

Report From Agency

REPORT

OF

STATE ELECTIONS BOARD

Clearinghouse Rule 07-43
Rules Section ElBd. 3.50
Wisconsin Administrative Code

The State Elections Board proposes an order to create ElBd 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 ElBd 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. List of persons appearing at the public hearing:

No public hearing was held. The rule was submitted pursuant to the 30-day notice procedure of s.227.16(2)(e), Stats. No person who will be affected by the rule filed a petition for a public hearing within the 30-day period provided by that statute.
11. Explanations of modifications to the proposed rule:

The State Elections Board makes no substantive modifications to this rule.
12. Response to Legislative Council staff report:

The State Elections Board adopts the Legislative Council's staff's comments and has incorporated the suggested changes in the rule, except that ElBd 3.50(4) has been re-written to accommodate Legislative Council's concerns and, in ElBd 3.50(1)(g), the phrase "but not limited to" has been left in the rule on the advice of the Wisconsin Department of Justice to ensure that "core data element" could include elements other than "voter name, candidate, election official, or address."

13. Conclusion and recommended action:

The State Elections Board unanimously concludes that El.Bd 3.50 should be created. The creation of this rule is necessary to cover both the cost of reproduction and the cost of maintaining the list at the state and local level, as required by s.6.36 (6), Stats.

The Board recommends promulgation of this rule.

Respectfully submitted,

June 5, 2007

STATE ELECTIONS BOARD

George A. Dunst, Legal Counsel