

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ELECTIONS COMMISSION**

Rule No.: EL § 3.60
Relating to: Absentee Ballot Information Subscription Service and Fee Schedule
Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

2015 Wisconsin Act 261 (“Act 261”) specifically directs the [Government Accountability Board] Elections Commission to establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33 (5) (a), Stats, including semiweekly updates of such information. Act 261 further requires the [Government Accountability Board] Elections Commission to establish by rule the fee schedule for obtaining access to the absentee ballot information subscription service. The proposed rule will establish the absentee ballot information subscription service and fee schedule as directed by Act 261. The proposed rule will outline the absentee ballot information subscription service parameters, including the process for obtaining semiweekly updates of information. The proposed rule will set the fee schedule for obtaining access to the absentee ballot information subscription service which includes semiweekly updates to the information.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing Policy:

The Commission already has an online portal (BadgerVoters) that is used by the public to request and receive voter registration. Individuals are able to request quotes, make online payments and retrieve files automatically using this system. Current Wis. Admin. Code EL 3.50 sets the fees associated for voter registration data. The Commission currently uses this system to fulfill requests for absentee data which is populated by registered voters. Under the current rules, requestors of an electronic file (including absentee ballot information) are charged a \$25.00 base fee per file, plus \$5.00 for the first 1,000 records, or up to 1,000 records, plus \$5.00 for each additional 1,000 records. The maximum charge for an electronic file is \$12,500. The charge for a paper copy of a report is \$.25 per page, plus the cost of postage and shipping. Additionally, if there are ‘custom report’ requests, as defined in the existing rule, additional charges could apply to cover staff time to facilitate the requested customization of the report. The current system also allows individuals to request semiweekly updates of absentee information, and they are charged accordingly for “new” absentee data that is obtained.

Proposed Policy:

The proposed rule will establish the absentee ballot information subscription service. The Commission’s existing BadgerVoters infrastructure will continue to be used to facilitate and respond to requests for absentee voter information. The system will continue to have the ability

to provide standard absentee ballot information reports as well as custom reports depending on the requestor's needs. The system will be designed to continue accommodating semiweekly updates to the requestor. The proposed rule would establish a fee structure similar to the current fee schedule for voter registration data requests, with a base fee for any report, and escalating incremental 'per record' fees for larger requests. The base fee would be a one-time charge for the report, with additional charges only required for any requested updates to the data contained on the original report. Custom reports would generate additional fees on a case by case basis depending on the complexity of the request, and the amount of staff intervention required to fulfill the request. A separate fee for printing a paper copy of a request and shipping the request would also likely be included in the proposed rule.

Alternatives:

The alternative to using the existing data request infrastructure (Badger Voters) already in place to meet the Legislature's directive, would be to develop a stand-alone subscription service for absentee ballot information requests. Additional costs to develop a new system outside of the existing infrastructure would need to be addressed. Additionally, Wis. Stat. §§ 5.05(14)(b) and 6.36(6) directs the Commission to establish a subscription service and fee structure for obtaining absentee data, therefore failure to promulgate such rules would be in direct conflict of these statutes.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Wis. Stat. § 6.36(6) directs the Commission to "establish by rule the fee for obtaining a copy of the official registration list, or a portion of the list, including access to the subscription service established under s. 5.05 (14)(b)." Wis. Stat. § 5.05 (14)(b) directs the Commission to "establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33(5)(a), including semiweekly updates of such information."

Wis. Stat. § 5.05 (1) states that the Elections Commission "shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Pursuant to such responsibility, the Elections Commission may "[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration." Wis. Stat. § 5.05(1)(f).

5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

50 hours.

6. List with description of all entities that may be affected by the proposed rule:

Candidates, political parties, other political groups and the general public will be able to obtain absentee ballot information from a centralized location for a set cost on a semiweekly basis if requested. Absentee voters that have received a ballot from their clerk but have not returned it may be contacted by groups tracking information that is obtained through the subscription service.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Elections Commission is unaware of any existing or proposed federal regulation directed at a subscription service or fee schedule for absentee ballot information.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Elections Commission anticipates the rule having minimal or no economic impact, which includes no significant impact on small businesses.

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