challenges include the fact that current voting equipment may only be capable of processing ballots for a few districts, and thus be unable to handle early voting for a large city or entire county without acquiring additional equipment. Also, early voters must be marked on the poll list on Election Day, or identified some other way, in order to prevent the possibility of double voting. Programming and testing of voting equipment would have to be done earlier than current practice to accommodate early voting.

Fourteen states have some form of true early voting, and three combine in-person absentee voting with early voting. From those states, Board staff gathered best practices that could be applied to Wisconsin. Areas of consideration included period and hours of early voting, staffing, same day registration, electronic poll lists, voting equipment, security, secrecy, accessibility, and others.

### **Options**

Given the goals and challenges above, Board staff came up with possible options for implementing early voting in Wisconsin. One option that was ruled out was requiring every individual municipality to offer early voting with their own staff and at their own expense. This would be an unacceptable burden on smaller municipalities, some of which have only a few hundred voters, and no problem processing the handful of absentee ballots they receive. Instead, Board staff proposed the following three options:

- **Option A:** Early voting would be offered at a county or regional level. Every county or region would have at least one early voting site where voters could cast their ballots. Counties and municipalities would share staff and expenses. This option would offer statewide uniformity, so every Wisconsin voter would have the same early voting opportunity.
- **Option B:** Early voting would be offered at the municipality level, but only in selected municipalities. Either there could be a requirement based upon population size, or each municipality could choose to opt in to or opt out of early voting procedures. This option would limit early voting to municipalities that need it, and that make the decision to absorb the extra cost. However, the lack of uniformity might confuse some voters.

- Option C: Absentee voting could be streamlined, with or without implementing early voting. By changing the current absentee voting process, Wisconsin might be able to meet some of the goals of early voting without the cost of new voting machines or extra staff. One option is to eliminate the absentee application, and substitute a sign-in sheet for absentee voters. This is similar to recording voter names at the polls on Election Day. Another option is to eliminate the absentee envelope, and have the voter deposit their ballot directly into a ballot box. This could, in effect, become early voting, because without an envelope or identifying number, you could not retrieve a voter's ballot once it has been cast. Moreover, without an absentee envelope or identifying ballot number there would be no paper trail to follow if there were questions about or challenges to the ballot.

### **Early Voting Listening Sessions Logistics**

After being presented with the options above, the Board accepted staff's recommendation to conduct listening sessions around the state to gather feedback on early voting. Each session was approximately 2 hours long. Board staff presented the background and options discussed above, with time for comments, feedback and questions, and surveys were distributed to collect information and opinions.

Board staff conducted eleven listening sessions with municipal or county clerks, ten listening sessions with the public, one combined clerk and public session, and one session with members of the Political Science Department at the University of Wisconsin – Madison. Clerk and public meetings were held in Fitchburg, La Crosse, Kenosha, West Allis, Green Bay, Wausau, Eau Claire, and Rice Lake. Clerk-only meetings were held in Prairie Du Chien, Madison, and Bayfield County. Additional public meetings were held with the League of Women Voters and with Milwaukee Area Labor Council representatives. The number of attendees at each meeting ranged from 5 to over 80. The total number of attendees was more than 500.

Returned surveys were entered into an online survey tool, which allows analysis of the opinions of those who responded. Results of these surveys are summarized in the next sections, and a list of questions, with detailed data on responses, is available in the Appendices. Many interested parties were unable to attend a scheduled listening session, and instead submitted comments on Early Voting via email or fax. Board staff was unable to analyze these responses quantitatively in the same way, but some of their advice is cited in the report.

## **Part 2: Results of the Early Voting Listening Sessions**

### **General Concerns**

#### **Necessity**

Listening session audiences questioned whether adopting true early voting is necessary. Beyond the budgetary concerns previously mentioned, both the clerks and the public suggested that Wisconsin elections are well-run and that Wisconsin electors are generally satisfied with the current in-person absentee system. A “Big Ten Battleground” poll sponsored by eight universities affiliated with the Big Ten Conference states was used by the University of Wisconsin Political Science Department to report on the experience of Wisconsin voters following the November 4, 2008 elections. The report found that 90% of Wisconsin voters expressed satisfaction with their voting experience, 4% higher than the national average.

Survey data collected during the early voting listening sessions also found that 94% of respondents who had previously voted early in their clerk’s office were satisfied with their experience. These surveys also found that 22% of the public and 28% of clerks supported keeping in-person absentee voting as is without any changes, reflecting a belief that the current system is working and that changes would be unnecessary. Many others wondered why we should make changes to all elections when challenging elections occurred only once every two or four years.

Other clerks related tales of huge lines on the last days of in-person absentee voting, and talked about the difficulty of processing voter registrations, absentee applications, and performing other election administration tasks on the day before the election. For these clerks, generally from mid-sized to large cities, the current procedures made it difficult to produce poll lists that had all absentee voters correctly identified. Absentee votes were processed and counted correctly, but documents such as absentee ballot logs and supplemental voter lists were often incomplete and confusing for poll workers.

#### **Cost**

Though their experience with elections and election administration are very different, both clerks and the public are extremely concerned about the potential costs of adopting any form of early voting. Most clerks reported that their municipalities and counties are experiencing budget shortfalls, and that they have to cut services, force employees to take furloughs and even lay off employees. These clerks strongly believe their municipalities and counties cannot afford to take on any extra expenditure while the economy remains in the current recession. In many ways, the clerks felt that the timing of these proposed changes is poor. Some comments, such as wanting to hold off any pilot programs or early voting implementation until after 2010 or even 2012, seem to indicate that resistance to early voting might not be as strong in a different economic climate. The public, though not as aware of the financial details, is equally concerned with the potential price tag associated with early voting.



### Uniformity vs. Local Control

Whether early voting should be uniform throughout the state or whether it should be a municipal choice was a topic of great discussion during the early voting listening sessions. Opinions varied greatly as to the importance of uniformity. Some felt that it was extremely important to have a uniform system for all citizens of the state that offered equal access to early voting, and thus, they could not support anything that would allow municipalities to opt-in to a system of early voting. On the other extreme, some commented that the widely varying situations of different municipalities throughout the state meant that a one-size-fits-all solution was impractical, if not impossible, and thus felt that an early voting system should remain as flexible as possible to allow for these municipal differences.

It is worthwhile to also consider the broad policy questions that would be created if Wisconsin adopted early voting. The creation of early voting districts under Option A would remove control of elections from the municipalities, which is a major deviation from Wisconsin's tradition of election administration. Since elections are currently run on a municipal level, there is no existing administrative framework for creating these early voting districts. However, proponents felt that if elections are organized at the county level, consolidation would mean less total cost and more uniform election administration.

The implementation of Option B would allow municipalities to opt in or opt out of early voting, potentially creating a patchwork of different procedures in neighboring municipalities. This brought up concerns of lack of uniformity and voter confusion. One attempt at compromise that was suggested at several meetings was the idea of a "population floor," where early voting would be mandatory once a municipality had more than a certain population. The population at which this would happen was widely debated, with the lowest suggestion being 10,000 and the highest being 100,000. It was felt that instituting a system tied to population would provide clear guidance as to which municipalities had early voting and which did not, as opposed to the possibility of a patchwork approach that an opt-in/opt-out system would cause.

### Voter Convenience and Voter Confusion

Some clerks commented that voters were just getting used to the no-excuse absentee voting rules that took effect in 2000. They were not looking forward to educating voters about further changes. Many spoke out against Option B because it allows for the possibility of neighboring municipalities having different procedures, meaning that voters would be more likely to get confused. Most clerks disliked the idea of changing voting locations from the clerk's office to another voting site, especially one outside of the municipality, because it would likely confuse voters. Option A was also criticized because if there were only one early voting site per county, it might mean a two-hour round trip for some voters to vote.

As for the public, those who support early voting felt that it will help engage new voters and result in greater voter convenience. Others felt that Wisconsin already does enough to enable voters to vote, and that further efforts, in the form of early voting, are wasteful and accommodating the "lazy."

## **Specific Policy Areas to Consider**

### **Period/Cut-Off Dates**

During discussions with clerks, the current cut-off of absentee in-person balloting on Monday at 5:00 p.m. was considered one of the most onerous challenges. Overwhelmingly, clerks requested that the last day for in-person absentee voting be pushed back to the prior week. The early voting proposals suggested a cut-off date of the Friday before the election. In discussions with clerks, this seemed to be the minimum amount needed for them to appropriately and reasonably prepare for Election Day. Suggestions for Thursday or Wednesday before the election were heard frequently, with some even suggesting up to a week prior to Election Day as the desired cut-off date. Clerk response also favored moving the beginning of the early voting period to coincide with the beginning of late registration, which is 20 days before an election, rather than continuing with the current start time of 30 days before an election in order to coincide with when the absentee ballots are printed and made available.

The public did not express strong objections to moving the beginning of the early voting period to coincide with the beginning of late registration, nor were there strong objections to moving the end of the early voting period to at least the Friday before Election Day.

### **Hours**

Initial best practices suggested that early voting should be staffed similar to Election Day and with the same hours. Reaction to this proposal was sharply negative among clerks. Clerks that serve part-time were particularly opposed to having to staff early voting locations, as it would require considerable hardship. Even among full-time clerks, there was a great amount of resistance to thirteen-hour early voting days.

Eight hour voting days were better received, but even then, the issues with part-time clerks remain. Full-time clerks also noted that they have a multitude of responsibilities beyond election administration, and thus, eight hours a day would be a significant commitment of resources for them. Many clerks asked for a degree of flexibility with hours that reflected the widely different needs of their communities, and the vastly different amount of resources available to their municipalities.

### **Staff**

The various early voting options, as formulated by Board staff, included suggestions for expanding the available pool of poll workers for municipalities. During the early voting listening sessions, clerks stated that one of their greatest issues with election administration was finding enough poll workers to meet demand. Many stated that staffing an early voting location for 15 days with trained poll workers would be impossible, even if they were able to draw workers from the entire county. Part-time clerks working for smaller municipalities noted that they themselves had other, full-time jobs, and would not be available during the entire early voting period.

### **Same Day Registration**

Wisconsin has established a tradition of Same Day Registration (SDR) since 1976, and Board staff recommended that this tradition should be continued with the adoption of any early voting

proposal. However, SDR was heavily discussed as a point of contention at the early voting listening sessions. Many clerks expressed displeasure with SDR under current in-person absentee voting procedure. It was repeatedly suggested that the reason long lines occurred for in-person absentee voting in November 2008 was not the absentee voting process, but was instead a result of too many “early voters” also needing to be registered before casting their ballot. Some clerks felt that SDR should be eliminated entirely.

Others felt that early voting should only be open to those who registered prior to the late registration period, 20 days prior to the election, but suggested keeping SDR for Election Day. The public generally expressed more support for SDR, though concerns that SDR seemed more vulnerable to voter fraud were expressed by some audience members.

Feedback was not unanimously in opposition to SDR and early voting. Some clerks have expressed the belief that same day registration is actually less work than the alternative, which would be large numbers of provisional ballots and voter registrations from the Department of Motor Vehicles as required under the National Voter Registration Act. Also, there are rare occasions when a voter who registered properly is not found in the poll book due to error and should have the opportunity to register and vote without casting a provisional ballot. Some members of the public and voter advocacy groups have strongly supported SDR, believing it to be critical to engage voters. They believe this is reflected in the high percentage of Wisconsin electors who vote when compared to national turnout.

### E-Poll Lists

Originally, Board staff proposed that e-poll lists be adopted as part of early voting to allow for real-time updating of poll lists to help prevent duplicate voting and to ease administrative burdens upon clerks. Though many clerks and the public expressed interest in e-poll lists, they noted several difficulties with the actual implementation of an e-poll list system. The less expensive option, modifying SVRS to function as an e-poll list, would require high-speed internet access, which is not available in many regions of the state. Other e-poll list systems would be more expensive, and some municipalities noted that an e-poll list would require them to either upgrade their current computers or buy new computers, an expense that many felt they could not afford at the present time. Other concerns included issues of security and reliability.

### Voting Equipment

Most clerks were concerned with whether or not their current voting equipment would be able to handle the number of ballot styles necessary for early voting. There are a few clerks who believe that using Direct Record Electronic (DRE) voting equipment, and eliminating the need for most printed ballots, will help cut down on election administration costs. Other clerks pointed out that it takes longer to vote on a DRE machine, and anticipated large costs, because it would take many DRE's to replace one optical scan tabulator.

A few clerks liked the idea of placing early voting ballots directly into the tabulating machine, and saving the bother of an absentee envelope. Some also liked the idea that the use of voting machines would reduce the number of “spoiled” ballots, because an elector could make changes immediately if the machine rejects his or her ballot. This is in contrast to the current system where absentee ballots are rejected and unable to be fixed because the voter is not present at the polling place or central count facility on Election Day, and cannot fix the error when it is discovered. In such cases the absentee ballot will not be counted.

The early voting listening sessions made it clear that a mandatory solution for every municipality would not take into account the differences in terms of equipment and need between municipalities. Given the wide variation in responses, the only consistent message from the clerks was that flexibility on the municipal level in terms of equipment would be greatly appreciated.

### Security/Secrecy

The security of the ballot, and the related topic of ballot secrecy, was heavily discussed by both clerks and the public during the early voting listening sessions. At some public sessions, those who attended were extremely concerned that early voting would result in more opportunities for voter fraud. A major concern for clerks was keeping machines and ballots secure for many days at a time without having to move them every morning and evening. Other concerns involved tracking the early voting ballot for purposes of security and ballot integrity. Many, however, spoke out against tracking ballots in such a way that a ballot could be matched to a particular voter.

Some security issues, such as being able to prevent a person from registering in multiple locations and voting multiple times, were noted in connection with early voting. These issues also exist under current procedures because of Election Day Registration, and enforcement procedures are in place to ensure that any person voting twice would be detected and prosecuted after the fact. This concern led many members of the public, and a few clerks, to suggest a requirement to present photo ID, at the very least for early voting, as a method to mitigate this perceived threat to voting integrity.

At its October 2009 meeting, the Board also expressed security concerns. In particular, the Board was alarmed by the vulnerabilities which exist in securing and protecting the secrecy of the in-person absentee ballot before an election. The Board staff, however, acknowledges these same vulnerabilities currently exist on Election Day and are specifically addressed and protected against in the proposed revisions to Chapter 5 of the G.A.B. administrative rules.

### Accessibility Concerns

Both the public and clerks had some concerns about establishing regional early voting districts when considering accessibility. It was noted that in areas that are distant from a county seat, it could be very difficult for elderly and disabled voters to secure transportation to a regional early voting site. Particularly as compared to current practice, where a voter would not have to travel beyond their home municipality, this could be a major barrier that would make it harder to vote. The other options, which would retain municipal self-governance of elections, did not cause concerns for either clerks or the public in terms of accessibility.

## **Discussion of Options**

### **Discussion of Option A:**

**Definition:** Early voting would be offered at a county or regional level. Every county or region would have at least one early voting site where voters could cast their ballots. Counties and municipalities would share staff and expenses. This option would offer statewide uniformity, so every Wisconsin voter would have the same early voting procedure.

Clerk Survey Responses: At least among the population of election professionals, sentiment was strongly against Option A. Of 340 clerks who responded to the survey, only 7 stated that they preferred Option A over the other options. Most negative comments cited the costs, with a typical response being “With budget constraints we are facing, this is totally unrealistic.” Counties generally stated that they do not have the resources to expand into this area of election administration, and municipalities stated that they could not afford even to share the cost of offering Early Voting.

Concerns over staffing included staffing costs, but also brought up the difficulties of recruiting poll workers for an extended early voting period. Currently, some municipalities have trouble finding poll workers to work on one day. Even with the ability to recruit workers at the county level, several clerks were concerned that they would “not [have] enough manpower.”

Many people questioned whether Option A would be of use to voters in their area. In many rural counties, the use of in-person absentee voting is very low, so the staff and equipment costs may not be justified. Examples of this type of comment are “Costly for county, might have 5 voters per day,” and “Only needed for 1 election every 2 years.”

Several dozen clerks also believed that their voters would not travel for Early Voting. According to one clerk, “People want to vote locally – they won’t want to drive to the county seat or even the village hall.” Other comments noted that in some counties, voters would have to drive up to 60 miles to vote early, and compared this to the convenience of requesting an absentee ballot in the mail.

The few clerks with positive comments about Option A stated that it would shift the burden of Early Voting away from rural clerks and smaller municipalities. They also advocated for uniformity across the state, which is a feature of Option A.

Public Survey Responses: The public also generally disapproved of Option A. Of 102 public surveys returned, only 4 stated that Option A was the best option. Many of them echoed the criticism that this was costly, and stated that there was little need. One person stated that this was “totally unnecessary in Northern Wisconsin and smaller townships.” Several stated that regional Early Voting centers would be too far away, especially for rural people.

Several others felt that “voting should be locally controlled and managed.” One person commented on the difficulties of sharing election-related duties between the county and municipality by asking “Who’s in charge - everybody or nobody?”

Finally, many members of the public were concerned with a lack of security. Comments included that 14 days is too long to protect ballots, that DRE machines were unsecured, and that security procedures needed to be discussed more. Some individuals were concerned that the combination of Early Voting and Same Day Registration and lack of Voter ID requirements could lead to voter fraud.

The few responses that spoke positively about Option A expressed a need for uniform procedures and the possibility of reducing long lines.

## **Discussion of Option B**

Definition: Early voting would be offered at the municipal level, but only in selected municipalities. Either there could be a requirement based upon population size, or each municipality could choose to opt in to early voting procedures. This option would limit early voting to municipalities with a need for early voting, and the ability to absorb the extra cost. The lack of uniformity, however, might confuse some voters.

Clerk Survey Responses: County and Municipal Clerks were slightly more interested in Option B than Option A, but still generally disapproved of this option. 17 of the 340 clerks stated that Option B was the best option provided, and several others proposed a combination of Option B and Option C.

Again, most clerks who objected to Option B cited cost. These clerks brought up both equipment and staff costs. A typical comment was “We do not have the money to take care of things now!” Clerks in some larger municipalities stated they would opt out because of cost and other concerns.

Another prominent concern with Option B was the lack of uniformity. Since some municipalities would offer Early Voting and others would not, voters from neighboring municipalities might get confused. People who work together and get the same radio and television stations and newspapers would have different voting methods available, depending on what municipality they lived in. One clerk stated that this option would “confuse the media and all voters will think they can vote early.” Many clerks made similar statements, with some fearing that they would not be able to opt out because “there will be considerable pressure put on [us] to offer it because it can be done somewhere else.”

Other clerks critical of this option cited security concerns because of the need to keep voted ballots secure over many days. They also expressed concern over the cost of staffing and the difficulty of recruiting staff for a long period.

Most people in favor of Option B remarked on the ability of municipalities to opt in or opt out. Clerks who stated they would opt in to Option B were generally from larger municipalities. Many expressed interest in Option B, because it would allow them to offer Early Voting without requiring small municipalities and counties to offer it as well. A few stated that there was definitely a need for Early Voting, at least in their cities, and feared that their voices would be drowned out by the large number of small municipalities without the same needs.

Other clerks in favor of Option B liked the ability to retain municipal control of elections and the ability for voters to vote locally. A few had voting equipment capable of handling early voting and did not think added staff costs would be that great.

Public Survey Responses: Only 8 of the 102 members of the public who responded to the surveys selected Option B as the best option offered.

Many respondents wrote that Option B was too costly. A typical response was “Cost per vote could be very high.” Other comments expanded this to discuss voting machine costs and staff costs. Several other responses suggested that “voting procedures should be exactly the same across the state,” and that Option B would cause voter confusion. Others described the lack of uniformity with words like “confusing” and “chaos.”

A few people expressed concerns about security of the ballots and possible voter fraud, including the inability of poll watchers to challenge voters at the polling place.

The small number of public survey responses in favor of Option B discussed the benefits of local control. A typical response was “I feel municipalities are varied, and so are their needs.” Others stated that the municipalities that did not need Early Voting would not have to pay for it.

### **Discussion of Option C**

**Definition:** Wisconsin would not change to true early voting. Instead, Wis. Stats. §6.855, would be changed to allow absentee voting in multiple locations outside or in addition to the municipal clerk’s office. In addition, the procedures for voting in-person absentee would be streamlined in the following three ways:

1. First, the absentee application for in-person absentee voting would be no longer required. Instead, a sign-in sheet, which would include a certification, would be allowed for in-person absentee voters. This is similar to recording voter names at the polls on Election Day.
2. Second, instead of placing the absentee ballot in a certificate envelope, municipalities may chose to have in-person voters place their absentee ballot in a secure container, to be fed into a voting machine and tabulated on Election Day.
3. Third, the start of in-person absentee voting would be changed from 30 days to 20 days before the election, and the deadline would be moved from 5:00 p.m. the Monday before the election to 5:00 p.m. the Friday before the election.

**Clerk Survey Responses:** Option C was the option best liked by clerks. 160 of the 340 clerks who responded selected Option C.

Clerks were almost unanimous in their desire to move the in-person absentee voting deadline forward from 5:00 pm the day (i.e., Monday) before the election. Most suggested the Wednesday or Thursday before the election, to allow time to prepare for Election Day

A large percentage of clerks liked Option C because there would be relatively little additional cost to municipalities, and municipalities could keep the same hours and staff that they have now. Some expected cost savings if paper applications and envelopes were eliminated.

Many described the current process as “cumbersome” and expressed a desire for paperwork to be reduced. Some clerks stated that applications could be eliminated but envelopes should be retained for privacy and security. One creative suggestion was to incorporate a streamlined application onto the absentee envelope itself. Some wanted to get rid of envelopes entirely, and others wanted to keep the envelopes but eliminate the witness requirements, since municipal staff end up witnessing nearly every ballot.

Another large group liked Option C because it would be less confusing to voters and staff. Little extra voter outreach would be required because Option C does not change the location or hours where voters can cast their ballot. Local staff members might have to be trained on a

few new procedures, but this is “not too big of a change.” Uniformity was cited as a virtue of this option.

Some clerks did criticize Option C, discussing concerns about ballot security and recount procedures if there is no absentee envelope used.

**Public Survey Responses:** Option C was also the option best liked by the public. 30 of the 98 respondents selected Option C. Members of the public stated that Option C seemed more cost effective, that it was a good idea to reduce paperwork, and that it was the best option of the three presented.

The biggest concern with Option C for members of the public was the security and integrity of the ballot. Because streamlining the absentee process might change the application form or eliminate the envelope, respondents were concerned that there would not be a paper trail to follow if there were any questions about a ballot. Some also expressed fear that one receptacle holding many ballots would be less secure than each ballot in an individual envelope.

Other concerns about Option C included unnecessary cost, and a few people stated that absentee voting is difficult and undesirable, and early voting may be a better alternative.

### **A Combination of Options**

28 clerks and 7 members of the public supported a combination of options. The most common suggestion was Option B and Option C. These respondents felt that while early voting was necessary, at least for some municipalities, the idea of streamlining the absentee process would be beneficial even for municipalities that would not wish to offer early voting.

### **Keep Absentee Voting “As Is”**

A sizable portion of clerks (93 of 333) and the public (22 of 98) supported keeping in-person absentee unchanged. They generally argued that changes were unnecessary, citing cost, confusion of voters and poll workers if changes were made, and a few stated that “This is only Madison and Milwaukee, so don’t penalize us for their problems.” Several people stated that problems occurred only once every two years or four years, and cities should just hire staff for one or two elections, rather than change the procedure for every election.

### **Some Other Option**

12 clerks and 7 members of the public suggested we explore other options. Expansions of voting procedures included vote by mail, and electronic voter registration, which are reforms being studied under the Board’s five year election administration plan. Several respondents suggested we eliminate same day registration or require an excuse to vote absentee, pointing out that this would reduce paperwork for clerks and lines for absentee voting in the clerk’s office. Several other respondents talked about the need for photo ID to prevent fraud.



## **Part 3: Considerations for the Government Accountability Board**

### **Analysis**

Based on discussion of the Options A, B and C and other possible combinations, the Board has several alternatives to consider for deciding what recommendations, it wishes to make to the Wisconsin Legislature.

#### **The Board may choose to recommend Option A.**

##### **Advantages:**

- Early voting would be offered at a county or regional level, and every region would have at least one early voting site where voters could cast their ballots.
- Counties and municipalities would share staff and expenses, taking away some of the burden for smaller municipalities.
- This option offers statewide uniformity, so every Wisconsin municipality can offer the same early voting procedure and voters can have the same early voting opportunity.

##### **Disadvantages:**

- Most clerks and members of the public oppose this option.
- Concerns expressed included costs and lack of related resources, such as staffing.
- Because rural voters would have to travel greater distances to cast their vote, voting may become less convenient.
- This option takes away some local control over elections and requires many new procedures to share responsibilities between counties and municipalities.

#### **The Board may choose to recommend Option B.**

##### **Advantages:**

- Decisions about early voting would remain under local control. Municipalities could be the judge of whether early voting was needed and what expenses they were willing to incur.
- In municipalities with early voting, voters would vote within their municipality.
- In municipalities with little need for early voting, there would be no change in procedures and no additional cost.

##### **Disadvantages:**

- Most clerks and members of the public oppose this option.
- Concerns expressed included costs and lack of related resources, such as staffing.
- Because neighboring municipalities might have different early voting procedures, residents may be confused as to how they vote.

**The Board may choose to recommend Option C.**

Advantages:

- A plurality of clerks and the public support this option.
- This represents the least amount of change, so election staff and voters will not have to learn completely new procedures.
- The least expensive option, requiring no new machines and minimal increases in staff.
- Paperwork will be reduced, and municipalities will have more time to prepare for Election Day.
- Voting absentee in the clerk's office or satellite sites should take less time.

Disadvantages:

- Municipalities that decide not to use certificate envelopes for their in-person absentee ballots will require new procedures to ensure security.
- If municipalities have flexibility not to use certificate envelopes or to use voting machines for in-person absentee voting ballots, neighboring municipalities may have different procedures and voters may be confused.
- Voters will have fewer days to cast their in-person absentee ballots before Election Day since the deadline will be moved from 5:00 p.m. the day (i.e., Monday) before the election to 5:00 p.m. the Friday before the election.

**The Board may choose to recommend no change.**

Advantages:

- A significant number of clerks and the public support this option.
- No extra costs and no extra education on new procedures is required.

Disadvantages:

- In high-turnout elections, many municipalities will have difficulty processing the large number of in-person absentees.
- Voter convenience problems, such as long lines and lack of satellite locations, will remain unaddressed.

The Board may choose to recommend a combination of options, or other options, attempting to minimize the disadvantages and maximize the advantages described above. Other options not discussed may require further study and public feedback.

## **Part 4: Conclusion**

### **Overview of Recommendations**

Based on the information discussed above, Board staff recommends pursuing a modified version of Option C, streamlining in-person absentee voting. Option C is desirable because it retains basic voting and security safeguards equivalent to Wisconsin's current in-person absentee procedure. Wisconsin voters are happy with these procedures, and they have worked very well, only showing signs of strain in extremely high turnout elections in larger cities. Option C allows for minimum changes which would speed up in-person absentee voting for voters and the clerks' processing of ballots, but would not change procedures significantly enough to require wholesale retraining of poll workers or extensive voter education. Finally, Option C is the most cost-effective option. No purchase of new voting machines would be required, and most municipalities would not have to add any additional staff.

To mitigate the disadvantages in pursuing Option C as originally proposed, however, and to protect the security, secrecy, and integrity of the current in-person absentee voting process, Board staff recommends streamlining only in ways that will:

- Move the start of in-person absentee voting from 30 to 20 days before the election;
- Allow for multiple in-person absentee voting locations outside or in addition to the municipal clerk's office;
- Replace the absentee application with a sign-in sheet for in-person absentee voters;
- Remove the certification and signature requirements for the absentee envelope, but retain the use of a simplified ballot envelope.

### **Discussion: Retention of Monday Deadline**

Before describing the above recommendations (Option C) more specifically, a more detailed discussion is warranted regarding the current deadline for in-person absentee voting as it was one of the main concerns, if not the primary concern, of municipal clerks. Board staff does not recommend changing the deadline for in-person absentee voting from 5:00 p.m. the day (i.e., Monday) before the election as part of Option C.

Staff recognizes that there is a real and significant administrative burden on municipal clerks and their staffs by maintaining the current statutory deadline of the evening before Election Day. The high level of public service by municipal clerks is integral to Wisconsin's reputation for quality administration of elections. Municipal clerks made clear in listening sessions their strong desire to have more time to process in-person absentee ballots before Election Day. The volume of in-person absentee voters can be great for general elections which occur every two or four years, and finishing a two- or three-week period of absentee voting while completing all the tasks necessary to prepare for Election Day can place great stress on municipal clerks and their staff.

While empathetic to the significant impact of the current deadline on local election officials, and the concerns articulated by clerks that have been previously summarized in this report,

Board staff also has given careful consideration to Wisconsin residents' opportunity to vote in-person absentee up until the day before the election. The privilege of absentee voting until 5:00 p.m. on the Monday prior to a Tuesday election has been accorded to Wisconsin voters since 1965. Moving up the deadline for in-person absentee voting in the days leading up to Election Day would restrict opportunities to vote that the public has come to expect and rely upon for over 44 years.

In developing its recommendation on this issue, Board staff balanced the concerns expressed by clerks with the strong historical trend and intent of Wisconsin election law to encourage and accommodate the greatest possible voter participation. Wisconsin laws and election procedures have consistently resolved such legitimate and competing concerns in favor of putting the voter first, and this has been a key reason that the State is often recognized as a leader in election administration. Staff believes the Board should continue to endorse measures that uphold Wisconsin's heritage and tradition of advancing voter participation, rather than measures that will limit opportunities to vote.

Therefore, weighing all of the persuasive and compelling considerations on both sides of this policy issue, Board staff recommends preserving the elector's opportunity to vote in-person absentee up until 5:00 pm the day before the Election as provided for by current law, while implementing other measures in an attempt to relieve some of the administrative burden on municipal clerks.

### **Specific Recommendations**

After weighing all of the considerations and input of both election officials and the public as described in this report, staff recommends that the Board adopt and pursue a modified version of Option C in accordance with the following guidelines:

1. **Effective Date:** Commencement of the new procedures should not take effect sooner than February 2011, to allow time for clerks and election workers to become familiar with the new procedures and for municipalities to budget for any changes. A pilot should be run in November 2010, as described beginning on page 19 of this report.
2. **Time Period - Start Date:** Move the start of in-person absentee voting from 30 days before Election Day to 20 days before Election Day, to coincide with the close of normal registration. Currently, voters who vote between 30 and 21 days before the election are able to register without proof of residence, while all other in-person absentee voters must provide that proof. This requirement should be standardized. Moving the start date will have the effect of requiring all in-person absentee voters who have not registered to provide proof of residence before registering. Moving the start date will also allow more time for ballots to arrive if there is a printing problem or a contested race. Few in-person electors vote this far ahead of the election, so they should not be significantly impacted. Also, the option to vote absentee by mail 30 days before the election will still continue.
3. **Time Period - End Date:** Retain the current deadline for in-person absentee voting at 5:00 p.m. the Monday before the election.
4. **Locations:** Few municipalities in Wisconsin expressed a need to conduct absentee in-person voting at more than one site, since the greatest demand to vote absentee in-person usually exists more in large municipalities. The municipalities which determine that

multiple sites are necessary, however, should be able to use them. Current state law already allows for an absentee voting location outside of the municipal clerk's office, and this should be expanded to allow for multiple satellite sites in addition to the municipal clerk's office as determined by the clerk.

5. Hours: Keep the hours for in-person absentee flexible, and under municipal control. This will allow large municipalities to be open extended hours and weekends if necessary, and allow small municipalities with part-time clerks to be open only part-time.
6. Same Day Registration: Maintain the voter's ability to register on the same day he or she votes in-person absentee at the municipal clerk's office or at a satellite location.
7. Electronic Poll List: Because Option C takes place in the clerk's office, using absentee procedures, there is no need to have an electronic poll list. Sites with high-speed internet access could use SVRS, however, as an electronic poll list to verify whether or not the voter is registered, and that they have not already been issued an absentee ballot. Under current law, G.A.B. has the authority to approve other methods of the use of electronic poll lists.
8. Absentee Application: Eliminate the absentee application for in-person absentee voting. Allow a sign-in sheet for in-person absentee voters, rather than requiring a separate application from each voter. This is similar to recording voter names at the polls on Election Day. The basic format of the sign-in sheet should contain:
  - A certification statement (now found on the absentee envelope) where voters attest they are a qualified elector;
  - Absentee voter number;
  - Voter's name, address, and year of birth, for rare cases when two people with the same name live at the same address (since date of birth is confidential, but year of birth is not).
  - SVRS voter registration number, for those municipalities that use SVRS in the clerk's office.
  - Voter's printed name and signature, indicating that they have read the certification and meet the necessary requirements.

The format of the sign-in sheet does not have to be statutorily mandated, and may be delegated to the Board.

9. Absentee Certificate Envelope: Eliminate the certificate statement and witness signature requirements for the absentee ballot envelope when voting in-person absentee. Require that the elector's name, address and ward appear on the envelope. Staff does not recommend completely eliminating the use of any envelope as that would make it difficult to retain the privacy and security of the absentee ballot, and to challenge an in-person absentee voter at the polling place or central count facility on Election Day. Also, if absentee ballot envelopes were completely eliminated, the ballot of an elector who died before Election Day could not be retrieved and could be potentially counted like other ballots.
10. Ballot Security and Secrecy: The ballot security and secrecy provisions enumerated in Chapter 5 of the G.A.B. administrative rules should be made applicable to the new

streamline procedures. Staff acknowledges the Board's concern with the vulnerabilities that exist in securing and protecting the secrecy of the in-person absentee ballot before the election. These same vulnerabilities currently exist for Election Day voters and are specifically addressed in the proposed revisions to Chapter 5 of the G.A.B.'s administrative rules.

11. Accessibility: Accessibility requirements would not change from current law, which means absentee voting in the municipal clerk's office or satellite location would require the facility to be fully accessible.
12. Tabulation: No absentee ballots received in the municipal clerk's office or satellite location may be tabulated until Election Day.

### **Special Note: Optional Extension to True Early Voting**

Note that some municipalities with the necessary equipment might like the option to have the voter deposit the ballot directly into the optical scan tabulator, or cast a ballot on a DRE machine. Other municipalities may become interested in this option once their current voting machines become obsolete and are updated. This would, in effect, combine Option C and Option B in those municipalities and allow for true early voting. However, this raises a number of concerns. Voting practices would not be uniform statewide, resulting in possible voter confusion. Paper ballots cast in this manner would either have to have a unique voter number written on the back, or they could not be retrieved. Ballots cast on DRE machines could not be retrieved.

There would be extra programming costs, and public tests of the voting machines would have to take place much earlier. Security concerns may arise because machines cannot be easily moved to a locked room, and removing voted ballots from the machine would require special procedures. For these reasons, staff recommends that the legislature allow municipalities to pilot this method of absentee/early voting only with the supervision and assistance of the Board in one or more elections. Staff suggests that the ability to cast the ballot immediately using a machine not be included in legislation until after the pilot has been evaluated.

### **Pilot Program**

#### **Basic Structure:**

In order to identify unknown issues, learn best practices, measure effectiveness and plan for a statewide implementation of Option C, Board staff recommends the legislature authorize a pilot program for the November 2010 Fall Election. Should the legislature decide not to pursue a statewide implementation of Option C, staff still recommends a pilot program be established based on whatever options and changes the legislature decides to adopt.

Under the recommended pilot program, participating municipalities would conduct an election following the procedures described above. The pilot program would invite voluntary participation by local election officials and would assist with the cost of any required additional equipment and staff. The pilot program should be assessed by independent evaluator with assistance from the Board staff. Municipalities of varying sizes and population

densities would be encouraged to participate. If the legislature authorized voters to cast their ballots directly on a DRE or into an optical scan tabulator, the pilot should include a variety of voting equipment.

During the early voting listening sessions, the cities of Fitchburg, Sun Prairie, Wauwatosa, Rice Lake and Waukesha expressed interest in an early voting pilot program. Other municipalities may be interested depending on availability of funds and staff.

### Costs

At least one municipality in the pilot should have an additional in-person absentee voting site, to examine the logistics involved when conducting absentee voting outside of the clerk's office. If the municipality does not have the staff necessary, this will be an additional expense. The pilot program should reimburse the municipality or municipalities for this expense. Staff does not recommend that the pilot program absorb any of the normal elections costs currently associated with elections, specifically expenditures for ballot printing, other staffing (including poll workers) or voting systems acquisitions.

For the pilot program, modifications to the Statewide Voter Registration System would have to be made. Currently, clerks must issue labels and scan the barcode on each label to record in-person absentee ballots as having been issued and returned. The software code should be modified to automatically mark in-person absentee ballots as having been issued and returned, whether or not the clerk prints out a label. SVRS currently allows clerks to issue an absentee label directly from the voter record, but vital fields are missing. For example, there is no place to indicate whether the absentee ballot was cast in-person or via mail. The software code should be modified to make this feature work correctly.

Upgrading the current application software would require up to 6 months of dedicated work by 3 technical staff members. This would amount to roughly \$384,000, not including the time dedicated by other Board staff to design and test the necessary changes. It should be noted, however, that changes made for the pilot program would benefit not just the pilot municipalities, but every clerk in the state who uses SVRS to track absentee ballots.

### **Summary and Additional Resources**

More information on the initial early voting proposals can be found on the Board's Elections Division website, <http://elections.state.wi.us>. Further information on the response to the early voting listening sessions is located in Appendix A and Appendix B.

Appendix C gives a comparative listing of in-person absentee and early voting practices in other states. Appendices D-F show representative communications from municipalities about early voting. Appendix G gives in-person absentee voting statistics by municipality from the November 2008 Presidential and General Election.

Wisconsin has a proud tradition of making voting opportunities widely available and accessible, decentralization and local control of elections, high voter satisfaction with elections, and overall excellent election administration. The recommendations described in this report are drawn from a combination of voting procedures found in other states and the thoughtful suggestions of Wisconsin's election administration professionals and its voters. The

goal of these recommendations is to continue those traditions while ensuring that they can be adapted to changing patterns of voting.

DRAFT