State of Wisconsin
Before the Wisconsin Elections Commission

The Verified Complaint of

Wisconsin Voter Allliance
E 3530 Townline Road
Kewaunee, WI 54216

Ron Heuer
E 3530 Townline Road
Kewaunee, WI 54216

Against Complaint Respondents

Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Commissioner Don M. Millis
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Commissioner Robert F. Spindell, Jr.
Wisconsin Elections Commission
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Commissioner Marge Bostelmann
Wisconsin Elections Commission
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Commissioner Ann S. Jacobs
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Commissioner Mark L. Thomsen
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Commissioner Julie M. Glancey
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
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Meagan Wolfe
Administrator
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

I, as one of the above-named complainants, based on personal knowledge or upon information and belief, believe that probable cause exists for violations of HAVA.

Introduction

This complaint is made under Wisconsin Statutes § 5.061, including a claim, under the federal constitution's Election Clause, that Wisconsin Statutes § 6.36(1)(ae), which authorizes "the transmission of information and data related to the registration of electors in this state [by the Wisconsin Elections Commission (WEC)] to the Electronic Registration Information Center, Inc., [ERIC] for processing and sharing with other member states and governmental units," violates the Help America Vote Act (HAVA), 52 U.S. Code § 21083 (Pub. L. 107–252, title III, § 303, Oct. 29, 2002, 116 Stat. 1708). Specifically, Wisconsin's

agreements with ERIC, required by Wisconsin Statutes § 6.36(1)(ae), involve legally unauthorized data-sharing and database uses by ERIC under HAVA.

Parties

1. Complainant Wisconsin Voter Alliance (WVA) is a Wisconsin non-stock corporation dedicated to election integrity in Wisconsin.

2. Complainant Ron Heuer is President of WVA.

3. Respondent Wisconsin Elections Commission (WEC) is a commission established by Wisconsin state law.

4. Respondent Commissioner Don M. Millis is a member of WEC. Mr. Millis is also the chair of WEC.

5. Respondent Commissioner Robert F. Spindell, Jr is a member of WEC.

6. Respondent Commissioner Marge Bostelmann is a member of WEC.

7. Respondent Commissioner Ann S. Jacobs is a member of WEC.

8. Respondent Commissioner Mark L. Thomsen is a member of WEC.

9. Respondent Commissioner Julie M. Glancey is a member of WEC.

10. Respondent Meagan Wolfe is Administrator of WEC ("Administrator").

Jurisdiction

11. The Wisconsin Elections Commission has jurisdiction over this complaint under federal law and Wisconsin law. 52 U.S.C. §21112 (a)(2) and Wis. Stat. § 5.061.

Request for Hearing on Record

12. Pursuant to 52 U.S.C. § 21112 (a)(2)(E), the above-named complainants request a hearing on the record.

HAVA Violation

Wisconsin Statutes § 6.36(1)(ae) violates HAVA

13. The federal constitutional Elections Clause states:

> Article I, Section 4, Clause 1: The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, sec. 4, cl. 1.

14. Pursuant to the Elections Clause, Congress enacted HAVA to "make …Regulations" for statewide voter registration system databases. *Id.*

15. The complainants claim that HAVA requires respondent WEC and its officials, by itself and by themselves, respectively, to maintain and implement the statewide voter registration system database called WisVote.

16. As every Wisconsinite knows, some things must be done by oneself if at all possible, even if done badly, like eating, dressing and going to the bathroom.

17. Similarly, HAVA requires WEC to maintain WisVote by itself, even if done badly.

18. Under HAVA, maintaining the statewide voter registration system database is seen as such a core governmental purpose that it cannot be delegated to any other organization like ERIC.

19. The text of 52 U.S. Code § 21083 (Pub. L. 107–252, title III, § 303, Oct. 29, 2002, 116 Stat. 1708) require states and their election officials to maintain and implement statewide voter registration lists.

20. An accurate quote of § 21083 (a)(1)(A) is that the state's "computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State."

21. An accurate quote of § 21083 (a)(1)(A) is that "each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the 'computerized list')…"

22. An accurate quote of § 21083 (a)(1)(A)(i), is that "[t]he computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State."

23. An accurate quote of § 21083 (a)(1)(A)(iv) is that "[t]he computerized list shall be coordinated with other agency databases within the State."

24. An accurate quote of § 21083 (a)(1)(A)(v) is that "[a]ny election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list."

25. An accurate quote of § 21083 (a)(2)(A) is "(2) COMPUTERIZED LIST MAINTENANCE (A)In general The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis …"

26. An accurate quote § 21083 (a)(2)(A)(ii)(I) is "the State shall coordinate the computerized list with State agency records on felony status."

27. An accurate quote of § 21083 (a)(2)(A)(ii)(II) is that "the State shall coordinate the computerized list with State agency records on death."

28. An accurate quote of § 21083 (a)(2)(A)(ii)(II) is that the "states shall remove the names of ineligible voters from the computerized list in accordance with State law."

29. An accurate quote of § 21083 (a)(3) is that "(3)TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST. The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section."

30. An accurate quote of § 21083 (a)(5)(B) is "(B)Requirements for State officials (i)Sharing information in databases The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. (ii)Agreements with Commissioner of Social Security The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 405(r)(8) [1] of title 42 (as added by subparagraph (C))."

31. Based on these accurate quotes of the text of § 21083, HAVA requires states and their election officials to maintain and implement statewide voter registration lists, exclusively without the help of third parties like ERIC.

32. And, HAVA does not legally authorize data-base sharing and data-base uses by non-profits like ERIC.

33. Instead of complying with HAVA, Wisconsin Statutes § 6.36(1)(ae) authorizes "the transmission of information and data related to the registration of electors in this state [by the Wisconsin Elections Commission] to the Electronic Registration Information Center, Inc., for processing and sharing with other member states and governmental units."

34. Wisconsin Statutes § 6.36(1)(ae) is accurately quoted as:

> **(ae) 1. The chief election officer shall enter into a membership agreement with Electronic Registration Information Center, Inc., for the purpose of maintaining the official registration list under this section.** Prior to entering into an agreement under this subdivision, the chief election officer shall ensure that the agreement satisfies all of the following conditions:
> **a.** It safeguards the confidentiality of information or data in the registration list that may be subject to transfer under the agreement and to which access is restricted under par. (b) 1. a.
> **b.** It prohibits the sale or distribution of the information or data in the registration list to a 3rd-party vendor and it prohibits any other action not associated with administration of or compliance with the agreement.
> **c.** It does not affect the exemption for this state under the national voter registration act.
> **d.** It allows the state to make contact with electors by electronic mail, whenever possible.
> **2. If the chief election officer enters into an agreement under subd. 1., the chief election officer shall comply with the terms of the agreement, including the transmission of information and data related to the registration of electors in this state to the Electronic Registration Information Center, Inc., for processing and sharing with other member states and governmental units.**

Emphasis added.

35. Pursuant to Wisconsin Statutes § 6.36(1)(ae), WEC has contracted with ERIC to maintain and implement WisVote.

36. Under Wisconsin Statutes § 6.36(1)(ae), WEC's agreement with ERIC requires WEC's "transmission of information and data related to the registration of electors in this state to the Electronic Registration Information Center, Inc., for processing and sharing with other member states and governmental units."

37. Under Wisconsin Statutes § 6.36(1)(ae), WEC currently has a voter-data-sharing and voter-data-base use agreement with ERIC.

38. For example, paragraph 2 of the current ERIC agreement requires WEC to transmit all voter data to ERIC and requires WEC to transmit all licensing or identification records from the motor vehicle records data base to ERIC.

39. Under the current ERIC agreement with WEC, WEC periodically transmits all voter data to ERIC and periodically transmits all licensing or identification records from the motor vehicle records data base to ERIC.

40. In return, ERIC sends voter record updates to WEC.

41. Under § 21083, Congress has limited WEC's database sharing and uses to the state's motor vehicle authority and to the Commissioner of Social Security.

42. No database sharing with ERIC nor database uses by ERIC are legally authorized.

43. Since ERIC is not legally authorized under § 21083 for data base sharing nor database uses, the WEC contract with ERIC authorizing database sharing and database uses by ERIC violates HAVA.

44. The complainants seek an administrative determination, declaration or declaratory judgment that Wisconsin Statutes § 6.36(1)(ae) and WEC's agreements with ERIC permitting ERIC database sharing and database uses are violations of HAVA.

Prayer for Relief

The complainants make the following prayer for relief. The complainants seek an administrative determination, declaration or declaratory judgment as follows: Wisconsin Statutes § 6.36(1)(ae) and WEC's agreements with ERIC permitting ERIC database sharing and database uses are violations of HAVA.

Dated: September 8, 2022

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VERIFICATION

I, Ron Heuer, President of Wisconsin Voter Alliance, complainant, state that the above allegations are true and correct based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Dated: _____, 2022 _____

STATE OF WISCONSIN)
)ss.
COUNTY OF _____)

Signed and sworn before me this _____, 2022, by _____.

(Seal, if any)

_____
Signature of Notorial Officer

_____
Title (and Rank)

My Commission expires:_____

VERIFICATION

I, Ron Heuer, complainant, state that the above allegations are true and correct based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Dated: _____, 2022

_____
Ron Heuer

STATE OF WISCONSIN)
)ss.
COUNTY OF _____)

Signed and sworn before me this _____, 2022, by _____.

(Seal, if any)

_____
Signature of Notorial Officer

_____
Title (and Rank)

My Commission expires:_____