

An Evaluation:

## Compliance with Election Laws

*Elections Board*

November 2007

# Report Highlights ■

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***The statewide voter registration system continues to have problems verifying voter eligibility.***

***Some polling places are not fully accessible to individuals with disabilities.***

***Individuals did not report widespread concerns about the November 2006 general election.***

***Additional efforts are needed to ensure that local election officials receive statutorily required training.***

Responsibility for administering elections is shared between state and local election officials. At the state level, the Elections Board administers and enforces election and campaign finance laws and supports and trains the 1,851 municipal clerks who are statutorily responsible for registering voters, ensuring that elections are administered properly, and training poll workers. Its duties will soon be assumed by the Government Accountability Board.

County clerks also train municipal clerks and may assist them in administering elections. In addition, county clerks provide municipalities with ballots and election supplies and receive and examine election returns as part of the canvassing process.

2003 Wisconsin Act 265 directed us to evaluate compliance with election laws and the appropriateness of their implementation. Therefore, we visited polling places in November 2006, surveyed municipal and county clerks, and reviewed the Elections Board's efforts to:

- ensure that electors are allowed to vote and that ineligible individuals are prevented from voting;
- ensure that polling places are accessible to individuals with disabilities;
- address election-related concerns and complaints reported by individuals;
- train local election officials; and
- implement recommendations in our 2005 evaluation of voter registration (report 05-12).

## Key Facts and Findings

*Elections Board expenditures increased from \$1.5 million in FY 2003-04 to an estimated \$24.4 million in FY 2006-07.*

*Available information indicates there were few problems with felons and other ineligible individuals voting in November 2006.*

*In October 2006, the Elections Board mailed only 25.4 percent of address verification cards within the ten-day period required by statutes.*

*Municipal clerks we contacted raised concerns about difficulty in using the statewide voter registration system and its slow operating speed.*

*On Election Day in November 2006, we found numerous problems with the accessibility of polling places and accessible voting machines.*

*Clerks who responded to our survey reported 191 concerns with the administration and other aspects of the November 2006 general election.*

## Verifying Voting Eligibility

The federal Help America Vote Act (HAVA) of 2002 requires all states to have a centralized statewide voter registration system. To identify individuals who are ineligible to vote, the Elections Board planned to match data in the system with data maintained by the departments of Corrections (DOC), Health and Family Services (DHFS), and Transportation (DOT).

However, electronic matching failed for the November 2006 general election and the spring 2007 election. As a result, the Elections Board took other action to identify ineligible individuals. For example, it provided municipal clerks with paper lists of 35,013 individuals who were ineligible to vote in November 2006 because they were serving felony sentences, including probation or parole.

We found that 16 municipal clerks we contacted did not use the lists consistently. We also found that the lists included 1,537 individuals whose sentences ended before Election Day and who were likely eligible to vote.

Elections Board officials now believe that the data matching will not work during Wisconsin's presidential primary in February 2008. The Elections Board is contemplating legal action against the vendor that developed the \$22.7 million statewide voter registration system.

Municipal clerks we contacted noted problems with the statewide voter registration system's ability to process absentee ballots and suspend voter registrations. Close scrutiny is warranted because of these implementation difficulties and the Elections Board's dispute with the vendor.

The Elections Board mails address verification cards to verify the accuracy of addresses provided by individuals registering to vote by certain methods, such as on Election Day. Undeliverable cards are returned by the postal service to municipal clerks, who are responsible for reviewing them and determining whether to designate individuals as ineligible to vote. We followed up on concerns in our 2005 audit, which found that cards were not consistently used as required to verify residency or investigate improper registrations.

In October 2006, the Elections Board mailed 106,620 cards to registered voters. We reviewed 874 cards returned to nine municipal clerks and found that the clerks had received them too late for review before the November 2006 general election.

## Polling Place Accessibility

Federal and state law require voting systems and polling places to be accessible to individuals with disabilities in a manner that

provides the same opportunity for participation accorded to other voters.

Polling places must have at least one voting machine equipped for individuals with disabilities. Using federal HAVA funds, the Elections Board spent \$14.7 million through fiscal year (FY) 2006-07 to reimburse municipalities up to \$6,000 per polling place to purchase the machines. Before issuing reimbursements, the Elections Board requires municipalities to complete a survey addressing polling place accessibility issues. However, it has not verified the accuracy of the surveys submitted by municipalities.

To independently determine compliance with accessibility requirements, we visited 36 polling places in 20 municipalities on Election Day in November 2006. We found numerous accessibility problems. As a result, we question whether some polling places are adequately accessible.

Accessibility Problems at 36 Polling Places	
<u>Problem</u>	<u>Number of Polling Places</u>
Parking	13
Pathways to Polling Places	8
Polling Place Entrances	17
Travel within the Building	4
Voting Areas	15

To improve accessibility, we include a recommendation that the Elections Board modify its survey to require more definitive answers and require municipalities to complete a new survey for each polling place.

## Concerns and Complaints

Individuals may informally report election-related problems to municipal or county clerks, or they may file official complaints with the Elections Board. We surveyed all clerks statewide and received responses for 427 of Wisconsin's 1,851 municipalities.

Respondents indicated that 78.5 percent of their municipalities had no election-related problems. However, some clerks reported some allegations of voter fraud and individuals denied the right to vote. For example, one first-time voter was reportedly unable to register or vote in the Village of Mount Pleasant because of erroneous information provided by poll workers, and insufficient ballots were available at some polling places in four municipalities. Municipal clerks who responded to our survey reported forwarding ten concerns to district attorneys' offices.

The Elections Board is statutorily required to determine whether individuals who registered after the poll books were printed were ineligible to vote because of ongoing felony sentences and to notify the relevant district attorneys about those who appear to have voted illegally.

In March 2007, it determined that 106 such individuals in 50 municipalities may have voted, but it requested municipal clerks to make a final determination.

Not all clerks had completed their investigations at the time of our fieldwork. However, in May 2007, the Milwaukee County District Attorney's office charged one individual who had an ongoing felony sentence in November 2006 with voting in the general election, and this individual pleaded guilty in October 2007. In September 2007, the Racine County District Attorney's office charged four individuals, each of whom had ongoing felony sentences in November 2006, with felonies for allegedly voting in the general election.

From January 2004 through December 2006, 64 complaints were filed with the Elections Board. Most related to issues outside the scope of this evaluation, such as candidates who had filed nomination papers improperly. However, 12 related to electors alleged to have been treated improperly. Statutes and administrative rules do not specify the number of days in which most complaints must be resolved. We found three complaints that each had been unresolved by the Elections Board for more than two years.

## Training

Although the Elections Board trains municipal clerks and has created election manuals, it has not

promulgated many of the administrative rules related to training that are required by statutes or that we recommended in 2005. As a result, we found some variation in how clerks interpreted instructions from the Elections Board regarding the November 2006 general election.

## Recommendations

We include recommendations for the Elections Board and Government Accountability Board to:

- ☑ request that municipal clerks obtain birth dates from all voters ([p. 27](#));
- ☑ indicate on each address verification card the reason it was mailed to a registered voter ([p. 34](#));
- ☑ modify the accessibility survey, require municipalities to complete the modified survey, and verify the accuracy of completed surveys ([p. 53](#)); and
- ☑ establish written policies for resolving complaints in a timely manner ([p. 61](#)).

We also include recommendations for either the Elections Board or the Government Accountability Board to report to the Joint Legislative Audit Committee by March 31, 2008, on:

- ☑ efforts to match data in the statewide voter registration system with data maintained by DOC, DHFS, and DOT and to train municipal clerks in how to use information from the data matches ([p. 29](#));
- ☑ whether a 30-day statutory deadline for entering Election Day information into the statewide voter registration system should be extended ([p. 36](#));
- ☑ efforts to improve processing times and enable the statewide voter registration system to track absentee ballots and suspend voter registrations ([p. 39](#)); and
- ☑ progress in promulgating administrative rules for training local election officials and clarifying their responsibilities in registering voters ([p. 68](#)).

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## Additional Information

For a copy of report [07-16](#), which includes a response from the Elections Board, call **(608) 266-2818** or visit our Web site:



[www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab)

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