

ORDER
OF
STATE ELECTIONS BOARD

The State Elections Board proposes an order to create EIBd 3.50, relating to the pricing of voter registration data obtained from the Statewide Voter Registration System.

ANALYSIS PREPARED BY STATE ELECTIONS BOARD:

1. Statute(s) interpreted: ss.5.02(14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats.
2. Statutory authority: ss.5.05(1)(f), 6.36(6), and 227.11(2)(a), Stats.
3. Explanation of agency authority: This amended rule interprets ss.5.02(14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats. The rule requires that persons who request copies of information or data from the Statewide Voter registration System must pay, for each such copy, a charge calculated under the provisions of the rule according to the schedule established by the rule.
At the present time, the Elections Board is limited, in the fee that it can charge for information provided by the Statewide Voter Registration System, to the fee set by s.19.35(3), Stats.: “the actual, necessary and direct cost of reproduction and transcription of the record.” The legislature in s.6.36 (6), Stats., has directed the Board to promulgate a rule that sets the amount of the fee at an amount estimated to cover both the cost of reproduction and the cost of maintaining the list at the state and local level. In order to recover both the cost of reproduction and the cost of maintaining the list at the state and local level, rather than having its charge limited to the amount currently provided under the public records law, the Board is promulgating EIBd 3.50.
4. Related statute(s) or rule(s): s.19.35, Stats.
5. Plain language analysis: The rule provides the methods by which the Elections Board staff will calculate the pricing to fulfill requests for voter registration data that are contained within the Statewide Voter Registration System.
6. Summary of, and comparison with, existing or proposed federal regulations: The federal government does not have a voter registration system and does not provide voter registration data for which it could exact a charge.

7. Comparison with rules in adjacent states: Illinois, Iowa, Michigan and Minnesota all have voter registration data systems which collect a charge for data relatively comparable to Wisconsin's.
8. Summary of factual data and analytical methodologies: The legislature has directed the board to calculate a cost of data and record reproduction and a cost of list maintenance and build those costs into its charges for copies of voter registration data and records. Those are the only data or methodology that affects the rule.
9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: The rule will have no effect on small business or economic impact.
10. Effect on small business: The rule has no effect on small business.
11. Agency contact person (including e-mail and telephone): George A. Dunst
Legal Counsel, State Elections Board, 17 West Main Street, P.O. Box 2973
Madison, Wisconsin 53701-2973; Phone 266-0136;
(george.dunst@seb.state.wi.us).
12. Place where comments are to be submitted and deadline for submission: State Elections Board, 17 West Main Street, P.O. Box 2973, Madison, WI 53701-2973; (elections.state.wi.us)

Pursuant to the authority vested in the State of Wisconsin Elections Board by s.5.05(1)(f) and 227.(11)(2)(a), Stats., the Elections Board proposes to create Rule EIBd 3.50 interpreting ss.5.02(14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats., as follows:

SECTION 1. EIBd 3.50 is created to read:

3.50 Charges for voter registration data.

- (1) In this section:
 - (a) "Custom report" means a report that is not programmed to run in the Statewide Voter Registration System at the time a request for the report is made, or a report that requires additional programming tasks.
 - (b) "Election official" has the same meaning as provided in s. 5.02 (4e), Stats.
 - (c) "Official registration list" has the same meaning as provided in s. 6.36, Stats.
 - (d) "Protected information" means any information that is protected from general public disclosure by ss. 6.36 (1) (b) 1.a. and 6.47, Stats.

- (e) "Report" means a defined list of related voter registration data records generated from the Statewide Voter Registration System.
 - (f) "Voter registration data" means data contained in the official registration list.
 - (g) "Voter registration data record" means a set of related information requested from the official registration list which consists of a core data element and related attributes. A core data element is the basic unit of data that is being requested, including, but not limited to, a voter name, candidate, election official, or address. The related attributes consist of pieces of data associated with that core data element.
- (2) The official registration list shall be open to public inspection consistent with the requirements of ss. 6.36, 6.45 to 6.47, and ss. 19.31 to 19.36, Stats.
 - (3) Any person may obtain, from the official registration list, voter registration data that is not protected information, upon payment of the applicable charges.
 - (4) The charge for reports in electronic format is a \$25 base fee per report; plus \$5 for the first 1,000 voter registration data records, or up to 1,000 voter registration data records; plus \$5 for each additional 1,000 voter registration data records, rounded to the nearest thousand. The maximum charge for an electronic report is \$12,500.
 - (5) The charge for a paper copy of a report is \$.25 per page, plus the cost of postage and shipping.
 - (6) Any request for a report or custom report submitted to the elections board shall be made in writing by the requester or reduced to writing by the elections board's staff. Any request by the elections board for payment in advance for the report requested shall include a copy of the report request in writing as submitted by the requester or as memorialized by the elections board's staff.
 - (7) Any person may request a copy of the poll list used at an election from the municipal or county clerk who has custody of the list. The charge for a copy of a poll list provided by a municipal or county clerk shall be a charge determined by that clerk not to exceed the cost of reproduction.
 - (8) The elections board, its staff, and each municipal or county election official shall take steps to ensure that any protected information contained in the Statewide Voter Registration System, or on a poll list, is not made available for public inspection.
 - (9) If a request for voter registration data requires a custom report, and the elections board staff determines that it can produce the report, the charge for producing the custom report charged to the requester shall be calculated by the elections board's staff on a case-by-case basis and shall include, in addition to the charges articulated in

subs. (4) and (5), any applicable charges for handling and mailing; charges for reproduction, including programming costs; and costs of maintenance of the Statewide Voter Registration System as authorized by s. 6.36(6), Stats. Requests fulfilled under this subsection are not subject to the maximum charge limitations in subs. (4) and (5).

- (10) The money received from requests for voter registration data shall remain with the municipality, county, or elections board, whichever produces and provides the report.

FINAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

The creation of this rule will take effect on the first day of the month following its publication in the Wisconsin Administrative Register pursuant to s.227.22(2), Stats.

Dated December 7, 2007

KEVIN J. KENNEDY
Executive Director