



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5231/1
CMH:cjs

2021 SENATE RESOLUTION 11

November 5, 2021 - Introduced by Senators ROTH, LEMAHIEU, WANGGAARD, BRADLEY, DARLING, FELZKOWSKI, FEYEN, JACQUE, JAGLER, KAPENGA, NASS, PETROWSKI, STAFSHOLT, STROEBEL and TESTIN. Referred to Committee on Senate Organization.

1 **Relating to:** castigating the Wisconsin Elections Commission for ignoring statutory
2 requirements, for sidestepping the administrative rulemaking process, and for
3 not following both the letter and intent of state statute.

4 Whereas, the Legislature passed 2015 Wisconsin Act 118, which established
5 the Wisconsin Election Commission (WEC) to administer elections in the State of
6 Wisconsin; and under state statute, the commission “has the responsibility for the
7 administration of chs. 5 to 10 and 12 and other laws relating to elections and election
8 campaigns”; and

9 Whereas, the Wisconsin Elections Commission, under Wis. Stat. § 5.05 (1) (f),
10 may “Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose
11 of interpreting or implementing the laws regulating the conduct of elections or
12 election campaigns, other than laws regulating campaign financing, or ensuring
13 their proper administration”; and

1 Whereas, the Joint Legislative Audit Committee directed the nonpartisan
2 Legislative Audit Bureau to conduct an audit of the 2020 election ensuring
3 compliance with state and federal election laws; and

4 Whereas, the Legislative Audit Bureau released its findings and determined
5 that the Wisconsin Elections Commission did not comply with state statute,
6 administrative rules, and best practices, while performing actions that would have
7 required the rulemaking process, including all of the following:

8 • In regards to verifying municipal clerk training—“WEC’s staff did not comply
9 with administrative rules because they did not contact governing bodies if clerks did
10 not report having completed the required training for the two-year period that ended
11 in December 2019”;

12 • In regards to election official trainings—“WEC did not comply with statutes
13 by promulgating administrative rules prescribing the contents of training for special
14 voting deputies or election inspectors”;

15 • In regards to DOT data sharing agreements—“WEC did not comply with
16 statutes by obtaining from DOT the signatures of individuals who register online to
17 vote”;

18 • In regards to the use of municipal absentee drop boxes—“If WEC believes that
19 municipal clerks should be permitted to establish drop boxes, WEC’s staff should
20 work with WEC to promulgate administrative rules to permit clerks to establish
21 them”;

22 • In regards to keeping accurate data on Wisconsin’s voter rolls—“WEC did not
23 regularly obtain all types of data from ERIC”;

1 • In regards to adjournment while counting ballots—“Written guidance that
2 WEC’s staff provided to municipal clerks in October 2020 did not comply with
3 statutes;

4 • In regards to special voting deputies in nursing homes—“Written guidance
5 that WEC provided to municipal clerks in June 2020 did not comply with statutes”;
6 and

7 • In regards to relocation of polling places—“Written guidance that WEC
8 provided to municipal clerks in March 2020 did not comply with statutes”; and

9 Whereas, WEC also served as a conduit for connecting Wisconsin clerks with
10 the Center for Tech and Civic Life which poured more than \$6 million into local
11 election efforts, which bought access to the nonpartisan election administration
12 process such as those uncovered in Green Bay that provided outside actors access to
13 key information and administrative functions, drove out the sitting city clerk,
14 implemented partisan/political campaign turnout strategies, and contributed to the
15 undermined trust and faith in Wisconsin’s elections; and

16 Whereas, WEC is entrusted to administer Wisconsin’s elections laws and when
17 necessary utilize the emergency rulemaking process to respond to unique and
18 pressing circumstances, not ignore statutory requirements or emergency
19 rulemaking in exchange for expediency or personal policy preference; and

20 Whereas, Article IV, Section 1, of the Wisconsin Constitution prescribes that
21 “The legislative power shall be vested in a senate and assembly,” while state statute
22 prescribes the role of the Wisconsin Elections Commission as “the administration of
23 laws relating to elections and election campaigns”; now, therefore, be it

24 ***Resolved by the senate, That*** the Wisconsin Senate hereby castigates the
25 Wisconsin Elections Commission for ignoring statutory requirements, for

1 sidestepping the administrative rulemaking process, and for not following both the
2 letter and intent of state statute, actions that represent a move not to administer but
3 to unilaterally rewrite state law; and, be it further

4 ***Resolved, That*** the Wisconsin Senate directs WEC to comply with the
5 recommendations issued by the Legislative Audit Bureau, as well as the
6 requirements promulgated in state statute; and the Wisconsin Senate acknowledges
7 that should the need arise, WEC shall promulgate emergency rules or petition the
8 Legislature for a statutory change in extraordinary situations, rather than ignore
9 these requirements.

10 (END)