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Joint Committee on Finance

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Electronic Registration Information Center (Elections Commission)

[LFB 2019-21 Budget Summary: Page 118, #4]

CURRENT LAW

Under current law, the Elections Commission is required to become a member of the Electronic Registration Information Center (ERIC), an inter-state consortium formed to improve the accuracy of voter registration data and to assist voters with the registration process. Further, the Commission is required to comply with the terms of the ERIC membership agreement, signed on May 17, 2016. Base funding for the Commission does not include amounts for ERIC membership or participation.

GOVERNOR

Provide \$81,300 GPR and \$196,900 FED in 2019-20 and \$174,400 FED in 2020-21 for: (a) ERIC membership dues (\$33,100 FED annually); (b) mailings to potential eligible voters and voters who may no longer reside at their registered address, which is required by ERIC (\$81,300 GPR in 2019-20 and \$141,300 FED annually); and (c) one-time funding of \$22,500 FED in 2019-20 for WisVote election administration system modifications.

DISCUSSION POINTS

1. The Electronic Registration Information Center is a consortium of 26 states that uses data matching to identify electors who may be eligible to vote but are not registered, voters who may have moved, and voters who may no longer be eligible and should be removed from the registration list. According to the Commission, the goal of ERIC is to encourage electors to register or update their information ahead of an election to manage the volume of registration activity near Election Day. Long-term participation is aimed at reducing costs, increasing accuracy, and improving efficiency in the registration process.

2. Under 2015 Act 261, the Elections Commission is required to enter into a membership agreement with ERIC. The agreement must: (a) safeguard the confidentiality of information or data in the registration list; (b) prohibit the sale or distribution of the information or data in the registration list to a third-party vendor and prohibit any other action not associated with administration of or compliance with the agreement; and (c) allow the state to make contact with electors by electronic mail, whenever possible. The agreement must not affect the exemption for Wisconsin under the National Voter Registration Act. Further, the Commission is required to comply with the terms of the membership agreement, including the transmission of information related to the registration of electors to ERIC for processing and sharing with other member states. Act 261 did not provide funding for ERIC membership or participation. The Commission signed a membership agreement with ERIC on May 17, 2016.

3. Upon execution of the membership agreement, the Commission was required to pay a one-time membership fee of \$25,000, which the Commission paid by reallocating existing funds. After joining the consortium, each member state must pay annual dues between \$25,000 and \$50,000 per year, depending on the state's population. Current annual dues for Wisconsin are \$33,100.

4. Under the membership agreement, Wisconsin is required to provide data every 60 days for all current driver's license and state identification card holders from the Division of Motor Vehicles (DMV) and all currently registered voters. The Center compares the data to similar files from participating states and national sources, such as the U.S. Postal Service's (USPS) National Change of Address service and death records from the Social Security Administration. After comparing the data, ERIC provides the state: (a) a list of electors who may be eligible to register to vote but are not currently registered; and (b) a list of currently registered electors who may no longer be eligible at their registered address because they may have moved or become deceased.

5. The agreement requires that the Commission attempt to contact individuals identified as eligible but unregistered once every two years. In June, 2018, the Commission mailed 383,703 postcards to these individuals with instructions on how to register to vote. As of November, 2018, a total of 46,406 individuals from the report had registered to vote (12.1%). The total cost of the 2018 mailing was \$102,400 (\$21,100 for printing and \$81,300 for postage and Department of Administration distribution service fees). The next mailing to potentially eligible but unregistered voters is scheduled for 2020. The Commission indicates that the Governor's recommendation is based on postage and distribution service costs incurred during the 2018 mailing.

6. The agreement requires that the Commission attempt once per year to contact individuals identified as having moved. The Commission mails electors a notice asking if they wish to remain registered at their current address. The notice directs electors to re-register if they have moved or to return a pre-paid postcard to keep their registration current. The notices are forwardable, so if the voter had provided a new address to USPS, the card would be forwarded to the new address. The Commission is only required to attempt to contact each elector once at the same address. In November, 2017, the Commission mailed postcards to 341,855 registered electors identified as having moved. By March, 2019, 160,863 electors had updated their registrations to reflect new addresses, 134,517 registrations were deactivated, and 46,475 registrations remained active at the original address. The total cost of the 2017 mailing was \$141,300 (approximately \$0.41 per person). The Commission plans to mail notices to voters identified as having moved in 2020 and 2021 and

indicates that the Governor's recommendation is based on costs incurred during the 2017 mailing.

7. The Commission indicates that it needs to modify the WisVote election administration system in order to receive reports from ERIC and update the records of electors identified through ERIC reports. For example, modifications would allow clerks to distinguish the records of voters identified by ERIC as having potentially moved from those identified by clerks as having moved and remove the records of deceased voters. The cost of one-time system updates is estimated to total \$22,500 in 2019-20.

8. The administration recommends that ERIC expenses be partially funded by federal Help America Vote Act (HAVA) election security grant funds. In March, 2018, the Commission was awarded \$6,978,300 FED for elections security. Under the grant agreement, which constitutes the audit standard for the award, the Commission is required to utilize the federal elections security grant to address security concerns.

9. On March 20, 2019, the U.S. Election Assistance Commission (EAC) issued a letter regarding the potential use of the HAVA security grant for ERIC requirements. The letter indicates that federal funds must be used in accordance with the 2018 grant agreement, which did not include an allocation of funds to fulfill ERIC requirements. To utilize the grant for ERIC, the Commission "would need to submit a new plan and budget for review and an amended grant award would need to be issued." The Commission would be required to demonstrate what "factors or other resources have been identified to ameliorate the security challenges" outlined in the original grant agreement. Further, the letter indicates that HAVA security funds must be utilized to "improve the administration of federal elections."

10. According to the EAC, the reallocation of funds to support ERIC requirements could be questioned in the next federal Inspector General audit. If the Commission were unable to demonstrate that "the switch from state to federal payment for ERIC membership and mailings would materially improve the administration of federal elections," the funds would have to be repaid to the federal government or restored to the state election fund.

11. In its 2019-21 agency budget request, the Commission requested \$278,200 GPR in 2019-20 and \$174,400 GPR in 2020-21 for ERIC-related expenses. Given that current law requires the Commission to participate in ERIC and that funding for this purpose has not yet been provided, the Committee could approve the agency's request to utilize GPR funds for ERIC requirements. [Alternative 1]

12. Alternatively, the Commission indicates that, if statutes regarding the use of revenues from voter data sales were modified, revenues could be used to cover a portion of ERIC-related expenses. The Commission currently sells voter registration data to various individuals and organizations and, under state statute, is required to use fee revenue to "cover both the cost of reproduction and the cost of maintaining the list." The Commission currently charges a \$25 base fee plus \$5 for up to 1,000 records, \$5 for each additional 1,000 records, and a maximum of \$12,500 for the sale of voter registration data. The Commission estimates that the sale of voter data will generate annual revenues of \$182,200 during the 2019-21 biennium. Revenues are currently deposited to the Commission's federal appropriation for election administration and are therefore also subject to federal restrictions. However, the Commission estimates that its original, non-security federal HAVA

funding under the appropriation will be fully expended during 2018-19, after which federal restrictions relating to voter data sales will no longer apply.

13. To utilize PR funds for ERIC-related expenses, the Committee could: (a) modify statute to specify that revenue from voter data sales may be used for ERIC requirements; (b) create a biennial PR appropriation for voter data sales revenue receipts and authorized expenses of such revenue; (c) provide expenditure authority of \$182,200 PR annually under the created appropriation; and (d) provide \$88,200 GPR in 2019-20 to the Commission's general program operations appropriation (the difference between available PR funds over the biennium and total ERIC-related expenses). Creating a biennial PR appropriation, funded at \$182,200 annually, would establish base funding in the second year in an amount equal to estimated annual revenue, and would permit the Commission to manage expenses between years. [Alternative 2] However, given that voter data sales revenue is currently used to offset the cost to maintain the voter registration system, the Commission cautions that this alternative could cause a shortfall in the funds necessary to maintain the voter registration system.

14. In a separate provision, the Governor recommends modifying expenditure authority for the Commission's materials and services appropriation from \$1,700 PR to \$1,000 PR annually due to declining activity under the appropriation. Revenues are from the sale of publications and copies of records, and are used to recover printing costs. The Commission indicates that requests for printed materials have decreased as publications have been made available online. Further, as a PR appropriation that receives deposits of revenue, unused funds remain in the appropriation and can be utilized in subsequent years, subject to expenditure authority and the available balance. Annual expenditures are not expected to exceed the proposed expenditure authority.

15. As of April 1, 2019, the balance of the materials and services appropriation is \$11,300, due in part to a one-time transfer of accrued revenue from the Government Accountability Board. The opening balance for 2019-20 is estimated to be \$10,700. It could be argued that the balance of the appropriation, less the amount budgeted for expenditures, could be transferred to the general fund so it can be utilized to offset election-related expenses. Therefore, the Committee could transfer the appropriation's balance, less the recommended expenditure limit of \$1,000, to the general fund for the purpose of offsetting a portion of ERIC expenses. This alternative, to transfer \$9,700 PR on a one-time basis, may be selected in addition to any other alternative. [Alternative 3]

16. If no funding is provided, the Commission would be required to reallocate existing resources to fund participation in ERIC. [Alternative 4] Under this alternative, the Commission indicates that it would pay for ERIC expenses in part by leaving vacant GPR positions unfilled (although, as of April 1, 2019, the Commission does not have any vacant GPR positions). Such a reallocation could have a limiting effect on the Commission's operations.

ALTERNATIVES

1. Provide \$278,200 GPR in 2019-20 and \$174,400 GPR in 2020-21 for: (a) ERIC membership dues (\$33,100 GPR annually); (b) mailings to potential eligible voters and voters who may no longer reside at their registered address, which is required by ERIC (\$222,600 GPR in 2019-20 and \$141,300 GPR in 2020-21); and (c) one-time funding of \$22,500 GPR in 2019-20 for WisVote election administration system modifications. This would be identical to the amounts and fund

sources designated in the Commission's 2019-21 budget request.

ALT 1	Change to	
	Base	Bill
GPR	\$452,600	\$371,300
FED	<u>0</u>	<u>- 371,300</u>
Total	\$452,600	\$0

2. Modify statute to specify that revenue from voter data sales may be utilized for ERIC requirements. Create a biennial PR appropriation for voter data sales revenue receipts and authorized expenses and provide expenditure authority of \$182,200 PR annually. Further, provide \$88,200 GPR to the Commission's general program operations appropriation in 2019-20 for ERIC expenses. Funds would be allocated to supplies and services in both appropriations for: (a) ERIC membership dues; (b) mailings to potential eligible voters and voters who may no longer reside at their registered address, which is required by ERIC; and (c) WisVote election administration system modifications.

ALT 2	Change to	
	Base	Bill
GPR	\$88,200	\$6,900
FED	0	- 371,300
PR	<u>364,400</u>	<u>364,400</u>
Total	\$452,600	\$0

3. Transfer \$9,700 PR in 2019-20 from the Commission's materials and services appropriation to the general fund for the purpose of offsetting a portion of ERIC expenses. [This alternative may be selected in addition to any other alternative.]

ALT 3	Change to	
	Base	Bill
GPR-REV	\$9,700	\$9,700

4. Take no action on funding for ERIC requirements.

ALT 4	Change to	
	Base	Bill
GPR	\$0	- \$81,300
FED	<u>0</u>	<u>- 371,300</u>
Total	\$0	-\$452,600

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