



WISCONSIN STATE SENATE

P. O. Box 7882 Madison, WI 53707-7882

Subpoena

Maribeth Witzel-Behl
Madison City Clerk
210 Martin Luther King Jr Blvd
Room 103, City-County Building
Madison, WI 53703

The Committee on Elections, Election Process Reform and Ethics of the Wisconsin Senate is conducting an investigation, as described in the motions adopted by the Committee on Senate Organization (attached as Schedule C), pursuant to the authority of the Wisconsin Senate, the Rules of the Senate, and Wis. Stat. §§ 13.26 through 13.36.

The Committee on Elections, Election Process Reform and Ethics of the Wisconsin Senate commands you to provide the items identified in the Description of Items to Produce (attached as Schedule A).

Place of production:

The Office of the Senate Sergeant at Arms, Tom Engels
Room B35 South, State Capitol
Madison, WI 53703-7882

Date: Wednesday, November 24th, 2021 Time: 12:00pm

In the alternative, you can make the documents available to the Legislative Audit Bureau for in-person, physical inspection as provided in Schedule B, Alternative Instructions for Production.

Failure to comply with the requirements of this subpoena may subject you to summary arrest, imprisonment, and criminal prosecution according to Wis. Stat. §§ 13.26 and 13.27.

Witness my hand at the city of Madison, this November 10 day of the year 2021.



Senator Chris Kapenga
Senate President of the State of Wisconsin



Attest:

Michael J. Queensland
Senate Chief Clerk of the State of Wisconsin

Order for Service and Return

The Senate Sergeant at Arms, or his designee, shall select a commercial process server to serve this subpoena and its attachments forthwith, and make return to

Senator Kathleen Bernier, Chairwoman
The Wisconsin Senate Committee on Elections, Election Process Reform and Ethics
Room 319 South
State Capitol
PO Box 7882
Madison, WI 53707

Schedule A

Description of Items to Produce

The subpoena requires You to produce all of the items described below

- 1) All physical absentee ballot certificates returned to the City of Madison for the November 2020 General Election. From these certificates the Legislative Audit Bureau will select a sample for its review.
- 2) The results of the statutorily required tests conducted by the clerk's office on all electronic voting equipment used by the City of Madison in the November 2020 General Election, including the predetermined paper ballots used in the tests.

Schedule B

Alternative Instructions for Production

The Madison City Clerk must contact the Legislative Audit Bureau no later than November 12, 2021 at 5:00pm to arrange the date(s) when Audit Bureau employees will physically handle and review the requested records, including by electronically recording selected information in Audit Bureau laptops. This review of the records will occur in the presence of City of Madison Clerk staff at a City of Madison location where the documents in Schedule A are currently maintained, so long as that location is large enough to accommodate the Audit Bureau employees and is conducive to completing the Bureau's statutorily required work. This agreed upon date will commence no later than November 24, 2021. If the location is not acceptable to the Audit Bureau, the Bureau will select a location that is acceptable and maintains the integrity of the requested records. The Audit Bureau will review the records during normal business hours of the City of Madison.

Contact Information:

Joe Chrisman
Wisconsin State Auditor
608.266.2818

Schedule C

Authorizing Resolution



DEVIN LEMAHIEU

SENATE MAJORITY LEADER

TO: Members of the Committee on Senate Organization

FROM: Senator Devin LeMahieu, Chair

DATE: October 27, 2021

SUBJECT: Ballot 21-026 ~ Access to Election Documents

The Committee on Senate Organization, by a vote of Ayes, 3 (LeMahieu, Kapenga, and Feyen); Noes, 2 (Bewley and Ringhand); and Not Voting, 0; has approved the following motion:

[MOTION 1] *It is moved that the Committee on Senate Organization makes the following findings:*

- *On February 11, 2021, the Joint Legislative Audit Committee directed the Legislative Audit Bureau (LAB) to evaluate elections administration issues, including:*
 - *efforts by the Wisconsin Elections Commission (WEC) to comply with election laws, including by working with clerks to ensure voter registration records include only eligible voters, and by providing training and guidance to clerks;*
 - *efforts by clerks to comply with election laws, including by administering elections, processing absentee ballots, and performing recount responsibilities, as well as the observations and concerns of clerks regarding elections administration;*
 - *the use of electronic voting equipment, including the methodology and results of WEC's most-recent statutorily required post-election audit and the actions taken as a result of this audit; and*
 - *General Election-related complaints filed with WEC and clerks, as well as how these complaints were addressed.*
- *The LAB issued an audit report on Elections Administration (report 21-19) on October 22, 2021, making 30 recommendations for improvements and including 18 issues for legislative consideration in this report.*
- *The City of Madison clerk prohibited the LAB from physically handling election records.*
- *The LAB's access to, and examination of, election records assists lawmakers to understand the procedures followed by clerks in practice.*
- *Obtaining complete information relating to the elections-related procedures followed by clerks throughout Wisconsin is essential for the LAB to perform its statutorily required duty to assist the Legislature to perform its lawmaking function.*

[MOTION 2] *It is moved that the Committee on Senate Organization appoints and directs the Committee on Elections, Election Process Reform and Ethics to do the following:*

- *Investigate the failure by local governments to provide requested election documents to the Legislative Audit Bureau (LAB).*
- *Assist the LAB in obtaining access to election documents from the City of Madison that were not provided to the LAB during its audit of election administration issues in the November 2020 elections.*
- *Require the attendance of local election officials before the committee to answer questions relating to the reasons that the City of Madison refused to provide election documents to the LAB.*

Please feel free to contact my office if you have any questions.

DL:jb