

# State of Wisconsin \ Elections Board

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**DATE:** July 19, 2005

**TO:** Robert J. Marchant, Senate Chief Clerk  
Patrick Fuller, Assembly Chief Clerk

**FROM:** Kevin J. Kennedy, Executive Director *KJK*  
State Elections Board

**SUBJECT:** Report on Impediments to Voting Faced by Elderly and Disabled Individuals

Pursuant to the requirements of S. 5.25(4)(d), Stats., enclosed is the State Elections Board report on impediments to voting faced by elderly and disabled individuals. This report is submitted for distribution to the appropriate standing committees in the manner provided under S. 13.172(3), Stats.

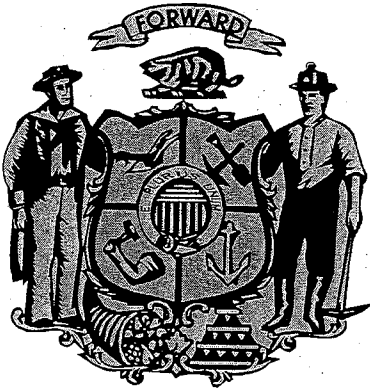
If you have any questions regarding the submittal of this report, please contact me directly at 608-266-8087 or [kevin.kennedy@seb.state.wi.us](mailto:kevin.kennedy@seb.state.wi.us).

Enclosure

cc: Senator Joseph Leibham, Chair  
Special Committee on Election Law Review  
✓ Robert J. Conlin, Senior Staff Attorney  
Legislative Council

# Impediments Faced by Elderly Voters and Voters with Disabilities

## Wisconsin State Elections Board



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## EXECUTIVE SUMMARY

As election officials we are given the monumental responsibility to ensure that elections are conducted in a fair and impartial manner that engenders confidence in the integrity of the process. A key element in developing and maintaining that public trust is to make the election process accessible to all participants. This requires working with the entities that provide polling places to eliminate physical barriers. It also means acquiring voting equipment that enables all citizens to cast an independent and secret ballot in a dignified manner, and providing information that enables all citizens to fully participate in the election process.

The purpose of this report by the State Elections Board is to describe impediments to voting encountered by elderly voters and voters with disabilities who seek to participate in elections conducted in the State of Wisconsin. The direction for this report comes from Section 5.25(4)(d), Wisconsin Statutes. The concept for this report originated as one of several recommendations made by the Legislative Council's Special Committee to Review the Election Process. The Special Committee was established in 1998. This recommendation, along with several other election initiatives recommended by the Special Committee and the State Elections Board, was enacted into law by 1999 Wisconsin Act 182.

The State Elections Board is required to consult with appropriate advocacy groups representing the elderly and disabled populations in the preparation of this report. State Elections Board staff meets monthly with Alicia Sidman from Wisconsin Coalition for Advocacy, Howard Seifert of the Wisconsin Council on Developmental Disabilities, and Maureen Ryan of the Wisconsin Coalition of Independent Living Centers to identify issues of concern with the disability community and assist in evaluating polling place accessibility. Their input has been invaluable in the preparation of this report.

There was no report prepared for the 2001-2002 reporting period since the State Elections Board took no action in anticipation of the forthcoming changes mandated by the Help America Vote Act of 2002 (HAVA). The current reporting period, 2003-2004, saw several changes in election law at both the federal and state levels. The passage of HAVA was the first federal legislation to address election administration and impacts voter registration procedures, voting systems, and voting procedures nationwide. HAVA requires that the election equipment used at each polling place permits all individuals to vote privately and independently and will enable some voters with disabilities to vote without assistance for the first time.

To accurately assess polling place accessibility in Wisconsin, the State Elections Board in coordination with representatives of disability advocacy groups, developed a comprehensive polling place survey. The Polling Place Accessibility Survey, first distributed in February of 2004 to all 1,850 Wisconsin municipalities, covers access from the parking lot, to the voting area, to the exit. At the time of preparation of this report over 1,750 municipalities covering 2,453 polling places had responded to the State Elections Board's Survey. Of those, 1,492 or 61% of polling places were assessed to be fully accessible and 961 or 39% were determined to

be inaccessible. Of those determined to be inaccessible, 560 are inaccessible due to High level impediments, 807 due to Medium level impediments, and 55 due to Low level impediments. (The sum of these numbers is greater than the total inaccessible as a polling place may have more than one impediment.)

**T**he State Elections Board will continue to work with the State's municipal clerks to achieve a 100% return on the Polling Place Accessibility Survey to assure Wisconsin's voters that all polling places will be physically accessible by January 1, 2006. In addition, every polling place in Wisconsin will be equipped with a fully accessible voting system by the same time. These improvements, facilitated by changes in law, federal funding, and increased education, will move the State towards eliminating all impediments faced by elderly and disabled voters.

**Kevin J. Kennedy**  
Executive Director  
Wisconsin State Elections Board

## REVIEW OF THE REPORTING PERIOD

### Legal Environment

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For years the only provision Wisconsin's election law made for elderly and disabled voters was to permit them to cast a ballot at the door of the polling place and have the ballot taken inside, where an announcement was made that election inspectors had a ballot from an elector who could not enter the polling place without assistance. The voter's name was announced and those present had the opportunity to object to the receipt of the ballot. The law has evolved, but impediments to voting encountered by elderly and disabled electors can be just as daunting and humiliating as the procedure described.

In 1975 Wisconsin's election code was amended to provide that whenever election inspectors do not receive ballots at the door, the polling place must have at least one entrance accessible to persons in wheelchairs. **Chapter 275, Laws of 1975**. That same legislation recognized physical disability as a basis for registering to vote by mail and voting absentee. It permitted disabled voters to request that an absentee ballot automatically be sent to them for each election.

**1985 Wisconsin Act 304** required all polling places to be accessible to persons in wheelchairs and **1989 Wisconsin Act 182** required each polling place to be accessible to elderly voters and voters with disabilities effective January 1, 1992. The State Elections Board was given the authority to exempt a polling place from this requirement in accordance with guidelines developed by administrative rule. Municipal clerks were permitted to reassign an elector to another polling place within the municipality in order to permit elderly voters and voters with disabilities to utilize an accessible polling place. Section 5.25 (4) (c), (5) (b), Wis. Stats.

In 1991 the Legislature directed that any municipal clerk that plans to use an inaccessible polling place file a written report with the State Elections Board describing the municipality's plans to make the polling place accessible. **1991 Wisconsin Act 39**, Section 9118 (1g).

Under the conditions provided by the administrative rules and legislation passed in the 1980s and 1990s only 3% of the polling places in Wisconsin were determined to be not accessible. However recent changes in both federal and state election law have expanded the legal definition of polling place accessibility.

#### **2001 Wisconsin Act 16**

- ✓ Required the State Elections Board to develop a training and certification program for chief election inspectors.

## Help America Vote Act of 2002

- ✓ Requires that the voting system used at each polling place permits all individuals to vote privately and independently.

## 2003 Wisconsin Act 265

- ✓ Incorporates provisions of HAVA into State Law.
- ✓ Permits an individual with a disability to notify a municipal clerk that he or she intends to vote at a polling place and to request a specific accommodation that will facilitate his or her voting.
- ✓ Requires the municipal clerk to make reasonable efforts to comply with requests for voting accommodations made by individuals with disabilities whenever feasible.

## Polling Place Accessibility Survey

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Before recent changes in election law, the information gathered by the State Elections Board showed a significant improvement in polling place accessibility following the enactment of the Voting Accessibility for the Elderly and Handicapped Act of 1984. The number of inaccessible polling places has been reduced from more than 500 at the November 1986 general election to 91 following the November 1998 general election. In 2001 local election officials described approximately 3% of the state's polling places as inaccessible.

Since passage of the Help America Vote Act and subsequent Wisconsin legislation, the legal definition of polling place accessibility changed to provide all voters the opportunity to vote privately and independently at the polling place and to compel the municipal clerk to make reasonable accommodations for voters with disabilities. Changes have necessitated a new method of evaluating polling place accessibility. To accurately assess the polling places in Wisconsin, the State Elections Board in coordination with representatives of disability advocacy groups, developed a comprehensive polling place survey<sup>1</sup>. The Polling Place Accessibility Survey, first distributed in February of 2004 to all 1,850 Wisconsin municipalities, covers access from the parking lot, to the voting area, to the exit.

The State Elections Board is in the process of collecting and analyzing information from the municipal clerks. Although not every municipality has yet reported, the Board is working with all municipal clerks to ensure complete figures. At the time of preparing of this report over 1,750 municipalities covering 2,453 polling places had responded to the survey. Of those 1,492 or 61% of polling places were assessed to be fully accessible and 961 or 39% were determined to be inaccessible.

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<sup>1</sup> A complete copy of the Survey is included as Appendix A.

Due to the length and detail of the survey there are numerous reasons polling places are determined to be inaccessible. Of the 44 questions on the Polling Place Accessibility Survey a single "No" answer will render a polling place inaccessible. In order to provide assistance to clerks in evaluating the results of the survey the questions have been assigned into three categories of accessibility: High, Medium, and Low. The categories are defined as follows:

- ✓ **High:** a critical barrier where the corrective measures to achieve compliance involves high cost construction on a building or relocating the polling place to another facility.
- ✓ **Medium:** non-compliance to the minimum accessibility standards that may be addressed through improved signage, temporary or permanent ramps, temporary or permanent door buzzers, electronic door openers, or other moderate cost improvements.
- ✓ **Low:** comparatively easy fixes to accessibility many of which can be implemented on or just before Election Day at low or minimal cost.

There are 14 High level (4 pertaining to an elevator), 28 Medium level, and 2 Low level questions. Of the 961 or 39% of polling places determined to be inaccessible, 560 are due to High level impediments, 807 are due to Medium level impediments, and 55 or are due to Low level impediments.<sup>ii</sup>

### Summary of Survey Results<sup>iii</sup>

**Polling Places Responding**                      **2,453**  
     Inaccessible Polling Places            961 - 39%  
     Accessible Polling Places            1,492 - 61%

Key: 

High Level	Medium Level	Low Level
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#### **Section 1: Parking**

    Inaccessible Polling Places    591 - 24%

Are there permanent or temporary off-street parking spaces designated as accessible parking?	Is there at least one van accessible space, defined as at least 8 feet wide with an 8 foot adjacent aisle?	Are any other accessible spaces at least 12 feet wide or standard size with an accessible aisle?
No                      186    8%	no                      199    8%	no                      213    9%

<sup>ii</sup> The sum of these numbers is greater than the total inaccessible as a polling place may have more than one impediment.

<sup>iii</sup> Totals do not represent 100% of responses; many surveys were returned incomplete.

