

Fiscal Estimate Narratives

ELEC 5/21/2019

LRB Number	19-2330/1	Introduction Number	SB-159	Estimate Type	Original
Description automatic voter registration, deceptive election practices, voter intimidation and suppression, voter rights, polling place posting and language requirements, election manual requirements, granting rule-making authority, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

2019 Senate Bill 159 (LRB-2330/1): Fiscal Estimate Narrative

2019 Senate Bill 159 makes various changes to laws relating to elections and voting, including the following: Automatic voter registration, deceptive election practices, voter intimidation and suppression, voter rights, polling place posting and language requirements, election manual requirements, granting rule-making authority, and providing a penalty.

Assumptions Used in Arriving at Fiscal Estimate

Automatic Voter Registration ("AVR"): Bill Sections 2, 14 and 35-38

One large fiscal impact of this bill will be associated with the AVR provisions. Under current law, voter registration is initiated by voters through a process administered by municipal election officials or online through the Wisconsin Elections Commission (WEC) online voter registration portal. The bill requires the WEC to use all feasible means to facilitate the registration of all eligible electors and to maintain the registration of all eligible electors for so long as they remain. The bill creates a new program area for WEC staff to facilitate, with the WEC assuming the role of a municipal clerk's office in registering voters, following up on discrepancies, sending out various communications to voters, and other functions previously reserved to local election officials. While the WEC maintains the statewide voter registration system/list (WisVote), WEC does not currently perform voter registration functions carried out by municipal and county clerks under Wis. Stat. §§ 7.10, 7.15, 6.28, 6.29, 6.30, 6.32 and 6.33.

The bill extends voter registration opportunities to Wisconsin citizens when completing transactions at the Wisconsin Division of Motor Vehicles (DMV) such as a vehicle registration or a driver license application. Eligible voters who complete a transaction at the DMV will automatically registered to vote unless they choose to "opt-out." Voter registration information collected by the DMV for AVR purposes would then be transmitted to the WEC. Without working out the details with DOT (MOU and technical discussions with IT staff from both agencies), the WEC must make some assumptions as to how the transfer of voter data would be facilitated. It is assumed that the WEC would upload DMV AVR data into the statewide voter registration system, WisVote, as a pending registration record for approval by the appropriate municipal clerk. Once the pending voter registration is approved, it is assumed that the WEC would use the existing practice of sending a voter verification postcard to the newly registered voter, however the bill requires more information be provided to the voter, and it is referred to as a "notice." Under the bill, the notice would also need to be provided in English and at least Spanish. It is unlikely that the information that must appear on the notice would fit on a postcard, therefore the notice may need to be larger and at a greater cost than the current postcards that are sent. For purposes of this estimate, the WEC will use the current postcard rate, but the cost could be higher if the information cannot be fit on a postcard. It is assumed that some of the existing code and business processes involved Online Voter Registration (OVR) may be replicated to implement AVR, although AVR requires the actual transfer of data, whereas OVR is a match and verify process which from an IT perspective, is much different.

The bill requires the WEC to reach out to voters that appear to be eligible to register to vote, but currently are not. This is similar to the "Eligible but Unregistered" (EBU) mailing that the WEC has previously sent to voters as part of the WEC's responsibilities under the ERIC program. It is assumed that the costs associated with sending the EBU mailing would be similar to the costs associated with this requirement under the bill.

If discrepancies between the information obtained from the DOT and other information the WEC has for a voter, the bill requires the WEC to contact the voter to resolve discrepancies. The bill allows the WEC to contact the voter by mail, phone or in person. It is assumed that the WEC would only be contacting voters by mail or telephone if the voter's information is available. It would not be feasible to contact voters "in person" and therefore this estimate does not include potential costs for this type of contact. It is assumed that some IT development and testing would be required to facilitate this section of the bill in addition to voter mailing costs asking voters to contact the WEC to resolve a discrepancy found between information provided to the DOT and the WEC. It is assumed that the discrepancy mailing could be in the form of a postcard.

The largest unknown is how the WEC would facilitate receipt of a "copy of the document that the applicant [DOT] provided as proof of citizenship and a statement from the department of transportation indicating that the department verified the applicant's citizenship." The current WisVote system does not contain capabilities to store external documents associated with a voter's registration record. Additionally, the responsibility to store such a sensitive document somehow within the WisVote system or some other secure location linked to the WisVote system would be a separate, expensive IT project for the WEC. Without extensive research and potentially competitive bidding to find a solution, the WEC IT staff is unable to accurately estimate the cost of the IT solution needed to implement this section of the bill.

The bill requires the WEC to facilitate the removal of a voter's record from WisVote if the WEC is contacted by the voter. Under the bill, the WEC is then prohibited from continuing to contact the individual, even if they appear to be eligible. It is assumed that some IT changes to WisVote would be needed to flag individuals for deletion from the WisVote system to comply with this section of the bill.

The WEC previously prepared a fiscal estimate on LRB: 17-4289/2017 AB609 that implemented AVR in this state. As outlined below, the estimated costs are significantly higher than the previous fiscal estimate provided on this topic.

It is assumed that the fiscal impact on the WEC to implement the AVR provisions contained in this bill, would fall into the following categories:

IT WisVote Development. Cost: \$32,300 (340 hours of IT development X \$95 per hour average cost)*

IT WisVote Mailing Development and Report Development for Resolving Discrepancies. Cost: \$7,600 (80 hours of IT development X \$95 per our average cost)

WEC Staff Testing of IT Development. Cost: \$10,752 (320 hours of WEC staff testing X \$33.60)

WEC Staff Time-Memorandum of Understanding development and meetings with DOT. Cost: \$1,680 (25 hours X 2 staff members = 50 hours. 50 hours of drafting and meeting time X \$33.60)

Voter Mailing: Initial Eligible but Unregistered Postcard. Costs: \$108,781 (per 2018 EBU mailing: 383,703 postcards printed and mailed at a cost of \$.28 per post card which includes file processing, permit postage and labor for DOA distribution services + WEC staff time of 40 hours X \$33.60 = \$1,344)**

Voter Mailing: Verification/Confirmation Notices: Costs: \$13,944 For purposes of this estimate, the WEC assumes that the number of voter registrations will increase with the introduction of the AVR process. If the number of voter registrations increases, the WEC would require funding for the cost of printing and mailing the notices required under the bill. The WEC prints and mails voter verification postcards at a rate of \$.28 per postcard, or \$280 per 1000 postcards. The annual cost would vary based upon the number of qualifying transactions with the DOT, such as driver license, State ID, and vehicle registration applications. Assuming 150,000 qualifying transactions at the DOT annually, and that 30 percent of those transactions represent individuals who are not registered voters and wish to register, the cost of the printing and mailing of notices is estimated to \$12,600 per year (45,000 cards X \$.28) + WEC staff time of 40 hours X \$33.60 = \$1,344.***

Voter Mailing: Resolve Discrepancies in DOT and WEC Data: Costs: \$2,604 For purposes of this estimate, data from 45,000 DOT transactions (30% of 150,000 transactions = 45,000) could be transferred to the WEC. For purposes of this estimate, the WEC estimates that 10% of those transactions could result in a discrepancy that needs to be resolved. Resolving discrepancies could involve sending postcards to 4,500 voters, costing \$1,260 (4500 X \$.28 per card) + WEC staff time of 40 hours X \$33.60 = \$1,344. Some of the contact with voters to resolve discrepancies may be required to be conducted by phone and that would carry an additional cost in

addition to the mailing cost estimate provided in this section.

Training Municipal and County Clerks on AVR. Cost: \$2,016. It is assumed that the WEC will be responsible for training municipal and county clerks on the AVR process. It is anticipated that WEC training staff would be required to dedicate an estimated 60 hours of time to create and update training materials for municipal and county clerks, at an average cost of \$33.60 per hour (\$25.85 wage + \$7.75 fringe), for a total cost of \$2,016.

Update and Develop Agency Resources Regarding AVR. Cost: \$2,520. It is assumed that existing WEC agency resources, such as websites and voter outreach materials, would need to be updated to reference AVR. It is also assumed that the WEC would be responsible for creating new materials for the public that outline the AVR process. It is anticipated that WEC staff would be required to dedicate 75 hours, at an average cost of \$33.60 per hour (\$25.85 wage + \$7.75 fringe), to update and create agency resources and materials to include AVR for a total cost of \$2,520.

Total Cost: \$182,197

*As noted in the narrative, this cost does not consider any development or other IT solutions that may need to be implemented to facilitate the secure import and storage of proof of citizenship documents received from DOT.

**The processing, printing and postage costs are the actual costs spent on the 2018 EBU mailing sent per ERIC membership agreement requirements. The staff time cost is an estimate of one staff member spending 40 hours of time preparing and managing this mailing. The 2018 mailing was the second time the mailing was conducted since Wisconsin joined ERIC, with the initial mailing of over 1.2 million EBU postcards sent in 2016. The ERIC bylaws state that a voter can only be contacted once via the EBU process, which is why the number of postcards sent for the send mailing was significantly lower. The WEC estimate is based on the assumption that the numbers for the mailing required under this bill would be similar to the 2018 mailing.

***The WEC is hopeful that the verification/confirmation notices required to be sent as a result of AVR could fit on a standard postcard, although it is possible that all the information required may not fit on a postcard. For purposes of this estimate, the WEC will use the current voter verification postcard cost of \$.28 per card.

Deceptive Election Practices: Bill Sections 1, 21, 27, 30 and 37

The bill creates a new crime under Chapter 12 of Wisconsin Statutes which prohibits individuals from intentionally deceiving individuals regarding the date, time, place, or manner of conducting an election; qualifications for voting or restrictions on the eligibility of elector to vote; or the endorsement of candidates. The bill allows individuals aggrieved by an alleged violation to file a sworn complaint with the WEC, directs the WEC to investigate the complaint under certain circumstances, take measures to provide correct information to electors that may have been deceived if a violation occurred and refer the complaint to a District Attorney if appropriate. The bill requires the WEC to disseminate through the Internet, and radio, TV and newspaper ads, information concerning complaint procedures and remedies for deceptive election practices. WEC is required to promulgate administrative rules outlining the appropriate corrective measures when a violation occurs. In consultation with the Wisconsin Department of Justice and the United States Election Assistance Commission, the WEC is required to study the feasibility of providing corrective information that may be required to be provided under the statute, through PSAs, other uses of broadcast, Internet, or social media, or emergency alert system. It is assumed that the fiscal impact on the WEC of adding "Deceptive Elections Practices" as a new crime under Chapter 12 of Wisconsin Statutes would be: the requirement to take corrective measures if a violation has occurred, dissemination of information on the complaint process for this new crime and remedies to correct deceptive election practices, legislative reporting and conducting a feasibility study on how to best communicate corrective information.

It is assumed that the addition of the new crime under Chapter 12 itself may not result in a significant increase in the number of complaints filed with the WEC, however, the corrective measures the WEC must take if a complaint is filed and an investigation is initiated, could have a significant fiscal impact. The impact would be variable however, based on the number of individuals that could be identified as being "deceived" by the information that was provided. For example, if the WEC received a complaint stating that a radio advertisement played on radio stations that reach all corners of the state, and the WEC deems the content was deceptive, a reasonable corrective measure may be to run a radio ad on those same stations that corrects the information the WEC deemed deceptive. The cost to produce and place a 30 second statewide radio ad would be much more

expensive than placing the same ad on radio stations that broadcast in a particular Assembly or State Senate District. The variables on scope, and the type of corrective measures that might need to be taken are too great to provide an accurate fiscal estimate, however the WEC believes the staff time and cost of the corrective measures that may need to be taken could be significant.

It is assumed that dissemination of the complaint process through Internet, radio, TV and newspaper ads would have a significant fiscal impact, as statewide campaigns using various communication mediums are expensive. For example, the former Government Accountability Board engaged in a limited statewide information campaign to educate the public about the State's photo ID requirement at a cost of \$225,870 to create the campaign with an addition cost of \$564,524.11 to disseminate the information through similar methods identified in this bill. It is assumed that at a minimum, this would be the cost of creating and conducting a campaign to promote the complaint process as required by the bill.

The bill requires the WEC staff to report to the Legislature no later than 90 days after each general election containing certain information about deceptive election practices complaints received by the WEC. The WEC must then post a copy of the report on the Internet.

In consultation with the Wisconsin Department of Justice and the United States Election Assistance Commission, the bill requires the WEC to study the feasibility of providing corrective information that may be required to be provided under the statute, through PSAs, other uses of broadcast, Internet, or social media, or emergency alert system. The WEC is required to report its findings and recommendations to the Legislature. It is assumed that conducting this feasibility study would involve both in-person and teleconference meetings between WEC staff members and select members of the Wisconsin Department of Justice and the United States Election Assistance Commission. The WEC staff would draft the final report and submit it to the Legislature. The WEC assumes 3 WEC staff members would be involved in the meetings and drafting of the final report. The WEC assumes at least 4 1-hour meetings would be required to gather the appropriate information necessary to formulate findings and recommendations in a report.

Corrective Measures. Cost: Indeterminate due to unknown variables regarding the number of corrective measures required in any given year and the number and type of contacts that would be required depending on the nature of the deceptive practice.

Statewide Information Campaign on Complaint Process. Cost: \$790,394.11. \$225,870 (creation of campaign) + \$564,524.11 (costs for dissemination of information)

WEC staff time to report to the Legislature: Cost: 5 hours of WEC Staff time per year at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$168

Feasibility Study Meetings. Cost: 3 WEC staff members attending 4 hours of meetings = 12 hours X \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$403.20

WEC staff time to draft feasibility study report to the Legislature: Cost: 20 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$672

Total Cost: \$791,637.31

Voter Intimidation and Suppression: Bill Sections 3-5, 25, 26, 28, 29, 31 and 32

The bill adds tactics of coercion or intimidation to the current crime of "election threats" and adds "Voter suppression" as a new crime under Chapter 12 of Wisconsin Statutes. The bill allows individuals to seek injunctive relief in circuit court for intentionally suppressing the vote, or voter registration by knowingly providing false election-related information.

It is assumed that the new crimes would not significantly increase the number of complaints filed with the WEC, therefore the WEC does not believe there will be a fiscal impact related to this section of the bill. If a significant number of new complaints alleging this crime are filed, WEC staff time would be diverted to processing these complaints and away from other projects, but no significant fiscal impact would be anticipated if that occurred.

Total Cost: None

Voter Bill of Rights: Bill Section 9

The bill creates a "Voter Bill of Rights" that municipal clerks and boards of election commissioners must post at each polling location. As with other notices that are required to be posted at a polling location, it is assumed that the WEC will assist in creating a standard "Voter Bill of Rights" document that will be posted on the WEC website. Some WEC staff time will be required to create, format and post the information to the WEC website. Local clerks and board of election commissioners will access the document from the website, download it, and print sufficient copies for each polling location in their respective municipality. It is assumed that local clerks and board of election commissioners will print this document on durable card stock versus standard paper so that it may be reused at subsequent elections, therefore the printing materials cost for the local jurisdictions will be slightly higher. Under this bill all polling locations are required to have this information posted. It is assumed that the WEC will not be responsible for the printing of this notice for use at polling locations, therefore the WEC does not anticipate any state printing costs related to this provision.

WEC staff time to create, format and post "Voter Bill of Rights" document on WEC website. Cost: 5 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$168

Local municipality printing cost. The WEC estimates that the printing of the "Voter Bill of Rights" will cost \$.06 per sheet of 65 lb. cardstock paper. The "Voter Bill of Rights" will fit on 2 sheets of cardstock (2 sheets X \$.06 = \$.12 per posting). Approximately 2,500 polling locations at \$.12 per posting = \$300

Total Cost: \$468

Polling Place Posting and Language Requirements: Bill Sections 1, 3-13 and 33

The bill requires municipalities subject to a federal requirement to provide voting materials in a language other than English, to also post all required postings in that language as well. The bill permits the WEC to authorize alternative means to providing notice to electors of the required information if the alternative is at least as effective as posting. The bill also directs the municipal clerk or board of election commissioners to contact and coordinate with organizations that advocate for the rights of individuals who speak the language in which materials are required to be published under federal law. The bill also directs local jurisdictions to endeavor to ensure that at least one of the election officials who serves at each polling place in the jurisdiction speaks the language required under federal law. The bill allows individuals to file an action in court directly without seeking administrative relief from the WEC to enforce the polling place posting of materials requirement, posting of the Voter Bill of Rights, the election manual contents requirement, election threats or voter suppression. If a clerk fails to meet the posting requirement, he/she could be subject to a fine.

It is assumed that the municipalities in Wisconsin currently subject to the federal language requirements are already posting all election related materials in the required languages as prescribed by federal law. It is assumed that the level of monitoring and assistance the WEC provides municipalities in Wisconsin currently subject to the federal language requirements would be unchanged. It is assumed that some WEC staff time would be required to develop "alternatives" to the posting requirement that would be at least as effective as posting, if such alternative means were requested by a municipality.

The required outreach that local municipalities must undertake under the bill to ensure that locations adequately serve the needs of individuals that speak a language other than English could take a variety of paths. The outreach would likely involve local jurisdiction staff time to contact various advocacy groups and to coordinate a meeting to discuss polling locations and whether they meet the needs of the community that speaks a language other than English. Currently, there are 3 municipalities in Wisconsin that must comply with the federal language requirements.

WEC staff costs to develop alternative methods to posting requirements. Cost: 5 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$168

Local jurisdiction outreach. Cost: 10 hours of local staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$336
X 3 municipalities = \$1,008

Total Cost: \$1,176

Election Manual: Bill Sections 20 and 33

The bill requires the WEC to include certain topics and provisions in the manuals published by the WEC. If the Administrator fails to include the required subjects, he/she could be subject to a fine. The bill requires the manual to include an index by subject, and that the manual be written in clear, unambiguous language.

The majority of the topics required by the bill to be included in the WEC Election Day Manual are currently contained in the manual but may need to be expanded upon to ensure compliance with this section. It is assumed that the changes to the manual would be to the electronic versions posted for clerks to download and print. The frequency of legislative changes and court decisions has resulted in less hard copy printing of manuals, so the fiscal impact of printing costs at the WEC level is minimal. Some WEC staff time, including updating the manuals, training materials and any associated webinars or presentations would have a fiscal impact. Local municipalities will incur printing costs to ensure that an up to date, hard-copy manual is present at all polling locations on Election Day. The WEC cost to print an Election Day Manual and provide it to a municipality is \$10.00 per manual.

WEC staff time expanding topics currently in the manual to ensure compliance. Cost: 10 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$336

WEC staff time updating training materials, webinars and other presentations based on the Election Day Manual. Cost: 10 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$336

Local municipality printing costs. Cost: Approximately 2,500 polling locations at \$10.00 per manual (WEC printing cost) = \$25,000
Total Cost: \$25,672

Withholding of Voluntarily Provided Elector Information: Bill Sections 22-24

The bill requires certain voter registration information provided by a voter to be withheld from public inspection, and the information is to only be used for the administration of election.

Currently, if a voter provides a telephone number or email address when they register to vote, that information is open to public inspection and is provided if requested. Under the bill, this information would no longer be open to public inspection if requested. The WEC maintains a data request system called BadgerVoters, which automates the process for obtaining quotes and retrieving standard and custom reports based on data stored in the WisVote System. Under this bill, the WEC would be required to modify the BadgerVoters system, test the changes made, update the public facing instructions for using the system and modify the data reports generated from the system.

IT Development Cost: 5 hours of IT time at \$95/hour = \$475

WEC Staff Time: 10 hours of WEC Staff time at \$33.60/hour (\$25.85 wage + \$7.75 fringe) = \$336

Total Cost: \$811

Miscellaneous Provisions: Bill Sections 15-19 and 34

The bill also contains some miscellaneous election procedure provisions. It is assumed that the WEC will continue to classify the voter record created in WisVote as the official voter registration form for voters that register electronically. If the creation of a new voter registration form in WisVote is required, or there is a deviation from the current process of using the voter record in WisVote as the official form, there is no anticipated additional fiscal impact for the miscellaneous provisions contained in this bill.

CC: Michael Gallagher (Legislative Reference Bureau)

Long-Range Fiscal Implications