

NOTICE OF ORDER
OF THE
WISCONSIN STATE ELECTIONS BOARD

To adopt an emergency rule creating ElBd 3.50, relating to pricing of voter information available from the Statewide Voter Registration System.

ANALYSIS:

Statutory authority: ss.5.05(1)(f), (10m) and 227.11(2)(a), Stats.

Statutes 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.

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 from the Statewide Voter registration System must pay, for each such copy, a charge calculated under the provisions of 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.” 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 be limited to the amount currently provided under the public records law, the Board needs an immediate rule reflecting both cost components required by the new statute.

The Elections Board finds that under Section 180 of the non-statutory provisions of 2005 Wisconsin Act 451, in subsection (4), the Elections Board may promulgate emergency rules under section 227.24 of the statutes, implementing section 6.36(6) of the statutes, as created by Wisconsin Act 451. Notwithstanding section 227.24(1)(c) and (2) of the statutes, emergency rules promulgated under subsection (4) remain in effect until the date on which permanent rules take effect. Notwithstanding section 227.24(1)(a) and (3) of the statutes, the elections board is not required to provide evidence that promulgating a rule under subsection (4) as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under subsection (4).

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss.5.05(1)(f) and 227.11(2)(a), Stats., the Elections Board hereby creates Rule ElBd 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.:

SECTION 1. ElBd 3.50 is created to read:

3.50 Charges for voter registration data.

1) Definitions: As used in this rule:

- 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.
 - 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.
 - g) “Voter Registration Data” means data contained in the official registration list.
 - h) “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 through 6.47, and ss.19.31 through 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 in the report, 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 State Elections Board shall either be made in writing by the requester or shall be reduced to writing by the board’s staff. Any request by the 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 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 cost of a copy of a poll list provided by a municipal or county clerk shall be a fee determined by that clerk not to exceed the cost of reproduction.
 - 8) The state 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 cost of producing the custom report charged to the requester shall be calculated by the board's staff on a case-by-case basis and shall include, in addition to the costs articulated in subs. 4 or 5, including any applicable costs of handling and mailing, the costs of reproduction, including programming costs; and the costs of maintenance of the SVRS as authorized by s.6.36(6), Stats. Requests fulfilled under this subsection are not subject to the maximum charge limitations in subs. 4.
- 10) The fees received from requests for voter registration data will remain with the municipality, county, or the State Election Board, whoever produces and provides the report.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

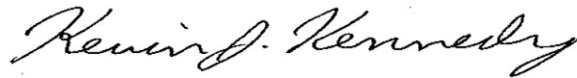
FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

The creation of this rule provides for the establishment of the fee for obtaining a copy of the official registration list, or a portion of the list.

The creation of this rule will take effect upon its publication in the official state newspaper, the Wisconsin State Journal, pursuant to s.227.24, Stats.

Dated April 30, 2007



KEVIN J. KENNEDY
Executive Director
State Elections Board