

From: [Konicek, Theresa - GOV](#)
To: [Landretti, Jane R - DATCP](#); [Durkin, Therese A - DCF](#); [Lynch, Matthew R - DFI](#); [Rowe, Sandra M - DHS](#); [Heilman, Cheryl W - DNR](#); [Kasper, Amy - DOA](#); [Karaskiewicz, Susan L - DOC](#); [Erlandsen, Dana J - DOR](#); [Cox, Carrie L - DOT](#); [Rohmeyer, Aloysius - DSPS](#); [Koplien, Chad - DVA](#); [McGillivray, Pamela R - DWD](#); [Wicka, Richard B - OCI](#); [anne.sayers@wisconsin.gov](#); [Millsap, Randi - DMA](#); [Zolik, Nathan J - DOJ](#); [Gibson, Charlotte J - DOJ](#); [Jones, Benjamin R - DPI](#); [Haas, Michael R - ELECTIONS](#); [Judnic, Nathan - ELECTIONS](#); [Buerger, David - ETHICS](#); [Krasno, Anita - LIRC](#); [Smith, Cynthia - PSC](#); [Ray.taffora@wisc.edu](#); [qwilliams@uwsa.edu](#); [Jin, Jennifer](#); [Davis, Peter G - WERC](#); [Matt.fortney@wheda.com](#); [Nilsestuen, Ryan - GOV](#); [McNab, Molly - GOV](#); [Deeley, Erin - GOV](#)
Subject: Chief Legal Meeting
Date: Wednesday, September 4, 2019 11:53:00 AM
Attachments: [2019_09_06 CL meeting agenda.pdf](#)

Good morning:

Please see the attached agenda for the Chief Legal meeting on September 6 at 2 pm.

Thank you,

Theresa Konicek

Legal Assistant

Office of Governor Tony Evers

theresa.konicek@wisconsin.gov





Tony Evers

Office of the Governor | State of Wisconsin

Chief Legal Counsel Meeting

Date: September 6, 2019, 2:00 pm
Location: Wisconsin State Capitol, Governor's Office

Agenda:

- 2:00 – 3:00 Speaker: Miriam Seifter, Associate Professor of Law at the University of Wisconsin Law School
Topic: How to improve the public's understanding of state agencies and their work.
- 3:00 – 3:15 Elections commission update from Mike Haas
- 3:15 – 3:30 Accepting service at agencies

From: [Haas, Michael R - ELECTIONS](#)
To: [Nilsestuen, Ryan - GOV](#)
Subject: Election cost data
Date: Saturday, September 14, 2019 10:56:48 AM

Ryan,

I meant to get this to you earlier in the week but we got busy preparing materials for our upcoming Commission meeting. To follow up on our conversations regarding rough estimates of election costs, I am forwarding some links from our website. As we discussed, for several years the G.A.B. and Elections Commission collected actual cost data from municipal and county clerks, which the Elections Commission discontinued following the 2016 General Election.

As for the data we did collect, we always include the caveat that it is not necessarily complete or entirely accurate, as clerks may have categorized costs differently or not tracked all costs consistently. Aside from prompting clerks to submit the data, our staff did not audit the figures either. Finally, because of the many variables from one election to the next, including the number of contests on the ballot, how strongly they are contested, and expected and actual voter turnout, we do not portray the data as a prediction of what costs might be for a specific election. The spreadsheets listed below also do not have the totals listed for each category of costs, but they can be tabulated in the Excel spreadsheet.

While we have data listed for each municipality and county for the elections we collected the data in spreadsheets on our website, unfortunately we do not have an easy way to separate out the costs for a particular legislative or congressional district. In the 7th Congressional District, there are about 590 municipalities and 26 counties that are partially or entirely within the district boundaries. We can produce a separate list of those jurisdictions, but the data spreadsheets are not sortable according to a legislative or congressional district. Someone would need to manually match the identified jurisdictions with its row in the data spreadsheets.

So here are some links that may be useful:

A news release we issued in 2012 regarding costs for the 2012 Spring Election and the statewide recall primary and recall election, when our cost data collection was in its early stages:

<https://elections.wi.gov/node/2569>

The landing page for cost reports related to the 2016 General Election as well as annual election costs that are not specific to an election in that year. They are listed as the EL-191 reports on this page: <https://elections.wi.gov/publications/statistics/gab-190/November-2016>

The landing page for cost reports related to the 2016 Spring Election and Presidential Primary, identified as the EL-191 report: <https://elections.wi.gov/publications/statistics/gab-190/2016-spring-election-presidential-primary>

The landing page for cost reports related to the 2015 Spring Election, identified as the EL-191 report: <https://elections.wi.gov/publications/statistics/gab-190/April-2015>

Additional cost reports can be located through our statistics page on our website.

I know this is not perfect for your purpose, but hopefully it helps somewhat to generate some rough idea of election costs. Please let me know if you have any questions or would like us to generate the list of municipalities and counties included in the 7th Congressional District. Have a good weekend.

Mike

Michael Haas
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Wisconsin Elections Commission
608-266-0136
michael.haas@wi.gov

From: [Konicek, Theresa - GOV](#)
To: [GOV DL Flag Orders Distribution](#); [Landretti, Jane R - DATCP](#); [Durkin, Therese A - DCF](#); [Lynch, Matthew R - DFI](#); [Rowe, Sandra M - DHS](#); [Heilman, Cheryl W - DNR](#); [Kasper, Amy - DOA](#); [Karaskiewicz, Susan L - DOC](#); [Erlandsen, Dana J - DOR](#); [Cox, Carrie L - DOT](#); [Rohmeyer, Aloysius - DSPS](#); [Koplien, Chad - DVA](#); [McGillivray, Pamela R - DWD](#); [Wicka, Richard B - OCI](#); [Milsap, Randi - DMA](#); [Zolik, Nathan J - DOJ](#); [Gibson, Charlotte J - DOJ](#); [Jones, Benjamin R - DPI](#); [Haas, Michael R - ELECTIONS](#); [Judnic, Nathan - ELECTIONS](#); [Buerger, David - ETHICS](#); [Krasno, Anita - LIRC](#); [Smith, Cynthia - PSC](#); [Ray.taffora@wisc.edu](#); [qwilliams@uwsa.edu](#); [Jin, Jennifer](#); [Davis, Peter G - WERC](#); [Fortney, Matt D - WHEDA](#)
Subject: Executive Order #44 - State Day of Service and Remembrance
Date: Monday, September 9, 2019 2:54:35 PM
Attachments: [EO44-StateDayofServiceAndRemembrance.pdf](#)

Good afternoon:

Today, Governor Evers issued Executive Order # 44, relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff in honor of State Day of Service and Remembrance.

Please ensure that the flag of the United State and the flag of the State of Wisconsin are flown at half-staff **at all state facilities** beginning **at sunrise on September 11, 2019**, and ending at sunset on **the same date**.

The Executive Order is attached.

Thank you,

Theresa Konicek

Legal Assistant

Office of Governor Tony Evers

theresa.konicek@wisconsin.gov





EXECUTIVE ORDER #44

Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin Be Flown at Half-Staff in Honor of State Day of Service and Remembrance

WHEREAS, on September 11, 2001, nearly 3,000 innocent lives were lost in terrorist attacks in New York City, Washington, D.C., and Pennsylvania;

WHEREAS, the lives affected by the September 11, 2001, attacks transcended faith, race, ethnicity, identity, and background;

WHEREAS, we pay tribute to those who lost their lives, the first responders, volunteers, and other countless heroes who responded during a time of great need on September 11, 2001, and the survivors and surviving family members and loved ones of the fallen;

WHEREAS, we honor our servicemembers who made the ultimate sacrifice in the years following the attacks, and those who have served and continue to serve our communities and our country at home and abroad; and

WHEREAS, on the anniversary of September 11, 2001, we reflect on our nation's resilience and grit, the importance of service and community, and we renew our resolve as a people toward finding a greater unity and purpose that honors the legacy of these patriots.

NOW, THEREFORE, I, TONY EVERS, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the Laws of the State, hereby:

1. Order that the flag of the United States and the flag of the State of Wisconsin shall be flown at half-staff at all buildings, grounds, and military installations of the State of Wisconsin, beginning at sunrise on **Wednesday, September 11, 2019**, and ending at sunset on that date.
2. Declare Wednesday, September 11, 2019, a day of service across the State of Wisconsin and encourage Wisconsinites to use this day to work together to serve their communities.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this fifth day of September in the year of two thousand nineteen.

TONY EVERS
Governor

By the Governor:

DOUGLAS LA FOLLETTE
Secretary of State

From: [McNab, Molly - GOV](#)
To: [Haas, Michael R - ELECTIONS](#)
Subject: RE: Chief Legal Counsel Meeting
Date: Thursday, September 5, 2019 2:45:00 PM

Great, thanks Mike. See you tomorrow.

From: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Sent: Thursday, September 5, 2019 9:49 AM
To: McNab, Molly - GOV <molly.mcnab1@wisconsin.gov>
Subject: RE: Chief Legal Counsel Meeting

Molly,

Thanks for the time on the agenda. Just fyi, attached is what I plan to bring as a one-page, double-side hand out. See you tomorrow.

Mike

From: McNab, Molly - GOV <molly.mcnab1@wisconsin.gov>
Sent: Thursday, August 29, 2019 3:43 PM
To: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Subject: RE: Chief Legal Counsel Meeting

30 copies would be more than enough.

Thanks,
Molly

From: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Sent: Thursday, August 29, 2019 3:33 PM
To: McNab, Molly - GOV <molly.mcnab1@wisconsin.gov>
Subject: RE: Chief Legal Counsel Meeting

Got it, thanks Molly. If I bring any handouts, how many copies should I bring?

Mike

From: McNab, Molly - GOV <molly.mcnab1@wisconsin.gov>
Sent: Thursday, August 29, 2019 2:10 PM
To: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Subject: RE: Chief Legal Counsel Meeting

Hi Mike,

Sorry for the delay in getting back to you. I think this sounds like a great thing to address at the chief legals meeting.

Just so you are aware, the meeting is Sept 6, not 9 as you mentioned in your email.

Looking forward to seeing you next week.

-Molly

From: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>

Sent: Wednesday, August 21, 2019 11:41 AM

To: McNab, Molly - GOV <molly.mcnab1@wisconsin.gov>

Subject: Chief Legal Counsel Meeting

Hi Molly,

I received the notification for the next Chief Legal Counsel meeting. I wanted to run an idea by you to see what you thought which potentially affects all state agencies. In December of this year, municipal governing bodies will appoint their lists of election inspectors (poll workers) who will serve for the next two years. There are specific statutes related to state employees who wish to serve as election inspectors. Wis. Stat. section 7.33 requires state agencies to permit each of their employees to serve as an election official without loss of pay, fringe benefits or seniority privileges, except that the amount of any pay received from the municipality is deducted from the employee's pay from the state agency. Here is a link to guidance we have posted on our website:

<https://elections.wi.gov/node/131>

Based on past experience, we believe that agency management and attorneys are not familiar with this statute. Occasionally we hear that an agency supervisor has denied paid time off for an employee, and there are sometimes questions about accommodating schedules when an agency is short-staffed. In recent years some state employees have told municipal clerks they gave up on working as an election inspector because it was too much of a hassle to get approval.

Since this is a legal requirement for state agencies, I thought the chief counsel meeting might be a good way to spread the message. Municipal clerks all over the state constantly struggle to get enough election inspectors and especially younger individuals to replace those who have been serving for decades, and they are always looking for new options for recruiting inspectors. Personally, I think it would be good policy for agencies to not only comply with the statute, but to encourage employees to consider working as an election inspector, especially because there are state employees spread throughout the state. For instance, I have often thought the State building in Milwaukee would be a great place to provide information as there are municipalities in that entire region that would benefit. With the pool of talented employees available, actively promoting this opportunity could help to alleviate a chronic challenge for the administration of elections, literally

ensuring that our elections remain free, fair, accurate and secure. At the very least, though, I would like to raise awareness about the statutory requirement to ensure that agencies do not inadvertently fail to comply.

Please let me know if you think this would be worthwhile to address at the September 9th meeting. I think it would take 5 minutes or less to cover. Thanks.

Mike

Michael Haas
Staff Counsel
Wisconsin Elections Commission
608-266-0136
michael.haas@wi.gov

From: [Nilsestuen, Ryan - GOV](#)
To: [Haas, Michael R - ELECTIONS](#)
Subject: RE: Special election order
Date: Thursday, August 29, 2019 4:30:00 PM

Thanks, Mike. This is very helpful. I will be in touch. -Ryan

From: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Sent: Thursday, August 29, 2019 4:27 PM
To: Nilsestuen, Ryan - GOV <ryan.nilsestuen1@wisconsin.gov>
Subject: Special election order

Ryan,

Following up on our phone conversation, here are the relevant statutes related to the timing of an order for a special election for the 7th Congressional District:

Wis. Stat. s. 8.50(2)(a) states “If a special election is held concurrently with the general election **or a special election is held to fill a national office, the special election may be ordered not earlier than 122 days prior to the partisan primary or special primary, and not later than 92 days prior to that primary.**” No special election may be held between February 1st and April 7th unless it is scheduled concurrent with the spring election. Wis. Stat. s. 8.50(intro). If a special election is ordered for the same day as the spring election, the special primary, if needed, would be on the day of the spring primary, otherwise it is four weeks before the special election. Wis. Stat. s. 8.50(2)(b). Also, the deadline for nomination papers is 28 days before the date a special primary would be held unless the election is scheduled for the spring election. In that case the filing deadline is no earlier than the first Tuesday in January and no later than 35 days prior to the date of the spring primary. Wis. Stat. 8.50(3).

I looked at two calculations regarding possible special election dates for the 7th Congressional District, the earliest date an election could be held, and when an order would need to be issued to hold the special election with the spring elections. If an order was issued on the effective date of the vacancy, Sept. 23rd, the special election could be no earlier than December 24th, with the special primary on November 26th, both of which are problematic because of holidays. An order could be timed to schedule the special election anytime between December 24th and January 31, although clerks may have some concerns about a potential primary around the holidays, their end-of-year tasks such as budgets and property taxes, and reviewing nomination papers for local offices in late December/early January.

If the special election is to be held with the spring election, the order would need to be issued between October 19th and November 18th. In that case the special primary would be held with the spring primary. If the order is issued after November 18th, the special election would need to be held after the spring election. Another option is to issue the order so that if there is a primary, it is held at the spring election date and the special election would be on May 5th.

Let me know if you have any questions.

Mike

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From: [Nilsestuen, Ryan - GOV](#)
To: [Haas, Michael R - ELECTIONS](#)
Subject: Re: Special election
Date: Wednesday, August 28, 2019 5:25:29 PM

Thanks, Mike. This is very helpful. I'll try to touch base with you tomorrow.

Ryan Nilsestuen
Chief Legal Counsel
Office of Governor Tony Evers
Email: ryan.nilsestuen1@wisconsin.gov
Phone: [REDACTED]

From: Haas, Michael R - ELECTIONS <Michael.Haas@wisconsin.gov>
Sent: Tuesday, August 27, 2019 10:07:32 AM
To: Nilsestuen, Ryan - GOV <ryan.nilsestuen1@wisconsin.gov>
Subject: Special election

Hi Ryan,

Let me know if you would like to discuss a special election order regarding Representative Duffy's seat. The most immediate point to keep in mind is that an order cannot be issued until the resignation becomes effective, although the Governor could certainly announce his intentions prior to that date if he wished. There are also a couple of potential practical/legal issues we should probably discuss before an order is issued. Thanks.

Mike

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WISCONSIN ELECTIONS COMMISSION

Administering Wisconsin's Election Laws

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How do state employees become poll workers?

Wisconsin Statutes provide that state employees appointed by a municipal clerk to serve as election officials must be granted leave without loss of pay or benefits for the entire 24-hour period of each election day in which the employee is serving as an election official. Employees must provide at least seven days notice of the need for leave.

State employees may certify to the municipality that they choose not to be paid as poll workers. Alternatively, those state employees who receive pay as election officials must certify in writing to the (state) payroll office the amount of compensation received. The agency must deduct that amount from the employee's pay earned for scheduled work hours during the 24-hour period of the election day.

State employees who "volunteer" but are not appointed to be poll workers must take vacation or leave without pay if authorized by supervisory staff.

[Election Inspectors/Poll Workers](#)

Wisconsin Elections Commission | 212 East Washington Avenue, Third Floor P.O. Box 7984 |
Madison, Wisconsin 53707-7984

tele (608) 266-8005 | fax (608) 267-0500 | tty 1-800-947-3529 | e-mail elections@wi.gov

Toll-Free Voter Help Line: 1-866-VOTE-WIS



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

Statutes Related to Appointment of Election Inspectors (Poll Workers)

§ 7.30(4) and (6): Appointments are made by local governing bodies in December of odd-numbered years for a two-year term.

§ 7.30(2): Inspectors must be residents of the county in which the municipality where the official serves is located.

§ 7.30(4): The Republican and Democratic Party may submit lists of nominees to be appointed by November 30th of each odd-numbered year. Other individuals may serve as unaffiliated inspectors.

§ 7.33(2): Service as an election official is mandatory upon appointment during the full two-year term.

§ 7.33(3) and (4): Each state agency shall permit its employees to serve as an election official without loss of fringe benefits or seniority privileges, and without any other penalty. The leave of absence shall be for the entire 24-hour period of each election day in which the employee serves as an election official. The employee must provide the agency with at least 7 days' notice of application for leave, and the municipal clerk shall verify appointment upon request of an agency.

§ 7.33(5): The state employee must certify to the agency the amount of compensation received for serving as an election official. The agency shall deduct that amount from the employee's pay for scheduled working hours during election day.

Additional Notes Regarding Inspectors:

Serving without loss of fringe benefits means that the employee shall not be required to use a day of leave to serve as an election inspector.

The requirement to grant leave time applies only to Election Day, not periods of in-person absentee voting prior to Election Day.

In practice, some employees waive election inspector compensation so that agency compensation is not affected.

A collective bargaining agreement could override these provisions.

Additional Note Regarding Time Off For Voting:

All public and private employees are entitled to be absent from work while the polls are open for a period not to exceed 3 successive hours to vote. The employee shall notify the employer before Election Day of the intended absence, and the employer may designate the time of day for the absence. No penalty, other than time lost, may be imposed by the employer for the absence. *Wis. Stat. § 6.76.*

Wisconsin Elections Commissioners

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