



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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October 6, 2021

(Via email file and paper service)

Ms. Sheila T. Reiff
Clerk of Supreme Court
110 East Main Street, Suite 215
Madison, WI 53701-1688

Re: *Johnson v. Wisconsin Elections Commission*, No. 2021AP1450,
Letter brief on timing

Dear Ms. Reiff:

In a September 22 order, the Court directed the parties and proposed intervenors to submit letters addressing when a new redistricting plan must be in place and what the key factors are in determining that date. As a proposed intervenor, the Governor provides the following response.

As this Court has recognized, reapportionment is of the utmost public importance. *State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 555–59, 126 N.W.2d 551 (1964). Those efforts must be “timely” in light of election deadlines. *Grove v. Emison*, 507 U.S. 25, 34 (1993). Thus, both the potential candidates and potential voters should know as soon as possible what districts they reside in to proceed through the election process without confusion or uncertainty.

Here, by statute, potential candidates’ period for circulating nomination papers begins on April 15, 2022, ahead of a partisan primary on August 9, 2022, and a general election on November 8, 2022. *See* Wis. Stat. § 8.15(1). Thus, prior to April 15, potential candidates and potential signatories to nomination papers must know what districts they reside in.

However, as the Wisconsin Elections Commission has indicated, the administration of the election has steps preceding the April 15 date. For example,

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Wis. Stat. § 10.06(1)(f) provides that by the “3rd Tuesday in March preceding a partisan primary and general election [i.e., March 15, 2022] the commission shall send a type A notice to each county clerk.” Relevant here, the Type A notice statute explains that “[i]f a redistricting since the most recent election makes the description of the incumbent’s office of limited usefulness, the notice may contain supplementary information describing the territory in which an election is to be held.” Wis. Stat. § 10.01(1)(a).

In all, the Elections Commission has explained that maps need to be in place by March 1, or very shortly thereafter, to properly administer the election. Defs.’ Answer at 2, *Hunter v. Bostelmann*, No. 21-cv-512 (W.D. Wis. Sept. 7, 2021), Dkt. 41. The Governor respects and defers to the Commission’s expertise on the details of election administration and states that delay past early March will compromise the orderly running of the upcoming election.

Sincerely,



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ADR:jrs

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