

ORDER
OF
STATE ELECTIONS BOARD

Clearinghouse Rule 07-059
Rules Sections EIBd. 3.01, 3.02, 3.03,
3.10, 3.11, 3.12, 3.13, and 3.20
Wisconsin Administrative Code

The State of Wisconsin Elections Board proposes an order to create EIBd 3.01, repeal and recreate EIBd 3.02, and create EIBd 3.03, 3.10, 3.11, 3.12, 3.13 and 3.20, relating to voter registration.

ANALYSIS PREPARED BY STATE ELECTIONS BOARD:

1. Statute(s) interpreted: subchapter II of ch.6 of the Wisconsin Statutes, ss.6.26 – 6.57, Stats., Voter Registration
2. Statutory authority: ss.5.05(1)(f), 6.26(3), and 227.11(2)(a), Stats.
3. Explanation of agency authority: This new rule interprets and implements subchapter II of ch.6 of the Wisconsin Statutes, ss.6.26 – 6.57, Stats. Section 6.26(3), Stats., provides that the Elections Board “shall, by rule, prescribe procedures for appointment of special registration deputies, for revocation of appointments of special registration deputies, and for training of special registration deputies by municipal clerks and boards of election commissioners.” The rule implements that statute by providing for the appointment of special registration deputies; for the revocation of those appointments; and for the training of special registration deputies in coordination with the program designed by the board; and also sets forth the procedures for voter registration and for the conduct of voter registration drives to implement the legislature’s directive in s.6.26, Stats., that the board shall, by rule, prescribe procedures “to promote increased registration of electors consistent with the needs of municipal clerks and boards of election commissioners to efficiently administer the registration process.”
4. Related statute(s) or rule(s): s.19.35, Stats.
5. Plain language analysis: The rule provides the methods by which voter registration is conducted in Wisconsin, including registration through the appointment of special registration deputies and the conduct of voter registration drives. The rule also provides the contents of the voter registration application.

6. Summary of, and comparison with, existing or proposed federal regulations: The federal government does not have a voter registration system, but to implement the requirements of the Help America Vote Act and the plan adopted by the State Elections Board to implement the Help America Vote Act, Wisconsin is required to establish a system of statewide voter registration. This rule facilitates and clarifies the implementation of that system.
7. Comparison with rules in adjacent states: The Help America Vote Act requires the development of “a single, uniform, official, centralized, interactive, computerized statewide voter registration list defined, maintained and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state” Illinois, Iowa, Michigan and Minnesota all have statewide voter registration systems to bring them into compliance with the Help America Vote Act and similar rules to implement that system.

Like Wisconsin, each of the four states (Illinois, Iowa, Michigan and Minnesota) has a system of statewide voter registration in which only persons registered to vote are eligible to vote. The objective in each of the five states, including Wisconsin, is to register every eligible elector. Illinois and Iowa register their voters on a county-wide basis, Michigan and Minnesota register their voters on a county or district basis and Wisconsin registers its voters on the basis of municipality. Registration and voter participation in all five states is tracked through a statewide voter data base, except in Illinois where the statewide voter data base is not complete. Minnesota and Iowa, like Wisconsin, have election-day voter registration. Illinois and Michigan do not.

8. Summary of factual data and analytical methodologies: Factual data were not developed and analytical methodologies were not employed in the creation of the rule. The rule evolved organically from the registration system statutorily required of, and employed by, Wisconsin municipalities that required voter registration.
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
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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;
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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 El.Bd 3.01, 3.03, 3.10, 3.11, 3.12, 3.13 and 3.20, and to repeal and recreate ElBd 3.02, as follows:

SECTION 1. ElBd 3.01 is created to read:

3.01 Voter registration. In this chapter:

- (1) “Applicant” is an individual who submits a voter registration application form or a special registration deputy application form.
- (2) “Appointing authority” means the board, a municipal clerk or board of election commissioners.
- (3) “Board” means the state elections board.
- (4) “By mail” means the completing and signing of a voter registration application form other than in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.
- (5) “Close of registration” is the third Wednesday preceding the election.
- (6) “Election cycle” means the period beginning on January 1 of an odd-numbered year and continuing through December 31 of the following even-numbered year.
- (7) “In person” means the completing and signing of a voter registration application form in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.
- (8) “Municipal clerk” has the meaning given in s. 5.02(10), Stats., and includes the Milwaukee city board of election commissioners.
- (9) “Provider” means a municipality or county that provides election administration services in conjunction with the Statewide Voter Registration System for a reliever municipality.
- (10) “Qualified elector” has the meaning given in s. 6.02, Stats.
- (11) “Registration” means registration to vote under subchapter II of ch.6, Stats.
- (12) “Registration period” means the time period occurring between the date of a special registration deputy’s appointment and the close of registration for the election

immediately following the appointment. For purposes of this subsection, the term “election” includes any primary that precedes the election.

(13) “Relier” means a municipality that enters into an agreement with another municipality or county to provide election administration services in conjunction with the Statewide Voter Registration System.

(14) “Self-provider” means a municipality that provides its own election administration services in conjunction with the Statewide Voter Registration System.

(15) “Special registration deputy” means a qualified elector appointed pursuant s. 6.26 (2) (a) and (am), 6.55 (6) Stats., to register voters.

(16) “Statewide Voter Registration System” is the election administration software application provided by the board to enable local election officials to register voters, track absentee voting and administer elections.

(17) “Voter registration application form” means the board-prescribed form (EB-131) on which voter registration information is recorded before entry in the Statewide Voter Registration System.

SECTION 2. EIBd 3.02 is repealed and recreated to read:

3.02 Content of the voter registration form. An elector shall provide all of the following information on the voter registration application form:

- (1) The elector’s full name, including first and last name.
- (2) The elector’s complete address, including street, number and municipality.
- (3) The elector’s date of birth.
- (4) The elector’s driver’s license number or, if the elector has not been issued a valid and current driver’s license but has a department of transportation issued identification card, the transportation identification card number, or the last four digits of the elector’s social security number. If the elector has not been issued a valid and current driver’s license and does not have a social security number, the elector shall indicate that the elector has neither of those documents.
- (5) An indication of the elector’s age.
- (6) An indication of the elector’s citizenship.
- (7) An indication that the elector is not disqualified from voting because the elector has not completed the terms of a sentence resulting from a felony conviction.

- (8) If the elector was registered at a different location, the complete address including street, number and municipality of the previous address.
- (9) If the elector was registered under a different name; the elector's former name, including first and last name.
- (10) The signature of the elector certifying that the elector is qualified to vote in this state.

SECTION 3. EIBd 3.03, 3.10, 3.11, 3.12, 3.13, and 3.20 are created to read:

3.03 Treatment of voter registration applications.

- (1) If an applicant for voter registration fails to check either or both of the boxes indicating the elector is a U.S. citizen and indicating the elector is or will be at least 18 years old at the time of the next election, the municipal clerk may process the voter registration application if the elector has signed the certification on the application form indicating the voter meets or will meet the applicable requirements to vote in this state.
- (2) If information is missing from a voter registration application form, the municipal clerk shall contact the applicant by any means feasible, including in person, by email, facsimile transmission or telephone, to obtain the missing information.

3.10 Special registration deputies.

- (1) A qualified elector of the this state may apply to any municipal clerk or board of election commissioners to be appointed a special registration deputy, under s. 6.26, Stats., for the purpose of registering electors of that municipality before the close of registration.
- (2) A qualified elector of this state may apply to the board to be appointed a special registration deputy for the purpose of registering electors of any municipality before the close of registration.
- (3) Application to be appointed a special registration deputy shall be made by completion of the application form (EB-158) prescribed by the board and submission of the form to the appointing authority.
- (4) Appointment shall be consummated by issuance of the special registration deputy's oath of office, on a form (EB-156) prescribed by the board.
- (5) The term of an appointment under this chapter continues through the registration periods remaining in the election cycle at the time of application, and expires at the end of the election cycle.

3.11 Special registration deputy application form.

- (1) An application to be appointed a special registration deputy shall require the applicant to provide the applicant's name, address, and contact information.
- (2) The application shall contain a certification that the applicant is a qualified elector of the state.
- (3) The applicant shall agree to follow the procedures established by the board and the municipal clerk.
- (4) Before being appointed a special registration deputy the applicant shall attend a training session conducted by the appointing authority.
- (5) The applicant shall be issued, by the appointing authority, a unique number that the applicant shall list on all voter registration forms collected by the applicant.

3.12 Special registration deputy training.

- (1) The content and curriculum of the training session required of each special registration deputy shall be prescribed by the board.
- (2) The training shall include all of the following elements:
 - (a) Review of Wisconsin voter eligibility requirements.
 - (b) Directions on the completion of the voter registration application form, including a direction that the special registration deputy shall affix to the form his or her printed name, signature and identification number.
 - (c) Directions that the information on the form shall be legible.
 - (d) Review of the applicable statutory deadlines for submitting a voter registration application form.
 - (e) Directions on the treatment of confidential voter information and on the handling of proof of residence documents received from an applicant.
 - (f) Review of the deadlines and procedures for delivering the completed voter registration application form to the appointing authority.
 - (g) Information on the consequences of failing to follow the prescribed procedures for registering voters.
 - (h) Information on providing assistance to individuals with difficulty understanding the English language and individuals with disabilities.

(i) Information on the provisions of s. 12.13 (3) (ze), Stats., prohibiting compensation of special registration deputies according to the number of registration forms collected.

(j) Information on the criminal sanctions applicable to the misuse of appointment as a special registration deputy.

(k) Any other information prescribed by the board.

(3) The board shall provide training at times and locations designed to facilitate the participation of applicants.

(4) The board may authorize a municipal clerk to provide training for an applicant applying for appointment by the board.

3.13 Revocation of special registration deputy appointment.

(1) Under s.6.26 (2) (b), Stats., an appointing authority may, for cause, decline to appoint an applicant as a special registration deputy, or may revoke the appointment of an existing special registration deputy.

(2) The basis for denying or revoking an appointment includes:

(a) The applicant or special registration deputy lacks the qualifications of an election official as set forth in s.7.30 (2), Stats.

(b) The applicant or special registration deputy fails to attend training sessions scheduled by the appointing authority.

(c) The applicant or special registration deputy has previously had an appointment revoked for cause.

(d) The applicant or special registration deputy fails to adhere to procedures established by the appointing authority, including submission of completed voter registration application forms in the time and manner prescribed by the appointing authority.

(e) The applicant or special registration deputy falsifies, fails to submit, or wrongfully suppresses a voter registration application form or otherwise commits official misconduct.

(f) The applicant has been convicted of a crime delineated in s. 12.13, Stats.

3.20 Voter registration drives.

- (1) Individuals or organizations conducting voter registration drives shall use the voter registration application form (EB-131).
- (2) Individuals or organizations conducting voter registration drives may not retain the following voter registration information: the date of birth, driver's license number, department of transportation identification number, or last four digits of the social security number of an individual completing a voter registration application form.
- (3) Individuals or organizations conducting voter registration drives may utilize special registration deputies to assist in the collection of voter registration application forms.
- (4) Individuals or organizations conducting voter registration drives that do not utilize special registration deputies to assist in the collection of voter registration application forms shall collect a copy of the required forms of proof of residence for first-time voters and submit the copy to the appointing authority with the completed voter registration application form.
- (5) Individuals or organizations conducting voter registration drives may not retain a copy of any form of proof of residence collected from an individual.
- (6) Individuals or organizations conducting voter registration drives may not pay any individual collecting voter registration application forms compensation based on the number of registration forms collected as prohibited

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 November 20, 2007

KEVIN J. KENNEDY
Executive Director