STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH 4

DISABILITY RIGHTS WISCONSIN, et al.,

Plaintiffs,

v. Case No. 24-CV-1141

WISCONSIN ELECTIONS COMMISSION, et al.,

Defendants.

DECLARATION OF MEAGAN WOLFE

I, MEAGAN WOLFE, pursuant to Wis. Stat. § 887.015(6), declare as follows:

1. I serve as the Administrator of the Wisconsin Elections Commission (the "Commission").

2. The Commission is a governmental agency responsible for administering and enforcing election laws in Wisconsin. As the Commission's Administrator, I serve as Wisconsin's chief elections officer and am generally responsible for managing the agency's programs, staff, and budget.

3. I make this declaration in response to Plaintiffs' motion for emergency declaratory relief and temporary injunction.

I. In-person voting is available and accessible.

4. Municipalities must have polling places that are accessible to all individuals with disabilities and that permit those individuals "to vote without the need for assistance and with the same degree of privacy that is accorded to nondisabled electors voting at the same polling place." Wis. Stat. § 5.25(4)(a).

5. All polling places must be equipped with at least one accessible voting machine that permits individuals with disabilities to vote privately and independently. The accessible voting machine allows voters who use a wheelchair to reach the controls and has an audio ballot-marking option for voters with visual impairments.

6. The following accessible voting systems are currently approved for use in Wisconsin:

> Automark. The Automark is a ballot-marking device that allows voters who are visually impaired or have dexterity problems to vote their paper ballot independently. This system has a touch screen that can be used to make ballot choices. It also has a built-in keypad and headphones for voters who need the audio-ballot functionality. After the voter finishes making their choices, the Automark marks the ballot and it is ejected and then deposited into the ballot box or optical-scan equipment. The Automark must be placed on an ADA-compliant table or stand so that a voter in a wheelchair can use a forward or side approach to access the machine. The Automark supports touchscreen voting, audio-ballot navigation using a tactile keypad, adjustable font size, and a high-contrast font option. It is used in the following counties: Ashland, Columbia, La Crosse, Lafayette, Lincoln, Manitowoc, Portage, and Wood.
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> AVC Edge. The AVC Edge is a touchscreen voting machine. Voters can use the touchscreen to vote and cast their ballot. Headphones and a tactile keypad are available for voters who require an audio ballot. The AVC Edge must be placed on an ADA-compliant table or stand so that a voter in a wheelchair can use a forward or side approach to access the machine. The AVC Edge supports

touchscreen voting, audio-ballot navigation using a tactile keypad, and adjustable screen height. It is used in Burnett County.

ExpressVote. The ExpressVote is a universal voting system designed for use by all voters. Voters can use the touchscreen to make their ballot choices. Headphones and a tactile keypad are available for voters who require an audio ballot. When a voter has finished their ballot, the machine will print their marked ballot card which can then be placed in the tabulator or ballot box. The ExpressVote must be placed on an ADA-compliant table or stand so that a voter in a wheelchair can use a forward or side approach to access the machine. The ExpressVote supports touchscreen voting, audio-ballot navigation using a tactile keypad, and accessories such as a paddle button or sip and puff device. It is used in the following counties: Adams, Barron, Bayfield, Brown, Calumet, Clark, Columbia, Dane, Dodge, Douglas, Eau Claire, Iowa, Jefferson, Kenosha, Manitowoc, Marathon, Menominee, Milwaukee, Outagamie, Pierce, Rock, Sauk, St. Croix, Taylor, and Waukesha.

ImageCast Evolution (ICE). The Dominion ImageCast Evolution (ICE) is a tabulator and a ballot-marking device. If the ICE at a polling place does not have the second screen specifically made for accessible voting sessions, the device can pause tabulation to serve as a ballot-marking device. The ICE has headphones and a tactile keypad for voters who use the audio-ballot functionality. After the voter finishes making their choices, the ballot is returned to the voter to review. Then the voter deposits their ballot into the optical-scan compartment of the machine. The ICE supports audio-ballot navigation using a tactile keypad, adjustable font size, a high-contrast font option, and accessories such as a paddle button or sip and puff device. It is used in the following counties: Buffalo, Burnett, Crawford, Door, Dunn, Florence, Fond Du Lac, Grant, Green, Green Lake, Iowa, Iron, Jackson, Juneau, Kewaunee, Lafayette, Langlade, Marinette, Marquette, Monroe, Oconto, Oneida, Ozaukee, Polk, Price, Racine, Richland, Rusk, Sawyer, Shawano, Trempealeau, Vernon, Vilas, Walworth, Washburn, Washington, Waupaca, Waushara, and Winnebago.

ImageCast X (ICX). The Dominion ImageCast X (ICX) is direct-recording electronic-voting equipment. The voter uses a touchscreen to select their ballot choices and has a chance to review a voter-verifiable paper-audit trail (VVPT) confirming their choices prior to casting the ballot. The ICX has headphones and a tactile keypad for voters who use the audio-ballot functionality. The ICX supports touchscreen voting, audio-ballot navigation using a tactile keypad, adjustable font size, and a high-contrast font option. It is used in the following counties: Buffalo, Crawford, Forest, Grant, Iron, Jackson, Juneau, Lafayette, Monroe, Oconto, Oneida, Pepin, Polk, Price, Richland, Sawyer, Shawano, Washburn, and Waupaca.

ClearAccess. ClearAccess is direct-recording electronic-voting equipment. The voter may use a touchscreen or keypad to make their ballot choices and has a chance to review a voter-verifiable paper-audit trail (VVPT) confirming their choices prior to casting the ballot. The ClearAccess has headphones and a tactile keypad for voters who use the audio-ballot functionality. The ClearAccess supports touchscreen voting and audio-ballot navigation using a tactile keypad. It is used in Chippewa and Sheboygan counties.

7. In addition to the standard requirements, municipal clerks are also required to make reasonable efforts to comply with requests for voting accommodations made by individuals with disabilities. *See* Wis. Stat. §§ 5.36, 7.15(14).

8. For example, several Wisconsin counties produce braille ballots for voters.

II. Absentee voting is available and accessible.

9. Any qualified, registered voter can vote absentee in Wisconsin. *See* Wis. Stat. § 6.85(1).

10. Voters can request an absentee ballot by email using the MyVote website or by asking their municipal clerk in writing, by email, or in person using a form application or a statement containing all the information required on the form. *See* Wis. Stat. § 6.86(1). Military and overseas voters may also use the Federal Postcard Application, which is a combination registration form and absentee-ballot request. *See* Wis. Stat. § 6.22(2)(c).

11. When a voter requests an absentee ballot, the municipal clerk must mail the ballot to the voter within one business day of the request. *See* Wis. Stat. § 7.15(1)(cm).

12. The absentee voter must complete her ballot in the presence of a witness and seal the ballot in the envelope provided by the clerk. The voter and witness must sign the certificates printed on the envelope. *See* Wis. Stat. § 6.87(4).

13. If the absentee voter is unable to mark her ballot due to disability, she may select someone to assist in marking the ballot, other than the voter's employer, agent of that employer, or officer or agent of the voter's union. *See* Wis. Stat. § 6.87(5).

14. The envelope must then "be mailed by the elector, or delivered in person, to the municipal clerk." *See* Wis. Stat. § 6.87(4)(b)1. Voters who need assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability may receive assistance from a person of the voter's choice, other than the voter's employer, agent of that employer, or officer or agent of the voter's union.

III. Clerks can send a ballot electronically to military and overseas voters.

15. Municipal clerks can send a ballot electronically to military and overseas voters upon request. *See* Wis. Stat. §§ 6.22(2)(e), 6.87(3)(d).

16. These voters self-certify that they are in the military or overseas and therefore eligible to receive an electronic ballot.

17. Military and overseas voters can submit a request to receive a ballot electronically by email on the MyVote website by choosing to receive the ballot by email or fax from their municipal clerk. Military and overseas voters can also request to receive a ballot electronically by submitting an email directly to their municipal clerk that includes the voter's name, registration address, the election for which they seek a ballot, and an email address or fax number where the ballot should be sent.

18. To transmit a ballot to a military or overseas voter electronically, the municipal clerk must initial and number the pages on the ballot and complete the absentee-certificate envelope. Then, the clerk must scan and electronically transmit (by fax or email) each side of the ballot and the face of the absentee-ballot-certificate envelope, along with instructions.

19. Military and overseas voters who received their ballot electronically, can print, complete, and mail their ballot to their municipal clerk. *See* Wis. Stat. § 6.87(3)(d). They can also mark their ballot electronically before printing it if they have the appropriate software. This software is not considered a ballot-marking device, meaning the vote is not electronically recorded. No voter, including military and overseas voters, can return a voted ballot to the municipal clerk electronically.

20. Wisconsin law does not allow absentee ballots to be returned electronically. *See* Wis. Stat. § 6.87(3)(d).

IV. Wisconsin's election administration is decentralized.

21. In Wisconsin, while the Commission is responsible for overseeing elections, elections are conducted by 1,923 county and municipal clerks, creating one of the most decentralized election systems in the nation. Local clerks are responsible for numerous tasks, including sending and receiving absentee ballots.

22. The Commission serves as a resource for local clerks by providing them with education, training, and support materials, but ultimately local clerks are responsible for implementing any changes in policy or law in their communities.

23. Wisconsin's partisan primary election is on August 13, 2024, and the general election is on November 5, 2024. Municipal clerks must begin sending absentee ballots to voters upon request 47 days before each election—June 27, 2024, for the primary and September 19, 2024, for the general election.

24. Implementing changes to the rules for these elections would be complicated due to Wisconsin's decentralized election system. Approximately two-thirds of the local clerks responsible for conducting elections are employed part-time. Communicating significant changes to the clerks, making

necessary modifications to computer applications, and ensuring consistent implementation across the state would pose a significant challenge under a compressed timeline.

V. Expanding electronic balloting to other voters is prohibited by Wisconsin law and would be virtually impossible to implement ahead of the upcoming elections.

25. Wisconsin law does not currently allow clerks to send absentee ballots electronically to anyone other than military and overseas voters. *See* Wis. Stat. § 6.87(3)(a).

26. If the court were to enjoin that law to allow clerks to send absentee ballots to disabled voters, it would be virtually impossible to implement such a change ahead of the upcoming elections in August and November 2024.

27. Technical changes to election systems carry many risks and are not made lightly. The time required to complete any one project is influenced by the software-development process, by the Wisconsin Department of Administration's IT infrastructure policies, and the limited staff available to perform the work. The typical development cycle for even the most minor change generally requires two to three months of work under ideal conditions, while major changes typically require eight to twelve months to complete.

28. The changes proposed by Plaintiffs would interface with—and thus put at risk—many other technical components, including absentee-ballot-request workflows, ballot-tracking workflows, the voter-registration database,

the MyVote Wisconsin website, the elections-geospatial-information system (for addresses and districts), municipal-election plans (for ballot distribution and counting), and potentially other processes not yet identified. A flaw anywhere in the new process could cause an outage in any (or all) of the other components.

29. Election-system technical changes of any size are implemented through a well-defined software-development process. Software-development processes exist to ensure that the final product consistently performs the desired functions without causing disruptions to other workflows. Put simply: it is easy to make buggy software that performs poorly and causes frustrating problems for users. A deliberate software-development process ensures that risks are minimized.

30. The software-development process follows 6 steps: (1) planning, (2) analysis, (3) design/development, (4) testing, (5) implementation, and (6) maintenance.

31. The first two steps are particularly relevant, because it is necessary to complete these steps to develop an accurate estimate of the situation and the time required for development. These initial steps require stakeholders to identify requirements, understand the business needs to be met, and—critically—to identify necessary workflows that will interface

with other components within the statewide voter-registration and elections-administration system.

32. While all aspects of the software-development process influence the time to completion, step four (testing), is particularly variable because a project must pass the testing milestones before advancing to deployment. The testing process ensures that all requirements are met and that there are no bugs or issues with the software. Testing is performed to the standards established at the start of the development process and never to a timeline. A simple change may complete testing in a matter of days, while complex workflows often require months to test and debug properly.

33. The time required to implement technical changes is also influenced by factors outside of the Commission's control. Election-related technical systems are hosted, maintained, and secured in Wisconsin Department of Administration, Division of Enterprise Technology (DET) facilities and interface with other state infrastructure. Thus, all changes to election systems require the support and assistance of DET. Moreover, the Commission must adhere to the DET Change Management Policy to avoid disruption and minimize risks to state IT infrastructure.

34. An essential part of the DET Change Management Policy is the use of change-freeze periods, which prohibit modification of IT infrastructure during defined timeframes. These periods exist to ensure: (1) availability of

DET technical staff to support a change; (2) a stable environment to meet customer objectives; and (3) predictable schedules to facilitate personnel management. In calendar year 2024, change-freeze periods exist around all legal holidays and for the 30 days ahead of all scheduled elections. For this reason, most elections software-development occurs in odd-numbered years, when there are no fall elections.

35. Finally, the Commission has a very small software-development team of just four people, each with their own areas of expertise, and all dedicated primarily to *maintaining* existing systems to ensure availability to Wisconsin voters, municipal clerk staff, and county clerk staff. The small size of the team, and the fact that team members are not wholly interchangeable, further limits the amount of new development that may be completed in any given timeframe.

36. If the Commission were tasked with making electronic ballots available to disabled voters through the MyVote website, the Commission would have to shepherd this change through each of the six steps of the software-development process. Among other things, the Commission staff would need to test prototypes with common screen readers and other assistive tools to ensure compatibility. The Commission would also have to decide whether and how to verify that a voter who claims a disability is, in fact, disabled.

37. Making electronic ballots available to disabled voters through MyVote would normally take approximately three months to complete. But in this case, it would even take longer because of the aforementioned change-freeze periods that limit changes to IT infrastructure 30 days prior to the upcoming primary and general elections.

38. Electronic ballots could also be made available to disabled voters by municipal clerks scanning and emailing ballots to these voters. This too would take approximately three months to implement: The Commission would first have to develop and approve a series of training materials, which would then need to be provided to the over 3,000 local clerks and staff in 1,851 municipalities. Each of these clerks would need time to engage and understand the Commission's training materials. This wouldn't happen overnight: These individuals typically have dozens of major responsibilities outside elections and have only limited time to devote to elections matters. Hundreds of them are part-time, and many work only a few hours each week. As a result, the Commission normally provides many training opportunities well ahead of any change—ideally a year or more.

39. State interests, which include promoting election security and promoting uniformity and fair administration of elections, counsel limiting electronic balloting to military and overseas voters.

40. The security concerns with expanding electronic ballots through the MyVote website before the upcoming primary and general elections include having to rush the six-step software-development process. A limited time to test the new software increases the likelihood that it includes bugs or vulnerabilities that could frustrate voters and compromise the upcoming elections.

41. There are also security concerns with expanding electronic ballots through clerks sending emails to disabled voters. Not all clerks have government-issued email addresses, which can make it difficult for voters to verify that an email that purports to contain an official ballot is genuine. Email inboxes can also be hacked and email addresses mimicked in ways that their physical analogues cannot be.

42. Expanding electronic ballots through clerks sending emails to disabled voters also undermines uniformity and fair administration of elections because local election officials would have discretion in determining who is eligible for the ballot, what type of ballot is sent, how and when it is transmitted, and what security measures are taken.

43. These security and uniformity concerns are part of why significant and sustained trainings are typically provided to clerks by the Commission ahead of changes to election processes like the ones Plaintiffs are requesting in this case.

I declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Signed on the 7 day of June 2024 in Madison, Wisconsin.

Meagan Wolfe

MEAGAN WOLFE