

Timothy Zignego
3824 Wood Court
Hubertus, WI 53033

David W. Opitz
5132 Country Club Beach Rd.
Port Washington, WI 53074

Case Code: 30701
Case Type: Declaratory Judgment

Frederick G. Luehrs, III
N64W21545 Mill Rd.
Menomonee Falls, WI 53051

Case No:

Plaintiffs

v.

Wisconsin Election Commission
212 E Washington Ave 3rd Floor
Madison, WI 53703

Marge Bostelmann, Julie Glancey, Ann Jacobs,
Dean Knudsen and Mark Thomsen

Each of the above defendants is sued in their official capacities
as members of the Wisconsin Election Commission at their
office address of 212 E Washington Ave 3rd Floor
Madison, WI 53703

Defendants.

COMPLAINT

The Plaintiffs, by their undersigned counsel, hereby allege as follows:

1. This is an action against the Wisconsin Election Commission (“WEC”) and five commissioners of the Wisconsin Election Commission (the “WEC Commissioners”) (collectively “the Defendants”) based upon the Defendants’ failure and refusal to comply with state law.

2. Wisconsin Statute § 6.50(3) requires that upon receipt of reliable information that a registered voter has moved, WEC shall notify the voter by mail of that information. The voter

then has the ability to inform WEC that the voter has not moved and affirm that the voter remains at the address on their voter registration or, if the voter has moved, to register at their new address.

3. Wisconsin Statute § 6.50(3) is very clear as to WEC's duty if the voter does not respond to the notice. **If the elector . . . fails to apply for continuation of registration within 30 days of the date the notice is mailed, the clerk or board of election commissioners shall change the elector's registration from eligible to ineligible status.** (Emphasis added.)

4. Despite the mandatory language in the statute, the Defendants have decided that if voters do not respond to the notice that WEC would not change the voter's registration from eligible to ineligible status until somewhere between 12 months and 24 months after the notice was mailed and not responded to, rather than in 30 days as required by the statute.

THE PARTIES

5. Plaintiff, Timothy Zignego, is a registered Wisconsin voter and a taxpayer residing at 3824 Wood Court, Hubertus in Washington County, Wisconsin.

6. Plaintiff, David Opitz is a registered Wisconsin voter and a taxpayer residing at 5132 Country Club Beach Rd, Port Washington in Ozaukee County, Wisconsin.

7. Plaintiff, Frederick Luehrs, III is a registered Wisconsin voter and a taxpayer residing at N64W21545 Mill Rd, Menomonee Falls in Waukesha County, Wisconsin.

8. Each of the Plaintiffs is harmed and aggrieved by the conduct of the Defendants as described further herein. The Plaintiffs have standing as voters under Wis. Stat. § 5.06, as taxpayers because the Defendants are spending taxpayer money on illegal activities which causes pecuniary harm to the Plaintiffs, and as aggrieved parties under Wis. Stat. § 227.40 because the Defendants' invalid rule interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiffs.

9. The Defendant, Wisconsin Election Commission, is a governmental agency created under Wis. Stat. § 5.05 and charged with the responsibility for the administration of Chapters 5 and 6 of the Wisconsin Statutes and other laws relating to elections and election campaigns, other than laws relating to campaign financing. The Wisconsin Election Commission has its offices and principal place of business at 212 E. Wisconsin, 3rd Floor, Madison, WI 53703.

10. The Defendants, Marge Bostelmann, Julie Glancey, Ann Jacobs, Dean Knudsen and Mark Thomsen are commissioners of the Wisconsin Election Commission and were 5 of the 6 commissioners at all times relevant hereto. A sixth commissioner, Jodi Jensen, was involved in the matters that form the basis for this case but Ms. Jensen has since resigned and, thus, is not named as a defendant herein. Each of the WEC Commissioners is an “election official” within the meaning of Chapters 5 and 6 of the Wisconsin Statutes. Each of the WEC Commissioners is sued solely in their official capacities.

JURISDICTION AND VENUE

11. This court has jurisdiction pursuant to Wis. Stat. §§ 5.06, 806.04(1) and (2), and 227.40(1).

12. Venue is proper pursuant to Wis. Stat. §§ 227.40 and 801.50 (2) and (3)(a) and (b).

NATURE OF ACTION

13. By statute, Wisconsin now participates in what is called the Electronic Registration Information Center (“ERIC”). ERIC is a multi-state cooperative that shares information regarding voter registration.

14. As part of ERIC, Wisconsin receives a report regarding what are sometimes referred to as “Movers.” This refers to Wisconsin residents who, in an official government transaction, have reported an address different from their voter registration address.

15. After receiving the report on Movers from ERIC, WEC undertakes an independent review of the “Movers” information to ensure its accuracy and reliability.

16. Once WEC reviews the information from ERIC, then as required by Wisconsin law, WEC sends a notice to those voters, at the address on their voter registration, and asks them to affirm whether they still live at that address. If the voter affirms that he or she has not moved, then nothing happens and the voter remains in the active status on the voter rolls at that address.

17. The issue raised in this complaint is what happens if a voter who receives such a notice does not respond to the notice.

18. Wisconsin law is clear on that question. Wis. Stat. § 6.50(3) states that:

Upon receipt of reliable information that a registered elector has changed his or her residence to a location outside of the municipality, the municipal clerk or board of election commissioners shall notify the elector by mailing a notice by 1st class mail to the elector's registration address stating the source of the information. All municipal departments and agencies receiving information that a registered elector has changed his or her residence shall notify the clerk or board of election commissioners. **If the elector no longer resides in the municipality or fails to apply for continuation of registration within 30 days of the date the notice is mailed, the clerk or board of election commissioners shall change the elector's registration from eligible to ineligible status.** Upon receipt of reliable information that a registered elector has changed his or her residence within the municipality, the municipal clerk or board of election commissioners shall change the elector's registration and mail the elector a notice of the change. This subsection does not restrict the right of an elector to challenge any registration under s. 6.325, 6.48, 6.925, 6.93, or 7.52 (5). (Emphasis added)

19. Despite the mandatory language in the statute, the Defendants have decided that WEC would not change the voter’s registration from eligible to ineligible status until somewhere between 12 months and 24 months after the notice was mailed and not responded to, rather than in 30 days as required by the statute.

20. WEC sent notices to approximately 234,000 Movers in October, 2019 (the “October, 2019 notices”). The Defendants have stated that they will not comply with Wis. Stat. § 6.50(3) with respect to the October, 2019 notices.

21. As set forth by WEC staff, “instead of deactivating their voter registrations within approximately 30 days under Wis. Stat. § 6.50(3), deactivation would take place between 12 months and 24 months, giving the Movers a chance to vote in both the General and following Spring Election.”

22. The Defendants do not have the power to set aside the policy decision of the Wisconsin Legislature in this regard.

23. The decision by the Defendants was contrary to law on two different bases.

24. First, the decision by the Defendants violated their clear duty under Wis. Stat. § 6.50(3).

25. Second, the Defendants violated their duties under Chapter 227 of the Wisconsin Statutes.

26. WEC has been granted rule-making power by the Legislature under Wis. Stat. § 5.05(1)(f) to “promulgate 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 laws regulating campaign financing, or ensuring their proper administration.”

27. However, when exercising that rule-making power, the Defendants must comply with Chapter 227 of the Wisconsin Statutes.

28. Here, the Defendants have contravened the will of the Legislature and created new election law policy for the State by simply voting on such a new policy in a motion at a WEC

meeting (which is certainly not the procedure required for rule-making under Chapter 227), all of which conduct is contrary to law and an abuse of discretion.

29. On October 16, 2019, the Plaintiffs filed a formal complaint involving the same unlawful conduct alleged in this Complaint with WEC (the “WEC Complaint”). The WEC Complaint was filed pursuant to Wis. Stats § 5.06(1), which provides that any voter may file a written sworn complaint with WEC requesting that any election official “be required to conform his or her conduct to the law.”

30. The WEC Complaint named as respondents the individual commissioners named as Defendants herein, each of whom meets the definition of an election official under Wisconsin law.

31. WEC acknowledged receipt of the WEC Complaint on October 23, 2019.

32. By letter dated October 25, 2019 WEC dismissed the WEC Complaint. WEC stated that the ground for dismissal of the WEC Complaint was that it was “not timely” in light of the statutory rule that such complaints “shall be filed promptly *so as not to prejudice the rights of any other party.*” Wis. Stat. § 5.06(3). (Emphasis added.) This was despite the fact that the WEC Complaint was filed the week after WEC sent the October 2019 notices. A true and correct copy of the October 25, 2019 letter from WEC dismissing the WEC Complaint is attached hereto as Exhibit A.

33. WEC’s October 25th decision also stated that given the facts described in the WEC Complaint, there are no circumstances in which the Plaintiffs could assert any additional facts which would “cure the defect” which led WEC to dismiss their complaint. Thus, the Plaintiffs have no practical ability to refile their complaint with WEC at any future time or on any known basis.

34. WEC's decision dismissing the complaint was without basis in fact or law. The WEC Complaint was filed promptly after WEC's final decision to implement the unlawful conduct described in this Complaint by sending the October 2019 Notices to voters between October 7 and October 11, 2019. In fact, the dispute presumably would not have been ripe until WEC sent the October 2019 notices and informed municipal clerks that WEC did not intend to enforce Wis. Stat. § 6.50(3) with respect to the October 2019 notices, which it did in training materials published in September 2019 and a memo dated October 4, 2019.

35. Moreover, no voter would be prejudiced by the date on which the WEC Complaint was filed. The Plaintiffs do not challenge the form of the notice sent to voters. Rather, the Plaintiffs challenge the decision by WEC not to follow up on the notices that were actually sent as required by Wis. Stat. § 6.50(3).

36. Thus, voters received proper notices and the only issue in this case is whether WEC must comply with § 6.50(3) with respect to voters who do not respond to the notices.

37. And it cannot be the case that WEC's claim of an adverse effect on WEC staff, who have spent time and effort implementing an unlawful plan, can possibly constitute "prejudice to the rights of a party" for purposes of the § 5.06(3).

38. Although WEC stated that its dismissal of the WEC Complaint was without prejudice, its decision represents the final disposition of the WEC Complaint, and no further action before WEC is possible. WEC has thus "disposed of" the WEC Complaint and Plaintiffs are authorized by Wis. Stat. § 5.06(2) to commence an action in this court to "test the validity" of the Defendants' "decision, action or failure to act."

39. Thus, the Plaintiffs seek a declaration from this Court that the conduct of the Defendants violated Wis. Stat. §6.50(3) and a temporary and permanent injunction or, in the

alternative, a writ of mandamus, requiring the Defendants to comply with Wis. Stat. § 6.50(3) with respect to the October 2019 Notices.

FIRST CAUSE OF ACTION – VIOLATION OF WISCONSIN STATUTE § 6.50(3)

40. The Plaintiffs reallege and incorporate all of the preceding allegations of the complaint as if fully set forth herein.

THE ERIC MOVERS REPORT IS RELIABLE.

41. As cited above, Wis. Stat. § 6.50(3) states that “[u]pon receipt of *reliable information* that a registered elector has changed his or her residence to a location outside of the municipality, the municipal clerk or board of election commissioners shall notify the elector by mailing a notice by first class mail to the elector's registration address stating the source of the information.” (Emphasis added.)

42. Whether the ERIC Movers report is reliable is a question of law but the following facts show that the report is reliable.

43. The statute, itself, provides that any voter who receives a notice can continue their registration at their existing address by responding to the notice and informing WEC that the voter has not moved. Thus, the statute, on its face, assumes that some voters who have not moved will nevertheless receive a notice under the statute. The Legislature did not require certainty that the voter has moved prior to sending notice to the voter, only the existence of reliable information.

44. “Reliable” means something that is “consistently good in quality or performance or able to be trusted.” <https://www.lexico.com/en/definition/reliable>

45. It is the Wisconsin Legislature, itself, that made the decision to join ERIC. *See* Wisconsin Statute § 6.36(1)(ae).

46. The very reason that the Legislature determined that Wisconsin would join ERIC (and pay the required dues) is because ERIC is widely considered as a reliable source of information to be used by its member states (there are currently 29 states that are members) to update and improve the accuracy of their voter rolls.

47. The Legislature made that decision on behalf of the State of Wisconsin because the information to be received from ERIC was consistently good in quality such that it could be trusted.

48. Moreover, as confirmed by ERIC's own website, the reports that ERIC provides to its member states include "*reports that show voters who have moved within their state, voters who have moved out of state, voters who have died, duplicate registrations in the same state and individuals who are potentially eligible to vote but are not yet registered.*" (Emphasis added.)

49. That is, one of the known benefits of joining and paying dues to ERIC is to receive a Movers Report from ERIC.

50. Further, the information contained in ERIC's Movers Report is information reported by the voter (and not a third party) in an official government transaction. The source of the information makes the information reliable.

51. Moreover, Wisconsin's history with ERIC shows that the ERIC Movers Report is accurate.

52. WEC received a Movers report from ERIC in October 2017.

53. WEC staff reviewed and vetted that report before taking any action on the report. See, Exhibit B, WEC Staff Report for March 11, 2019 meeting ("March 11th Staff Report") ("Before any action was taken regarding these voters [identified in the ERIC Movers report], Commission staff vetted the list for changes that were not relevant to the voter's registration, such

as changes to mailing addresses or temporary changes.”) A true and correct copy of the March 11th Staff Report is attached hereto as Exhibit B.

54. Based on the reliability of the ERIC Movers report, WEC sent notices under Wis. Stat. § 6.50(3) to 341,855 voters in November, 2017.

55. The notice was in the form of a postcard directing the voter to sign and return the postcard if the voter desired to continue voting at the address on the postcard or to visit *myvote.wi.gov* to update their voter registration.

56. Of these 341,855 voters, only 6,153 responded to the notice by continuing their registration at their existing address. (March 11th Staff Report, Ex. B.)

57. The remainder (335,702) were deactivated from the voter registration list as required by law. *See* Wis. Stat. § 6.50(3).

58. Ultimately, 18,117 of the 335,702 voters whose registration status was deactivated were reactivated based upon one of the following: (1) the voter contacted their municipal clerk or WEC and stated that they still resided at the address on their voter registration, (b) WEC staff found an error of some sort, or (c) the voter voted in an election in 2018 from the address on their voter registration. (March 11th Staff Report, Ex. B.)

59. The total of the voters who returned the post cards (6,153) and the voters who were later reactivated (18,117) is 24,270. That number represents 7% of the voters who were sent notices in 2017.

60. This number does not represent “unreliability” in the ERIC data. The ERIC report covers voters who submitted an address different than their voter registration address in an official government transaction. The fact that a voter reported a different address to a government agency

is a “reliable” indicator that the voter may have moved, even if it turns out that the voter did not actually move.

61. Because these voters had reported two different addresses for themselves, the State of Wisconsin had a legitimate reason to ask these voters to confirm the address on their voter registration which is what the November 2017 notice asked the voters to do.

62. All that can be said about these 24,270 voters is that they reported an address different from their voter registration address in an official government transaction but had not actually moved to that second address.

63. The remaining 93% of the voters who received the November 2017 notice: (a) took no steps to maintain their registration at their original address and, either (b) registered to vote at their new address, or (c) have taken no steps to reregister or vote since their registration was deactivated.

64. This would mean that even assuming the 7% was a measure of unreliability (which it is not), the ERIC data from 2017 was still 93% reliable.¹

65. As part of a subsequent staff report prepared for the June 11, 2019 WEC meeting (the “June 11th Staff report”), WEC staff also reviewed a subset of the 2017 notices that had been classified as “undeliverable.” A true and correct copy of the June 11th Staff Report is attached hereto as Exhibit C.

66. WEC staff found that 6% of those voters subsequently voted from their original address (see, June 11th Staff report). So, even if “reliability” is measured by the percentage of

¹ It is possible that some part of the voters who have taken no action actually still live at their original address but there is no evidence that supports that possibility. In a later report the staff slightly revised the totals and reported that an additional small number (20) of voters were reactivated as the result of participating in the 2019 Spring Primaries. *See*, June 11th Staff Report, Ex. C. But this extremely minor change actually supports the reliability of the original ERIC data.

voters on the ERIC report who actually moved—rather than whether the ERIC data accurately shows which voters have reported a different address in a government transaction—the ERIC Movers report was still highly reliable (94%) for the subset of notices that were “undeliverable.”

67. After reviewing the data described in Paragraphs 56 through 64 above, the March 11th Staff Report concluded that “the in-state movers data is a largely accurate indicator of someone who has moved or who provided information to the post office or DMV which makes it appear that they moved.” (See, Exhibit B at page 10.)

68. WEC received a new ERIC Movers report in 2019.

69. WEC staff again reviewed and vetted the information prior to taking any action on the ERIC report. See, WEC Training Materials for 2019 Movers Mailing WisVote Webinar (the “Training Materials”). A true and correct copy of the Training Materials is attached hereto as Exhibit D.

70. Among other things, WEC staff identified and reviewed the potential matches between the ERIC Movers report and Wisconsin’s voter registration list, made sure no military voters were on the list, made sure that no voters were on the list who had received a notice during the 4 year maintenance process, checked for data quality issues, and reviewed the address information for accuracy. (Training Materials, Ex. D)

71. After taking those steps to confirm the accuracy of the ERIC report, WEC staff, as a matter of fact, again relied on the report to send notices to approximately 234,039 Wisconsin voters between October 7 and October 11, 2019. See WEC Memo to Clerks dated October 4, 2019. A true and correct copy of the WEC October 4, 2019 memo is attached hereto as Exhibit E.

72. On October 7, 2019 WEC also sent a memo to all members of the Wisconsin Legislature explaining what WEC had done with respect to the Movers notice. A true and correct copy of the WEC memo to Legislators is attached hereto as Exhibit F.

73. In its October 7, 2019 memo to Legislators WEC acknowledged that WEC had sent its first notice to Movers relying on the ERIC Movers Report in 2017 and that the October, 2019 notices were the second such mailing. WEC complied with Wis. Stat. § 6.50(3) with respect to the first Movers notice sent in 2017 but never explains to the Legislators why WEC refused to comply with Wis. Stat. § 6.50(3) for the 2019 mailing.

74. Other states that have so-called “top down” systems, meaning that the state’s voter registration system is maintained by the state and used by municipalities (as opposed to being maintained by the local municipalities), rely upon the ERIC Movers report to change the registration status of voters if the voter does not respond to a notice sent to the voter following the state’s receipt of the ERIC Movers Report. (See, Exhibit B, March 11th Staff Report at pages 6-7 for Virginia and 7-8 for Minnesota.)

75. Under Wis. Stat. § 6.50(3), voters who received one of the October, 2019 notices had three options: (a) if they moved, reregister at their new address in advance of the next election or on election day, (b) if they have not moved, return the form provided by WEC within 30 days affirming that they still live at their voter registration address or do so online at MyVote (in which case no action is taken to change their registration status) or (c) take no action to continue their active registration status at their voter registration address and have their voter registration status changed from eligible to ineligible 30 day after receipt of the notice. However if the voter’s registration status is changed and the voter has not actually moved the voter can simply reregister at their existing address in advance of the next election or at the polls the next time the voter votes.

76. Reregistering presents no hardship on the voter because the voter can do so at the polls on election day. Each voter needs to bring their Voter ID to the polls to vote in any event and given that the voter has not moved from their previous residence their Voter ID will likely match their voter registration address but, if not, the voter can use a variety of other forms of proof of residence.

77. The Defendants, however, have decided not to enforce the 30 day requirement contained in Wis. Stat. § 6.50(3) with respect to the October 2019 Notices.

78. The Defendants' conduct clearly conflicts with state law. WEC's duty under Wis. Stat. § 6.50(3) to change an elector's registration from eligible to ineligible when the statutory conditions are met is mandatory, not discretionary, and there is no provision in the law permitting the WEC Commissioners to cause WEC to wait up to two years before executing this task.

SECOND CAUSE OF ACTION – VIOLATIONS OF WIS. STAT. § 227.10

79. The Plaintiffs reallege and incorporate all of the preceding allegations of the complaint as if fully set forth herein.

80. While WEC has the statutory power to promulgate rules under chapter 227, *see* Wis. Stat. § 5.05(1)(f), in exercising that power WEC must comply with the requirements of Chapter 227. The Defendants did not do so.

81. Wis. Stat. § 227.10(1) requires that “[e]ach agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.”

82. The Defendants were interpreting several Wisconsin Statutes when they made the decision not to enforce Wis. Stat. § 6.50(3), including but not limited to Wisconsin Statutes §§ 5.05(15), 6.361(1)(ae) and 6.50(3). (See, March 11th Staff Report, Ex. B, pages 10-11.)

83. Moreover, the Defendants then adopted a statement of general policy applicable to the entire State of Wisconsin, which policy was to not enforce Wis. Stat. §6.50(3).

84. As part of their statutory duties, therefore, the Defendants were obligated to promulgate their interpretation of parts of Chapters 5 or 6 and the new statement of policy as a rule, but they violated that statutory duty.

85. The Defendants were aware that the new statement of policy required a statutory change or a new rule because that subject was raised by WEC staff in the March 11th Staff Report. (See Exhibit B, page 11 (“[S]taff believes any such long-term process should be reflected in either the agency’s administrative rules or the Statutes.”) But the Defendants acted without promulgating a rule.

86. Further, the Defendants may not promulgate a rule which conflicts with state law. See Wis. Stat. § 227.10(2) (“No agency may promulgate a rule which conflicts with state law.”)

87. Thus, while WEC has the power to interpret Wis. Stat. § 6.50(3) (and other statutes), the Defendants violated the law and abused their discretion when they interpreted the statutes in a way directly inconsistent with § 6.50(3). *Seider v. O’Connell*, 2000 WI 76, ¶ 28, 236 Wis. 2d 211, 612 N.W.2d 659 (“An administrative rule that conflicts with an unambiguous statute exceeds the authority of the agency that promulgated it.”)

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs request the following relief:

A. A declaration that the decision made by the Defendants not to enforce Wis. Stat. § 6.50(3) was unlawful.

B. A declaration that the decision made not to enforce Wis. Stat. § 6.50(3) and to adopt a new election law policy constitutes a rule; that the Defendants did not promulgate that rule as required by state law; and, that as a result the rule is invalid and may not be enforced by WEC;

C. A declaration that the decision not to enforce Wis. Stat. 6.50(3) constitutes a rule and that the rule is inconsistent with Wis. Stat. § 6.50(3) and as a result void.

D. A temporary and permanent injunction requiring that the Defendants cease and desist from ignoring and failing to enforce Wis. Stat. § 6.50(3).

E. In the alternative, a writ of mandamus that WEC shall change the registration status from eligible to ineligible for each voter who was sent the October 2019 notice and who did not respond to the notice within 30 days.

F. Such equitable or other relief as is just and appropriate.

Respectfully submitted this 13th day of November, 2019.

WISCONSIN INSTITUTE FOR LAW & LIBERTY, Inc.
Attorneys for Plaintiffs

S/Signed electronically by Richard M. Esenberg

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Wisconsin Elections Commission

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October 25, 2019

Ms. Richard M. Esenberg
330 E. Kilbourn, Ste. 725
Milwaukee, WI 53202-3141

Attorney Brian McGrath
330 E. Kilbourn, Ste. 725
Milwaukee, WI 53202-3141

Dear Attorneys Esenberg and McGrath:

I am in receipt of the complaint filed with the Wisconsin Elections Commission (WEC) by your office on October 16, 2019. I have forwarded the complaint to each of the Commissioners. I am writing to inform you that I have determined that the complaint is not timely and as a result, I am returning the complaint to you without prejudice pursuant to Wis. Stat. § 5.06 and EL 20.04(1) and (2), Wis. Adm. Code.

While the Commission will not process the complaint under the answer-and-reply provisions outlined in Wis. Stat. § 5.06, as part of its ongoing evaluation of the previously authorized Electronic Registration Information Center (ERIC) voter registration data matching procedures, the Commission is scheduled to receive an update at its December 2, 2019 meeting. As in previous meetings related to this topic, public input is always welcome at Commission meetings and I invite you to provide the perspective of your organization and clients directly to Commission members, either during the public comment portion of that meeting and/or in writing.

I have reviewed the complaint which was filed on behalf of four individuals pursuant to Wis. Stat. § 5.06 and names the individual members of the WEC as respondents. The subject of the complaint is the WEC's participation in the Electronic Information Registration Center and specifically a decision of the WEC regarding the voter registration consequences for individuals who do not respond to a WEC mailing requesting confirmation of whether or not they have moved (the "Movers mailing") or individuals whose mailing has been returned as undeliverable. The complaint alleges that the Commission's decision and directives to agency staff regarding the Movers mailing, made at its meeting of June 11, 2019, are contrary to Wisconsin law and an abuse of discretion.

The decision challenged in the complaint was a motion approved by the Commission which stated:

Authorize staff to flag files of voters rather than deactivating voters who do not respond to a Movers mailing after 30 days; go forward with WisVote, poll book and MyVote updates; assess new data before initiating future mailings; incorporate the substance of recommendations in the staff memorandum; and authorize staff to proceed with the next Movers letter in August 2019.

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

The complaint includes the staff memoranda to the Commission from the meetings of both March 11, 2019 and June 11, 2019. In both documents, Commission staff recommended that deactivation of voter registrations resulting from the ERIC Movers mailing take place between 12 months and 24 months after the mailing rather than requiring municipal clerks to deactivate registrations after 30 days without an individualized determination as to whether there was sufficient reliable information that the elector's residence had changed as described in Wis. Stat. § 6.50. This recommendation was part of the "substance of the recommendations" cited in the motion adopted on June 11, 2019 along with the specific direction to flag files of voters rather than deactivating voter registrations of individuals who do not respond to the Movers mailing. The motion also authorized Commission staff to proceed with the next Movers mailing in August 2019.

As a result of the Commission's direction, staff spent significant time, effort and resources to create, test, print and mail communications to 341,855 individuals. The printing and mailing costs are expected to total over \$140,000. Based on the Commission's June directive, which was more than four months prior to the filing of the complaint, the communication created and mailed by Commission staff informed recipients of their options to either confirm or update their voter registration record. The mailing did not advise recipients that failure to respond within 30 days would result in the deactivation of their voter registration. Previous mailings related to the Four-Year Maintenance process and the ERIC Movers process included language regarding the consequences of a recipient failing to take action to confirm or update their registration record.

Wis. Stat. § 5.06(3) requires that a complaint challenging the decision of an election official "shall be filed promptly so as not to prejudice the rights of any other party." The administrative rules governing the WEC's processing of complaints require that I review the complaint and determine within 10 business days whether the complaint is timely, is sufficient as to form and states probable cause. EL 20.04(1), Wis. Adm. Code.

For the purposes of this correspondence, I am setting aside without deciding the question of whether Wis. Stat. § 5.06 applies to decisions of the Elections Commission itself, rather than only to local election officials and WEC staff, who have been the subjects of Section 5.06 historically. Additionally, you have named each Commission member individually, but the challenged decision is one made by the Commission as a single administrative body. There are provisions of the governing statute and administrative rules which could lead to a conclusion that the complaint process does not apply to decisions made by the Commission itself, and that those decisions may be challenged directly in court rather than through the process outlined in Wis. Stat. § 5.06. There are also procedural implications of the Commission being named as a respondent in a complaint for which it is responsible for issuing a decision.

Regardless, my basis for returning the complaint filed by your office is that it is not timely under Wis. Stat. § 5.06(3). The Commission considered this specific issue at both its March 11, 2019 and June 11, 2019 meetings after publishing notice of the staff's recommendations and affording the public an opportunity to provide comments. Following the Commission's June 11, 2019 decision, its staff implemented the decision over a period of four months before the complaint was filed after a considerable investment of staff time and agency resources.

If the intent of complaint is to halt or nullify the Movers mailing, it would clearly prejudice the rights and duties of Commission staff which implemented the decision in the absence of any complaint being filed promptly. As illustrated by the exhibits attached to the complaint, Commission staff not only created the Movers mailing but developed training materials and conducted training for local election officials, who have also relied on the Commission's instructions in processing responses to the mailing. Given that the complaint specifically requests the deactivation of voter registrations of those individuals who do not respond to the Movers mailing within 30 days, the delayed filing of the complaint also prejudices the rights of those recipients who are not on notice of that consequence for failing to respond before they have another opportunity to vote.

For these reasons, I am returning your complaint as untimely without prejudice as pursuant to EL 20.04(3), Wis. Adm. Code. As required by that provision, I have specified the defect in the complaint. As to the information which would be appropriate to cure the defect, I am unaware of any additional information which could be deemed to be appropriate with regard to the actual mailing of the Movers letter. As to the timeline for deactivating voter registrations as a result of the mailing, the Commission is scheduled to hold another discussion regarding ERIC procedures as part of its ongoing evaluation of what we can learn from the results of the mailing at its December 2, 2019 meeting. That would be another opportunity to provide input to the Commission regarding the perspective of your office and clients and steps going forward.

Thank you for bringing your concerns and the concerns of your clients to our attention. Please let me know if you have any questions regarding this correspondence.

Sincerely,

A handwritten signature in black ink that reads "Meagan H.M. Wolfe". The signature is written in a cursive style with a large, looped initial "M".

Meagan Wolfe
Administrator
Wisconsin Elections Commission

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INTERIM ADMINISTRATOR MEAGAN WOLFE

MEMORANDUM

DATE: For the March 11, 2019 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe
 Interim Administrator

Prepared and Presented by:

Jodi Kitts

WisVote Specialist

William Wirkus

Election Administration Specialist

SUBJECT: Assessment of Wisconsin's Electronic Registration Information Center (ERIC) Participation

I. INTRODUCTION

The object of this report is to provide a brief background on the Electronic Registration Information Center (ERIC), an overview and assessment of the implementation of Wisconsin's participation in ERIC from 2016 to present, and recommendations for improvement for the future. In particular, the recommendations will focus on the portion of ERIC membership which requires Wisconsin to act regarding residents who have purportedly moved within the state, called "in-state movers."

II. BACKGROUND

A. What is ERIC?

2015 Wisconsin Act 261 directed Wisconsin to join ERIC, an inter-state consortium formed to improve the accuracy of voter registration data and to assist voters to become registered at their current addresses. ERIC uses modern "big data" matching and analytics to identify electors who may be eligible but are not registered to vote, voters who have moved since their last registration date, and voters who may no longer be eligible and should be removed from voter rolls. The goal of ERIC is to encourage these electors to register or update their information ahead of an election to better manage the volume of registration activity leading up to and on Election Day. Ultimately, long-term participation is aimed at reducing costs, increasing accuracy, and improving efficiency in the voter registration process. ERIC currently has 26 member-states representing all geographic regions in the United States.

B. Requirement of Membership

ERIC requires member states to provide data every 60 days for all current driver license and state ID card holders from the Division of Motor Vehicles (DMV) as well as all currently registered voters from the Wisconsin Elections Commission. ERIC then compares that data to similar files from participating states (including neighboring states Minnesota and Illinois). Data is also compared to national sources such as the US Postal Service's National Change of Address (NCOA) service and the Social Security Administration's Death Master List.

After matching the data from these sources, ERIC provides reports back to participating states to help states maintain their voter rolls. ERIC provides two types of reports to participating states:

1. Lists of electors who may be eligible to register but are not currently registered to vote.
2. List maintenance reports for currently registered voters who no longer may be eligible at their registered address because they may have moved or have become deceased.

The ERIC Membership Agreement requires that participating states reach out to voters who may be eligible but are unregistered once every two years, ahead of the fall General Election, no later than October 1st. ERIC requires that states contact voters appearing on the list maintenance reports at least once a year.

III. 2017-2018 WISCONSIN LIST MAINTENANCE FOR MOVERS

When originally determining how to proceed with the list maintenance provisions of ERIC, Commission staff reviewed list maintenance options in the Statutes. Wisconsin Statutes provide for two types of list maintenance – a process for voters who have not voted in the last four years, and a process for voters for whom there is reliable information that the voter no longer resides at the address on their voter registration. There is no specific process designated in the Statutes for the treatment of movers as identified by ERIC (hereinafter “movers”). Wis. Stat. §6.36 simply requires Wisconsin's membership and compliance with the ERIC Membership Agreement. The Membership Agreement provides only that the State “initiate contact with [such voters] in order to correct the inaccuracy or obtain information sufficient to inactivate or update the voter's record.” It does not specifically mandate the removal of such individuals as active registered voters or a timeframe for determining their status.

At the March 14, 2017 meeting, the Commission approved staff's recommendation to follow the statutory process related to voters for whom there is reliable information that they no longer reside at their registration address (Wis. Stat. § 6.50(3)). This process involves sending the voter a notice in the mail asking the voter if they would like to continue their registration at their current address. If so, the voter signs and returns a continuation form. If the voter does not respond requesting continuation within 30 days or does not complete a new registration at a different address, the voter's registration record is marked as inactive and the voter must register again before voting.

ERIC provided data to the Commission in October 2017 indicating that 341,855 registered voters appeared to have moved based on information the voter provided to the Wisconsin DMV, the USPS

National Change of Address service, or government agencies in other states. Before any action was taken regarding these voters, Commission staff vetted the list for changes that were not relevant to the voter's registration, such as changes to mailing addresses or temporary changes. After this internal vetting, the WEC mailed a postcard to flagged voters directing them to reregister if they had moved or to sign and return the card to keep their registration current. The postcard was forwardable, so if the voter had provided a new address to the US Post Office, the card would be forwarded to their new address. These voters had 30 days in which to respond to keep their registrations active. The postcards were mailed beginning on November 6, 2017.

The following chart shows the counts of In-State and Out of State Mover postcards mailed in 2017:

Type of Mailer	Count
In-State	282,448
Out of State	59,407
Total:	341,855

Some voters who received the postcard contacted the Elections Commission questioning why they received the card. Staff identified several data discrepancies that caused voters to appear on the Movers list who may have not moved, such as differences in spelling between the street name on their voter registration record versus their DMV record, or cases where the new address was a PO Box. Staff identified any voters impacted by these situations and proactively marked those voter records for continuation of their registration at their current address so they would not be deactivated.

In January 2018, the voter registrations of those voters who did not return the postcard or update their registration were deactivated. Voters whose postcards were returned to the clerk as undeliverable were also deactivated.

The following chart provides the number of voters who requested continuation, cards returned as undeliverable, and voters who did not respond to the mailing:

Total Postcards Sent	Count
Requested Continuation	6,153
Undeliverable	83,743
No Response	251,959
Total Sent:	341,855

The deactivation of these movers caused some problems for the 2018 Spring Primary, as some voters who had not moved, but had not returned the postcard, were left off the poll book. In other words, while available data from the DMV implied many had moved, some of the voters, in fact, had not moved. Some reasons for this include voters who registered a vehicle or obtained a driver's license at an address other than the address they considered to be their voting residence. This included persons who registered a vehicle at a business address, vacation home, or their child's college address, and college students who obtained a driver's license when they are temporarily living away from home. In these situations, the voters may have provided an address in their transaction with the DMV that was different

from their voting address, even though DMV asked for their residential address on their forms. These voters were likely unaware that the information provided to the DMV would affect their voter registration status.

After talking to affected voters, WEC staff identified several additional situations where voters appeared to have moved but did not. This included cases where the voter registration address in WisVote contained a unit number but their DMV record did not, or vice versa, as well as voters listed as movers by NCOA but no new address was provided. These voters were proactively reactivated by Commission staff because data provided by NCOA in these cases did not constitute reliable information that the voter had moved. Overall, 12,133 were proactively reactivated by staff or were stopped from being deactivated due to these data discrepancies between January and March of 2018.

Deactivation of voters who were believed to have moved, based on this data, led to many calls of concern from clerks, media, and concerned citizens. These concerns led to the creation and approval of a "Supplemental Movers Poll List." Deactivated voters flagged as in-state movers were included on the Supplemental Movers Poll List instead of the regular poll book, beginning with the 2018 Spring Election. By signing the Supplemental Movers Poll List, voters were affirming their continued presence at the address on the list and their registrations were re-activated without requiring a new registration application. Clerks were also permitted to contact these voters ahead of the election, or to investigate these voters' addresses against other reliable government records available to the clerk to confirm their residency status before Election Day. The Supplemental Movers Poll List process was continued for all succeeding 2018 elections. Commission staff carried out the reactivation of voter records on behalf of clerks, by reviewing and processing copies of the Supplemental Movers Poll Lists submitted by clerks after each election.

The following chart shows the number of voters who used the Supplemental Movers Poll List process to continue their registration during elections in 2018, as reported by municipal clerks:

Supplemental Movers List Usage by Election	Count
04/03/2018 - Spring Election	1,333
06/12/2018 - Special Election	16
08/14/2018 - Partisan Primary	1,077
11/06/2018 - General Election	3,558
Total for 2018 Elections:	5,984

The municipalities of City of Milwaukee, City of Green Bay, and Village of Hobart requested wholesale reactivation of all movers, based on their authority under Wis. Stat. §6.50 to determine what constitutes "reliable information" with respect to a change in an elector's residence. These municipalities determined that the voters flagged by ERIC, by comparing voter registration data to data provided by the DMV and other government agencies, was not reliable enough to remove them from the poll list.

The following chart shows the number of voters reactivated by these municipalities prior to the 2018 General Election:

Municipality-Wide Reactivations	Count
City of Milwaukee	34,293
City of Green Bay	4,137
Village of Hobart	322
Total:	38,430

Movers identified in 2017 have now had four statewide elections to either reaffirm their presence at their registration address or to complete a new registration. Because of high voter turnout, the 2018 General Election provided a good test of the data in ERIC reports. 3,558 voters used the Supplemental Movers List to continue their registration, which is 1.04% percent of the total movers. 773 of Wisconsin's 1,850 municipalities reported having at least one voter who signed the Supplemental Movers List in the 2018 General Election, while 983 reported no voters using the Supplemental Movers List. 91 municipalities did not report back to Commission staff on the use of the Supplemental Movers List. Some municipalities reported incorrect use of the Supplemental Movers Lists where voters signed the list but crossed off their address and wrote in a new address. This appeared to be due to election worker confusion on how to correctly use the Supplemental Movers List. These voters should have in fact registered at their new voting address and provided proof of residence.

For the three municipalities that chose to reactivate all movers, only a small percentage of voters voted at the old address where the movers card was mailed, with higher numbers of voters registering at a new address or not voting at all.

The following chart shows the election participation for reactivated movers in the three municipalities that chose to reactivate all movers:

Reactivation Requests	Milwaukee	%	Green Bay	%	Hobart	%
Reactivated but did not Vote in November	22,914	67%	2891	70%	224	70%
Registered at new address on or before Election Day and voted	9,022	26%	1025	25%	87	27%
Voted at old address	2,357	7%	221	5%	11	3%
Total Reactivated by Request:	34,293		4,137		322	

At the December 3, 2018 Commission Meeting, the Commission approved staff's recommendation to cease use of the Supplemental Movers Poll Lists for the 2019 Spring Primary and Spring Election. Instead, staff implemented a call-in process where if voters reported that they should be on the poll list and were not, election workers would contact the municipal clerk to determine if the voter was an ERIC Mover. Commission staff received no calls during the Spring Primary related to movers. Based on the prior Commission approval, staff plans to continue this process for the April Spring Election.

Following the 2019 Spring Primary, staff pulled final statistics on the 2017 Movers. The following chart shows the final statewide disposition of the voter records involved in the 2017 Movers mailing:

Overall Disposition of Voters Identified as Movers	Count	Percent
Updated voter registrations	160,863	47%
Deactivated registrations which remain inactive	134,517	39%
Remain active at original address	46,475	14%
Total	341,855	

Currently, the system of using in-state mover data, sending postcards to these flagged voters, and deactivating unresponsive voters has highlighted several areas requiring improvement. First, ERIC pulls in-state mover information from agencies such as the Division of Motor Vehicles. Voters provide alternative addresses to governmental agencies for a variety of reasons that may not correspond to an actual physical move or may not reflect an individual’s intent regarding their voting residence. Second, the postcard itself, at first blush, may be overlooked by the recipient—many people only think about voting close to an election, and election mail outside of that cycle is easy to overlook. Third, the deactivation of voters who were removed from the poll book even though they had not moved can diminish voter confidence in the voting process. Rather than removing voters based on data that does not always indicate a change in voting residence, one of ERIC’s stated goals is to make “voter registration lists and processes more accurate, more complete, and fully compliant with federal, state, and local laws.”¹

IV. LIST MAINTENANCE FOR MOVERS IN OTHER ERIC STATES

Wisconsin elections are built on a partnership between the WEC and the state’s 1,850 municipal clerks and 72 county clerks. WEC provides a statewide computer system used by those clerks to manage voter registrations and election data, provide high-level election administration, support local election officials, and provide voter information to the public. Other ERIC member states have a mix of state-run voter registration systems and “bottom-up” systems that rely on counties to provide voter maintenance and provide varying degrees of support and administration to local clerks. WEC staff surveyed other ERIC states to obtain insight into their processes regarding in-state movers. The states of Illinois, Ohio, Virginia, and Minnesota responded and provided useful information about their processes.

A. Virginia

Virginia, like Wisconsin, is considered a “top-down” state as the Department of Elections provides a single application and central storage of registration and election data used by the localities. Each municipality, by law, is responsible for maintaining the data so only that municipality’s staff can alter information on the voter rolls. At the state level, the Department of Elections completes the list maintenance activity by identifying voters and sending matched voters to the municipality.

¹ Electronic Registration Information Center, Inc., *Membership Agreement*, Exhibit A, Pg. 13. < https://ericstates.org/wp-content/uploads/2019/01/ERIC_Bylaws_2018-11-30.pdf>

The Department of Elections processes the files comparing the ERIC data to the current state of the voter rolls to avoid contacting voters who have reregistered at a new address. The State sends voters flagged by ERIC as in-state movers a letter with a postage-paid tear-away portion to allow them to sign and affirm their address or make a change. Responses are routed to the local municipalities. Registrations of voters who do not respond or otherwise reregister are made inactive. An inactive voter arriving at the polls will appear in the poll book, but the voter must sign an affidavit to receive a standard ballot. The voter's participation will change their status back to Active. If the individual ceases voting, their registration will eventually be inactivated through the NVRA cancellation process. Virginia law dictates that a voter with an inactive status who has not voted in two consecutive Federal elections can be removed from the voter roster. The Virginia code dictates most of the process, and internal agency managers and legal counsel manage the details.

B. Ohio

Ohio has a "bottom-up" voter registration system which is connected to each county using a dedicated network of fiber lines to process transactions such as duplicate registration resolution, motor vehicle transactions, and Online Voter Registration transactions among others. The State sends postcards to voters ERIC flagged as in-state movers. The primary purpose of the postcard is to encourage the voter to update their registration, but the voter's registration remains active and there is no deactivation process associated with the postcard. Ohio's ERIC process is governed by administrative rules rather than by statutes.

C. Illinois

Like Ohio, Illinois has a "bottom-up" voter registration system, with each jurisdiction having their own domain. The Illinois State Board of Elections is the independent state agency handling high-level oversight of elections, providing support and training to counties. Records of voters flagged by ERIC as in-state movers are vetted by the state, and the vetted list is provided to the counties. The counties then send out a postcard, using either the State's template or a design of the counties' choosing. Illinois statutes require that voters who appear on NCOA and ERIC in-state movers lists are automatically registered at their new address. If the postcard is returned as undeliverable, the new address is rejected, and the registration reverts to the previous address. Voters are not removed from the poll book due to ERIC mailings.

Illinois' NVRA process is separate from its ERIC processes. If a voter has not voted in two election cycles, a postcard is sent. If the voter does not respond, the card is undeliverable, or they have not reregistered, the voter record is inactivated. Inactive voters are not listed in the poll book but can vote a provisional ballot. Illinois uses both statutory processes and administrative rules to manage ERIC voters.

D. Minnesota

Minnesota employs a "top-down" voter registration system that all counties use to input and manage voter information. Minnesota is exempt from most NVRA requirements. Under Minnesota law, for those registered voters who move, counties update their registration and then send them a postcard

confirming their updated registration at a new address. For those voters that ERIC indicates move in state, Minnesota queues their records in the state voter registration system, so that the counties can then update their registration. When a voter's record is automatically updated due to information received through ERIC, Minnesota sends that voter a postcard notifying them that their record has been updated and provides them with instructions on how to contact their county auditor if that update was in error. If a voter moves outside of Minnesota, their record changes to "inactive" and a postcard is sent to confirm that their registration should be deactivated. If a record has been "removed" (inactivated because they moved to another state, are deceased, etc.), Minnesota does not keep them on the poll list/polling place roster. Minnesota does not have provisional balloting, so the remedy for a voter to fix this if it was done in error is to use election day registration to reregister. State statute governs the list maintenance process as it relates to ERIC reports.

V. RECOMMENDATIONS

A. In-State Movers

The object of these recommendations is to outline procedures which, as confidently and accurately as possible, identify when an "in-state mover" has in fact moved such that it is appropriate for his or her voter registration to be deactivated. After researching how other ERIC states handle their in-state movers and evaluating Wisconsin's implementation in 2017 and 2018, Commission staff has prepared a recommended plan for modifying the process used in 2017-2018 for in-state movers, including replacement of the Supplemental Movers List.

As an overview, staff recommends the plan include continuing to send postcards to voters identified by ERIC as in-state movers each year. However, instead of deactivating their voter registrations within approximately 30 days under Wis. Stat. § 6.50(3), deactivation would take place between 12 months and 24 months after the postcard was sent, in the summer after each General Election. In the intervening period the voter would have a significant amount of time in which to either return the postcard affirming their address, complete a new registration via online or paper form, or affirm or complete a new registration at the polling place during any election. This means the voter would have the opportunity to affirm or register in as few as four and as many as six regularly-scheduled elections.

For example, voters who receive the movers postcard in the summer of 2019 would be able to affirm their registration until the summer of 2021, giving them 6 elections to take action (Feb, April, August and November 2020 and Feb and April of 2021).

Voters who receive the movers postcard in the summer of 2020 would also be able to affirm their registration until the summer of 2021, giving them 4 elections to take action (August and November 2020 and Feb and April 2021).

The polling place process would entail a voter signing their name in the regular poll book next to their address and a statement affirming that they have not moved. After these multiple fail-safe opportunities, anyone who had not affirmed or completed a new registration would have their registration with the old, presumably inaccurate address deactivated.

This recommended plan includes multiple elements which require both further study and development. The following is a more detailed breakdown of recommendations and changes envisioned in implementing these recommendations:

- **Improve In-State Mover's List:** Continue to refine and narrow the list provided by ERIC to ensure that it identifies those voters who most likely did have a change in residence based on information they provided to the USPS and the Wisconsin DMV. WEC will continue to work with DMV, NCOA, and ERIC to identify the potential for distinguishing address change types that may be used to refine the data used in the comparison.
- **Postcards:** Continue sending out yearly postcards (likely during the summer) to voters identified as having moved, giving them opportunity to affirm their address, complete a new registration (to update their address) or participate in an election using their old address. The postcard would include language providing the extended deadline in which the voter has to affirm or complete a new registration, before deactivation of their voter registration record. Postcards returned as undeliverable could be noted by Clerks in WisVote as undeliverable for data gathering purposes, but the voter would otherwise continue to follow the same procedure as any other voter identified as an in-state mover and their registration would remain active until the deadline for in-state mover deactivation 12-24 months later.
- **WisVote Changes:** In the previous process in-state movers who were sent a card were designated as "Active Suspended" in WisVote concurrently with the sending of the postcard card followed by a change to "Inactive – Moved" after deactivation. Staff proposes that any person who is identified as an in-state mover and sent a postcard be designated in WisVote as "Active" but with a "Mover" or similar designation until deactivation of their registration.
- **Poll List:** Under these proposed changes, voters identified as a Mover and sent a postcard would be identified as such on the poll list for the next General and Spring Elections and their respective primaries. If these voters appear to vote at an election, by signing the poll list, they would be signing an affirmation statement that they have not moved from the address listed.
- **Absentee Voters:** Likewise, any person who votes absentee, either by mail or in-person, from an address appearing on the movers report, would automatically have their status changed from "Mover" to the regular "Active" status when they return the ballot with a properly completed certificate envelope. Their "old" address would be affirmed by virtue of the fact that they are certifying on the envelope that "...I am a resident of the ward of the municipality in the county of the state of Wisconsin indicated heron, and am entitled to vote in the ward at the election indicated hereon; that I am not voting at any other location in this election..."
- **MyVote Changes:** For those in-state movers receiving a postcard, staff proposes an expedited method by which they can either affirm their address or update their registration. Staff proposes exploring whether use of a QR code and/or hand-keyed code on the postcard could assist in expediting this process of both retrieving the record and providing the necessary proof of residence for purposes of a MyVote registration update. There may also be the option of providing the voter with a more specific reason for why they received the postcard (i.e. USPS

National Change of Address notification, transaction at the DMV, etc.) to help answer questions why the voter received the postcard.

- **Amended In-State Mover's Deactivation Timeline:** Registrations for in-state movers would only be deactivated every two years after at least a general election and a spring election (and their primaries) had passed since receipt of the postcard in which a voter had not voted at their address listed in WisVote. Previously the process was statutorily designed so that registrations were inactivated within 30 days of the postcard being sent out. Movers who received the November 2017 postcard were deactivated in January 2018, in the year of a Spring Primary, Spring Election, Partisan Primary, and General Election. The new recommended process would allow the opportunity to participate in at least 4 to 6 elections (and thus the ability to affirm or decline to affirm the address on the poll list) before deactivation. Given that the in-state movers data is a largely accurate indicator of someone who has moved or who provided information to the post office or DMV which make it appear that they moved, staff believes this approach is a reasonable method of ensuring proper maintenance of the voter registration list under Wis. Stat. §5.05(15). Regular ERIC-associated list maintenance based on in-state mover data will still take place, but only after the identified in-state movers have had between 12 and 24 months, and between 4 and 6 regularly scheduled elections to affirm their address or complete a new registration.
- **Legal Authority Related to Recommended Process:** Voter list maintenance procedures have attracted increased attention from policymakers and the public, both in Wisconsin and nationwide. Wis. Stat. § 6.361(1)(ae) requires Wisconsin's participation in ERIC and compliance with its membership agreement "for the purposes of maintaining the official registration list..." Among other requirements, ERIC's membership agreement compels the state to act on all credible ERIC data identifying individual voters and to "...at a minimum, initiate contact with that voter in order to correct the inaccuracy or obtain information sufficient to inactivate or update the voter's record." Neither the ERIC enabling statute, nor the ERIC Membership Agreement establish specific procedures or timelines for inactivating a registration of a voter who appears on the movers list.

As noted above, the Commission has relied on the language and framework of Wis. Stat. § 6.50(3) to treat the movers list as reliable information that the individuals listed have changed their voting residence. The Commission also has general statutory to ensure "proper maintenance of the [registration] list. Specifically, the Statutes provide:

The commission is responsible for the design and maintenance of the official registration list under s. 6.36. The commission shall require all municipalities to use the list in every election and may require any municipality to adhere to procedures established by the commission for proper maintenance of the list.

See Wis. Stat. § 5.05(15).

Wis. Stat. § 5.05(15) provides a broader source of statutory authority to the Commission for ensuring the integrity and maintenance of the statewide voter registration list, which supports the process recommended by staff.

Wis. Stat. § 5.05(1)(f) also provides the Commission with rulemaking authority “for the purpose of interpreting or implementing the laws regulating the conduct of elections...or ensuring their proper administration.” At this time staff is seeking the Commission’s feedback regarding the recommended process and a decision as to whether it should be adopted as the Commission’s policy. However, staff also believes any such long-term process should be reflected in either the agency’s administrative rules or the Statutes. Given that no deactivation of voter records would occur under the proposed process until after the 2021 Spring Election, there is some time for the Commission to adopt a policy and obtain feedback from the Legislature as to whether the procedures should be enacted through legislation or administrative rules. The Legislature certainly may also establish a different approach with more specific procedures if it does not agree with a process adopted by the Commission.

B. Out-of-State Movers

We recommend dividing voters identified by ERIC as out-of-state movers into two separate processes depending on whether they are placed on the out-of-state list on account of 1) NCOA or motor vehicle data; or 2) Completion of voter registration in another state.

1. Out-of-State NCOA or Motor Vehicle Data

Out-of-state data stems from a transaction a voter took in another state at a motor vehicle department, by completing a change of address with the Postal Service, or by completing a new voter registration. WEC staff received few contacts regarding out-of-state movers. However, because motor vehicle data and NCOA data is subject to the same nuances as in-state movers, staff recommends adopting the same procedures for those two sub-categories as outlined for in-state movers. For example, apparent occasional voter behaviors such as registering a family car at another address for a college student, keeping a car at a second home or business, or due to varying wheel taxes and emissions testing standards, which may result in their names appearing on the out-of-state movers list (even though they maintain voter residency in Wisconsin). Staff recommends these voters be given the same window of 4-6 elections and 12-24 months to affirm or complete a new registration before deactivation of their voter registration.

2. Completion of Out-of-State Voter Registration

Since the advent of the statewide voter registration system, the Commission and its predecessor agencies have treated voter registration in another state as an affirmative act by the voter to sever one’s voter residency in Wisconsin, and thus appropriate to trigger deactivation of voter registration. Wisconsin regularly receives lists from other states of voters who were previously registered in Wisconsin and who have registered in another state. Staff reviews these lists and manually deactivates these individual registrations upon receipt. Wis. Stat. § 6.36(1)(d) specifically authorizes this process:

Upon receipt of official notification by the appropriate election administrative authority of another state, territory, or possession that an elector whose name appears on the list has registered to vote in that state, territory, or possession, the commission

or the municipal clerk of the municipality where the elector formerly resided shall change the elector's registration from eligible to ineligible status.

Similarly, the voter residency statute, Wis. Stat. § 6.10(10) points out that "If a person moves to another state with an intent to make a permanent residence there, or, if while there the person exercises the right to vote as a citizen of that state by voting, the person loses Wisconsin residence."

Staff recommends that voters identified through the list maintenance reports provided by ERIC as having registered in another state be deactivated under the authority of Wis. Stat. § 6.36(1)(d). The source of the data regarding voter registrations is the individual states which received and processed those voter registrations. ERIC acts as a conduit to other member states by analyzing and condensing the data and then sending the data on to only those states where the identified individual had a previous registration. During the 2017-2018 ERIC Implementation, out-of-state registrations accounted for between 35% and 40% of the voters identified as out-of-state movers.

C. Expanded ERIC Data Set

Beginning in April 2018 additional voter participation data is available to states to use as part of their list maintenance processes. The data compares voter participation records both in-state and across member states. The data can be used to investigate errors in the recording of participation and in identifying and investigating potential duplicates. The WEC will be receiving these additional reports and incorporating them into the currently existing list maintenance and referral processes.

Recommended Motion:

Commission staff proposes these recommendations after reviewing the Commission's initial implementation of ERIC relating to movers and examining opportunities for improvement. Staff believes this proposal provides an appropriate and balanced opportunity for movers to affirm their voting address or complete a new registration and for making use of the list maintenance reports provided by ERIC. As staff explores and implements the technical changes in the system to accommodate these processes, feedback of local election officials regarding the workflow will be solicited and reviewed to identify any changes or improvements. If the Commission directs staff to explore these options, staff will bring specific proposals to the Commission for approval at its June 2019 meeting. Staff recommends the following motion:

The Wisconsin Elections Commission directs staff to research and begin the implementation of the proposed ERIC list maintenance process in accordance with the staff recommendations stated herein. WEC staff will report back to the Commission at its June 2019 meeting on the status of implementation, technical feasibility of the new process, feedback from local election officials, and drafting of an administrative rule/proposed statutory change for the Commission's consideration.



Wisconsin Elections Commission

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MEMORANDUM

DATE: For the June 11, 2019 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator

Prepared and Presented by:

Connie Shehan
WisVote Specialist

Jeffrey Harrison
WisVote Specialist

SUBJECT: Wisconsin's Electronic Registration Information Center (ERIC) Movers Analysis

This memo provides updates on the 2017 Movers List maintenance outcomes and outlines future initiatives. At the March 2019 Commission meeting, staff presented an overview and assessment of the overall ERIC process to date. Recommendations were made for improvement of Movers List data quality, mailing enhancements, and research concerning the feasibility of technical changes to the WisVote system. This report contains specific process improvements for the Movers List, changes regarding the mailing format and processes, as well as WisVote changes that are being implemented, including the addition of an ERIC Movers-related watermark to the poll book.

I. PAST DATA ANALYSIS

As expected, the number of reactivations to voter records has decreased over time. The 2019 spring election cycle call-in process resulted in 20 reactivations which amounts to less than a tenth of a percent of total voters who participated in each election.

Supplemental List Reactivation Data by Election	Number of Reactivations	Percentage of Election Participation
04-03-2018 - Spring Election	1,333	0.131%
06-12-2018 - Special Election	16	0.041%
08-14-2018 - Partisan Primary	1,077	0.103%
11-06-2018 - General Election	3,558	0.132%
02-19-2019 - Spring Primary	7	0.008%
04-02-2019 - Spring Election	13	0.001%
Total 2018/2019 Elections:	6,004	

Wisconsin Elections Commissioners

Dean Knudson, chair | Julie M. Glancey | Ann S. Jacobs | Jodi Jensen | Mark L. Thomsen

Administrator
Meagan Wolfe

Commissioners requested additional examination of the undeliverable Movers mailing. Our findings show that 73% these voters remain inactive or re-registered at a new address. Those who re-registered at a new address make up 25% of the undeliverable count and voters who remain inactive total 48%, which indicates they are no longer at the address in their voter record.

Postcard was Returned Undeliverable	Count	Percent
Voted at original address (excluding voters Green Bay, Hobart and Milwaukee)	4,917	6%
Undeliverable in Green Bay, Hobart and Milwaukee Bulk Reactivation	8,170	10%
Re-registered	20,637	25%
Remain Inactive	40,480	48%
Merged	9,539	11%
Total Undeliverable	83,743	100%

WEC staff analyzed a random sample set of 1,849 voter records from the 6,004 voters who have been reactivated through the ERIC Supplemental List process or by clerk call-ins. This data confirms that 78% of voter records have remained unchanged since the reactivation and 20% subsequently changed their voter registration address. Staff research indicated that there may have been data included in the initial file provided by DMV that included National Change of Address (NCOA) activity dates. Approximately 86,000 of the approximately 384,000 records included in the DMV In-State file correlated with these NCOA activity dates rather than individual DMV customer-initiated transactions. The ERIC Membership Agreement requires DMV and NCOA to individually submit customer-initiated transaction data as part of the match process. We have requested NCOA address run dates from DMV and going forward staff will use this information to filter data.

DMV has been supportive in its willingness to investigate our inquiries. Its audit logs have confirmed that customers who used the ERIC Supplemental List process also updated their address at DMV branches or on its website. Some customers listed the new address on a vehicle registration form, initiated changes at the DMV Service Center, or listed it at a dealership when they were purchasing a vehicle. Vehicles can be registered at a workplace or other location where the vehicle is kept, which did not correspond with a primary residence as the voter record does. These circumstances could present variations in matching records.

Sample Set Findings	Count from Sample Set	Percent
No Change to Voter Record	1,442	78.0%
Registered at New Address	370	20.0%
Address adjusted after re-activation	22	1.2%
Inactive - Moved, Felon or 4 Year Maintenance	8	0.4%
Typo	7	0.4%
Total Records in Sample Set:	1,849	100.0%

Of the sample set studied 20% registered at a new address and staff verified that 70% of those currently have the same address as their DMV file. This list was generated a year and a half ago, therefore, we recognize that voters may have had additional changes since then.

New Registration Matches DMV Address	Count from Sample Set	Percent
Yes	212	70%
No	90	30%
Grand Total	302	100.0%

Recommendations for Future Data Analysis

Based on the data presented above, staff has been looking for ways to further improve the match process to ensure the most accurate information. Communication with ERIC regarding data anomalies and the ability of WEC staff to proactively verify data prior to reaching out to voters with a focus on addresses that include PO Boxes or matches such as 1st vs. First has made an impact on data quality. Due to a recently completed transaction date analysis of the DMV file, staff recommends the omission of the NCOA activity dates from the DMV file to comply with the ERIC Membership Agreement and to further improve data quality for future mailings. The ERIC Agreement requires DMV to submit a list of all customer addresses. It further requires WEC to use only “customer-initiated” transactions. Therefore, DMV will continue to submit its full list of changes to ERIC and they will provide a list of NCOA batch validation dates to WEC staff so they can be filtered once ERIC provides WEC with the final data.

Going forward, WEC staff proposes to flag voter records involved in the Movers process, rather than perform a deactivation, as explained in the Future Plans section below. This change will allow WEC and clerks to validate information and establish contact with voters, as needed, before any deactivation occurs. The mailing and a watermark in the poll book would be the most effective methods to determine if voters have changed their residential address.

II. FUTURE ERIC PLANS

The ERIC Membership Agreement requires that participating states reach out to voters appearing on the list maintenance reports at least once a year. As an overview, staff recommends continuing to send postcards to voters identified by ERIC as in-state Movers each year. However, instead of deactivating their voter registrations within approximately 30 days under Wis. Stat. § 6.50(3), deactivation would take place between 12 months and 24 months, giving the Movers a chance to vote in both the General and following Spring Election. To reiterate the process provided in the March ERIC memo, this means voters who receive the Movers postcard in the summer of 2019 would be able to affirm their registration, either by responding to the postcard or in-person at a polling place, until the summer of 2021, giving them an extended deadline of six elections to take action (Feb, April, August and November of 2020 and February and April of 2021).

Staff will begin compiling the Movers data in the beginning of July, with an eye towards sending the postcards in mid to late August 2019. This mailing is authorized to be forwarded by the Post Office.

This timeline allows flagged voters time to affirm their registration at their current address, or reregister at a new address, well in advance of the 2020 election cycle. Voters who receive the Movers postcard in the summer of 2020 would also be able to affirm their registration until the summer of 2021, giving them four elections to take action (August and November of 2020 and February and April of 2021). Postcards returned as undeliverable would be noted by clerks in WisVote as undeliverable for data gathering purposes, but the voter would otherwise continue to follow the same procedure as any other voter identified as an in-state mover and their registration would remain active until the deadline for in-state mover deactivation 12-24 months later.

The Movers postcard itself will be the subject of a comprehensive review, both in design and content. The goal of the redesign is to make a more substantive and useful mailing, while reducing voter confusion. Updates will include artwork/layout changes to attract attention as well as more concise information on reregistering and directing recipients to MyVote to complete an online affirmation to continue their registration. A voter flagged as a mover, will have the opportunity to go to MyVote, verify their name and date of birth for security purposes, then enter their unique affirmation code included with their mailing. This process will provide a method by which the voter can affirm their address online and will direct Movers to a secure place to update their registration information.

In addition to the Movers postcard improvements, staff proposes changes to the printed poll book and WisVote as well. Voters identified as Movers, but who have not taken any action in response to the postcard mailing, will have the status of "Active-Movers List" in WisVote. Voters with the status of "Active-Movers List" continue to appear in the poll book until the summer after a General Election. This means the voter would have the opportunity to affirm or register in as few as four and as many as six regularly scheduled elections. A watermark would appear in the signature block of the poll book with a "Movers List" designation. This watermark triggers the election inspector to ask the voter if they have moved. If the voter has indeed moved, they have the option to register at their new address. If the voter has not moved, they would sign the poll book and continue with the voting process. Poll worker instructions with a sample poll book watermark and a flow chart of the Movers List process are included with this memorandum.

Executing an affirmation or change of address will update a voter's status from Active-Movers List to Active-Registered automatically in the WisVote system when voter participation is entered. This will save extra steps for the clerk and help maintain accurate voter records. An identifying address field will also be added to the database to help track and analyze address history. Undeliverable postcards can be marked by clerks in WisVote as undeliverable for data gathering purposes.

Staff recommends that voters identified through the list provided by ERIC as having registered in another state be deactivated under the authority of Wis. Stat. § 6.36(1)(d). The source of the data regarding voter registrations is the individual states which received and processed those voter registrations. ERIC acts as a conduit to other members states by analyzing and condensing the data and then sending the data on to only those states where the identified individual had a previous registration.

For the purposes of this process, staff is relying on Wis. Stat § 6.361(1)(ae) compelling adherence to the ERIC membership agreement, Wis. Stat. § 6.50(3) which authorizes changes to voter registration status based on reliable information, and Wis. Stat. § 5.05(15) which makes WEC responsible for voter list maintenance. Neither the ERIC enabling statute, nor the ERIC Membership Agreement establish

specific procedures or timelines for inactivating a registration of a voter who appears on the Movers List. The Legislature certainly may also establish a different approach with more specific procedures.

Prior to implementation, staff will conduct usability testing encompassing both clerk committees and public sampling. Through this process, best practices will be determined, and a comprehensive training plan will be developed. Posted clerk communications will continue throughout the year to keep clerks informed regarding mailings, deadlines, and checklists. In addition, staff will host a webinar in January 2020 ahead of the election cycle, as well as make materials available in the WisVote Learning Center.

Final Summary

The 2017 Movers mailing brought about many opportunities to align processes and review the entire active voter list. For the next Movers mailing, WEC staff now has a more refined process to review data and conduct voter outreach which is informed by lessons learned from experience and a deep dive into data analysis. Mailing and technical enhancements will be aimed at improving voter interactions and ease of use. Options available in MyVote will allow voters the opportunity to go online to affirm or update their voter registration information, which will create a much more efficient process for voters and clerks. Clerks' processes will be made easier through the implementation of automatic voter status updates at the time that election participation is entered. The poll book watermark allows a means of flagging voters without taking additional poll book space or requiring a supplemental section. New discoveries in data review will provide a better understanding of the data going forward and the ability to take a proactive approach to screen data before mailings are initiated. While there has been a learning curve due to the nature of the ERIC processes and the unique structure of election administration in Wisconsin, WEC staff looks forward to facilitating improved voter data quality while assisting clerks with efficient processes in keeping records current and serving voters with a balanced approach.

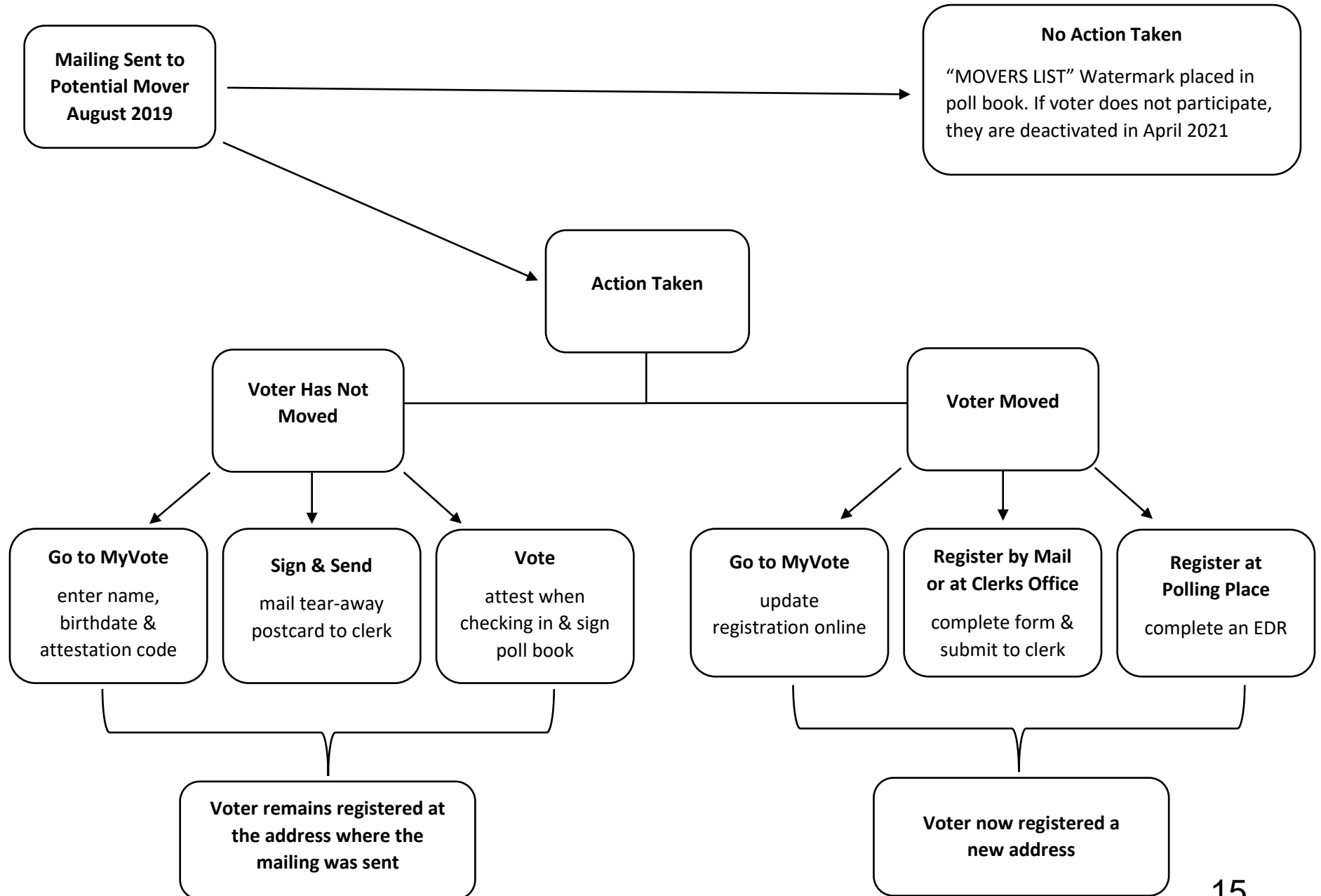
Recommended Motion:

Authorize staff to flag files of voters rather than deactivating voters who do not respond to a Movers mailing after 30 days; go forward with WisVote, poll book and MyVote updates; and assess new data before initiating future mailings.

Attachments: A. Poll Worker Instructions for Movers at the Polling Place
B. Movers Mailing Flow Chart



WEC Movers Mailing Process



2019 MOVERS MAILING

A WisVote learning series webinar

1

2019 MOVERS MAILING

Participants

Patrick Brennan	Training Officer
Jodi Kitts	ERIC Team Lead/ Sr. WisVote Specialist
Connie Shehan	WisVote Specialist

2

WHAT IS THE MOVERS MAILING?

Voters who provided an address other than their voter registration address

Must have been provided for an official government transaction

- Vehicle/Boat Registration
- Changing an Amazon shipping address
- Voter registration in another (ERIC) state
- Disconnecting utilities
- USPS address changes



3

WHAT IS THE MOVERS MAILING? GENERATING THE LIST

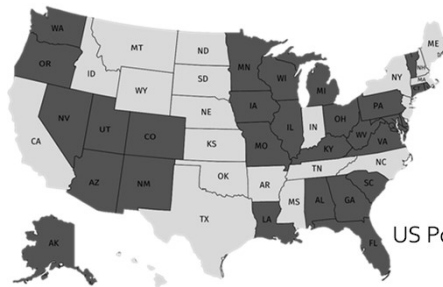
Wisconsin Voter Registration list is compared with:

ERIC states voter registration lists

ERIC state DMV transactions



Wisconsin DMV transactions



US Postal Service address change requests

4

WHAT IS THE MOVERS MAILING? GENERATING THE LIST



Potential matches are identified and reviewed

Voted or registered after 07/01/19

No military voters
or
voters who received 4-year maintenance card

5

WHAT IS THE MOVERS MAILING? GENERATING THE LIST



Checked for data quality issues

Address information is reviewed
for standards/accuracy

Is the match the same person?

6

WHAT IS THE MOVERS MAILING? IMPROVEMENTS FROM 2017 MOVERS MAILING



Response deadline no longer 30 days

Wisconsin DMV NCOA transaction data
excluded from matching process

7

WHAT IS THE MOVERS MAILING? IMPROVEMENTS FROM 2017 MOVERS MAILING



Mailer and response options usability-tested

Contact letter instead of postcard

MyVote response option

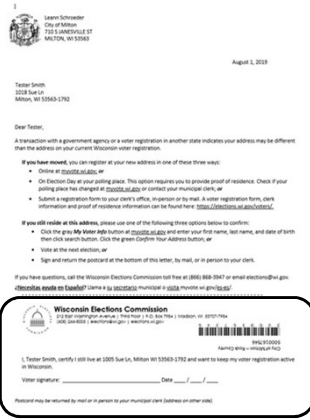
8

WHAT IS THE MOVERS MAILING? WILL IT LOOK LIKE OTHER WEC MAILINGS

Front

NOT A POSTCARD THIS TIME!

Back



Lists all options for responding:
MyVote
By Mail
Voting



Brief explanation why it was received

Bottom detaches to return by mail



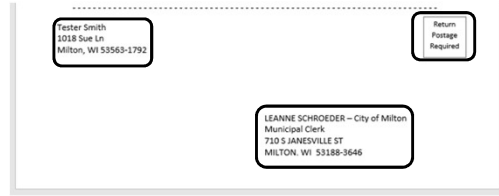
9

2019 MOVERS PROCESS POSTCARD RESPONSE OPTION



10

2019 MOVERS PROCESS POSTCARD RESPONSE OPTION



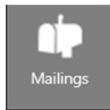
Returned cards can be scanned or recorded manually

No return deadline or postmarked-by requirement

Store returned cards with voter's registration file

11

2019 MOVERS PROCESS POSTCARD RESPONSE OPTION



Can be tracked using Mailing tile in WisVote

Choosing Continuation Requested will update voter record

Choosing undeliverable will only update postcard record, voter remains active*

ERIC ALL 2019


✓ MailingId	Name ↑	Postcard Address	Sent Date	Response Date	Response Type	Voter Rag Num (...)	Status (Voter)	Voter Status Rea...
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12

2019 MOVERS PROCESS MYVOTE RESPONSE OPTION

Voters are on the Movers list can now respond online!

MY VOTER INFORMATION

 Johnson, John

Status: You are Registered to Vote!

Current Address: 212 E Washington Ave., Madison, WI 53703-2855

Confirmation box will appear for voters with the status Active/Movers

Confirmation box will not appear for any other voters!

13

2019 MOVERS PROCESS MYVOTE RESPONSE OPTION

Voter can certify their current address or be redirected to OVR

You are registered to vote at:

212 E Washington Ave., Madison, WI 53703-2855

I certify that I still reside at the above address and want to remain registered at this address.

OR

I have moved and want to update my registration.

If voter closes pop-up or chooses "I have moved",
no change is made to their registration status

14

2019 MOVERS PROCESS MYVOTE RESPONSE OPTION

Certifying their address updates the voter record to Active/Registered

Your address has been confirmed at: ✕

212 E Washington Ave , Madison, WI 53703-2855

Thank you!

You do not need to take any further action

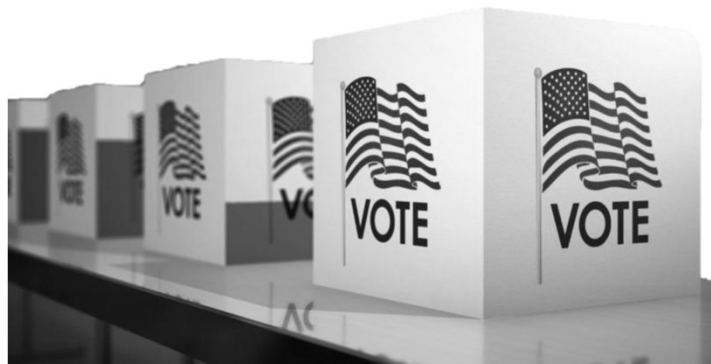
OK

WisVote mailing record is updated to Request Continuation

No action required on the clerk's end!

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2019 MOVERS PROCESS VOTING RESPONSE OPTION



16

2019 MOVERS PROCESS VOTING RESPONSE OPTION

Process Voter Participation

Instructions:
 1: Set your vote method
 2: Scan barcode in Poll Book

Description:
 Scanning voters will update on the poll book grid.
 To delete a vote, select the voter in the grid and click the Unrecord button.

Vote Method	Voter Reg Number
<input checked="" type="radio"/> At Polls	<input type="text" value="Scan Voter Reg number"/>
<input type="radio"/> Absentee	

NOTE: All votes will be recorded with the present vote method selected until that vote method is changed.

Record Count :

Name	Voter Reg Number	Vote Method	Reporting Unit	Polling Place

No additional verification steps

Process is invisible to voters

When participation is recorded,
voter record changes to Active/Registered automatically

No more scanning and emailing pollbook pages!

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DEACTIVATION OF 2019 MOVERS



18

DEACTIVATION OF 2019 MOVERS

Deactivation will not take place until after Spring 2021 elections

Voter Status Reason

Do you want to Deactivate the selected Voter?

A screenshot of a web form element. It features a grey header bar with the text 'Voter Status Reason' and a white dropdown menu below it. The dropdown menu is currently open, showing the selected option 'Inactive-Movers List' in a light grey font. A small downward-pointing arrow is visible on the right side of the dropdown box.

And only if all the following conditions are met:

Did not reregister at another address

Did not return signed postcard (by mail or in-person)

Did not confirm their address through MyVote

Did not vote in any election after October 2019

19

DEACTIVATION OF 2019 MOVERS

Deactivation will not take place until after Spring 2021 elections

Voter Status Reason

Do you want to Deactivate the selected Voter?

A screenshot of a web form element, identical to the one on slide 19. It features a grey header bar with the text 'Voter Status Reason' and a white dropdown menu below it. The dropdown menu is currently open, showing the selected option 'Inactive-Movers List' in a light grey font. A small downward-pointing arrow is visible on the right side of the dropdown box.

Deactivated voter records will be
Inactive – Movers List

For tracking and to easily differentiate from non-mailing deactivations

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QUESTIONS



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NEXT WISVOTE WEBINAR

WisVote Voter Registration



October 15, 2019, 10:00 a.m.

22



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: October 4, 2019

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission

FROM: Meagan Wolfe, Elections Commission Administrator

SUBJECT: 2019 Movers Mailing Update and WisVote Instructions

The 2019 Movers letter will be hitting the mail stream the week of October 7-11; there are a total of 234,039 letters being mailed. The voter records identified for this mailing will remain active but will have an updated status reason of “Movers” and will appear as Active/Movers in WisVote.

Recipients who act by either confirming through MyVote, voting, or returning the postcard attached to the letter will have their status reason updated to “Registered.” For those that choose to vote to update their record, the update will automatically take place, when the clerk or staff enter participation, by changing the voter status reason from “Movers” to “Registered” while keeping their status as “Active.”

If the letter is returned to the clerk’s office as undeliverable, update the status reason for the mailing record in WisVote (under Mailings tile), as “Undeliverable” and Save & Close the mailing record. There is no requirement to send any follow-up 30-day letters. However, if a 30-day letter is sent for another reason and it comes back as undeliverable then it would be handled normally, and you can inactivate the voter record.

Anyone receiving the mailing who registered on MyVote after the data cutoff date of July 1, 2019, will have a newer record already created with a status of Active/Registered. The older record associated with the mailing will be updated as you merge those records. It is important for clerks to remain diligent with their duplicate Reg List Alerts at this time so voters who registered at their new address will see their most current record, should they check on MyVote.

Records where a voter-initiated registration transaction took place in another state have been inactivated on Friday, October 4, 2019. WisVote will show these 25,198 records as Inactive/Movers List.

On the subsequent pages of this communication you will find a sample of the mailing (two-sided letter), step-by-step WisVote instructions, and how voters confirm their addresses in MyVote. Clerks can view the complete list of voters receiving the 2019 Movers mailing by selecting the “2019 ERIC All” view, in the “Mailings” tile, and from there it can also be exported as a complete list by using the “Export to Excel” button.

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Mark L. Thomsen

Administrator
Meagan Wolfe

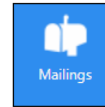
There will not be a supplemental poll books for Movers. However, there is still ongoing discussion about how a watermark will appear in the regular poll book and what instructions are needed for poll workers. Further communication and instructions will be provided in another communication in early December 2019.

For further information, please watch the [2019 Movers webinar](#) or contact the Help Desk at 608-261-2028 or elections@wi.gov.

Track ERIC List Maintenance from the Mailings List View in WisVote

Select records from the list

1. Click the **Mailings** tile on the Easy Navigate page in WisVote
2. Select one or more mailing records to track the response

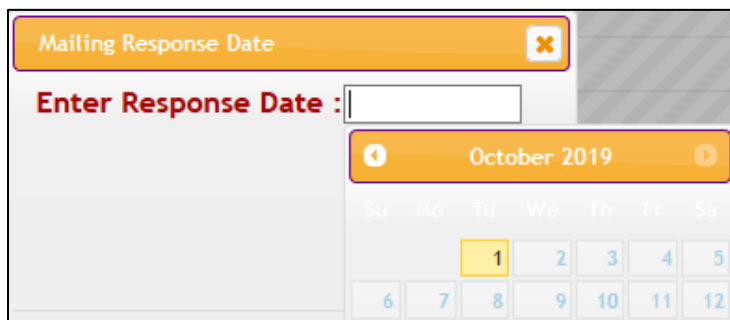


✓	MailingId	Name ↑	Postcard Address	Sent Date	Respon
	2019264434	Aaron M Hechimovich	761 W SCOTT S...	10/1/2019	
	2019173637	Aaron M Zivkovich	81 15TH ST FON...	10/1/2019	

3. Select response type by selecting either of these buttons at the top of the page



4. Complete the fields in the pop-up **Mailing Response Date** window
 - a. Both types of responses (Undeliverable or Request Continuation) require the **Response Date** by clicking the date from the calendar. The calendar will automatically open.



- b. Click **Submit**

Track records by scanning the barcodes

1. Click the **Mailings** tile on the Easy Navigate page in WisVote

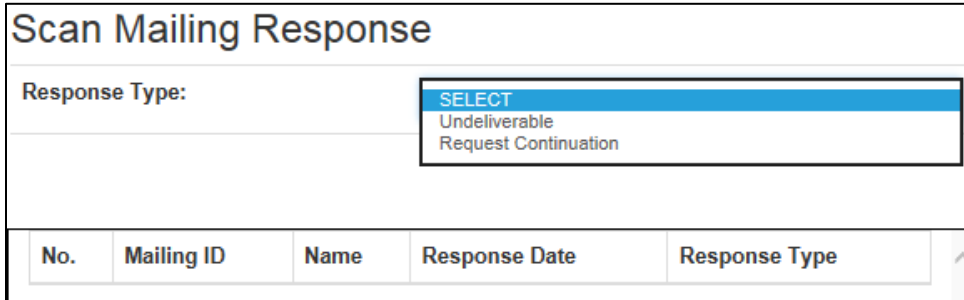


2. Select **Scan Response** from the buttons at the top of the Mailings List view page



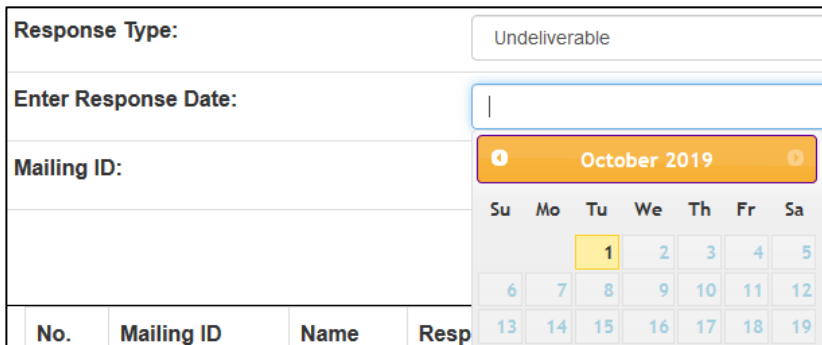
3. Enter the response information

- a. Select the **Response Type**

A screenshot of the "Scan Mailing Response" form. The "Response Type" dropdown menu is open, showing options: "SELECT", "Undeliverable", and "Request Continuation". Below the form is a table with columns: "No.", "Mailing ID", "Name", "Response Date", and "Response Type".

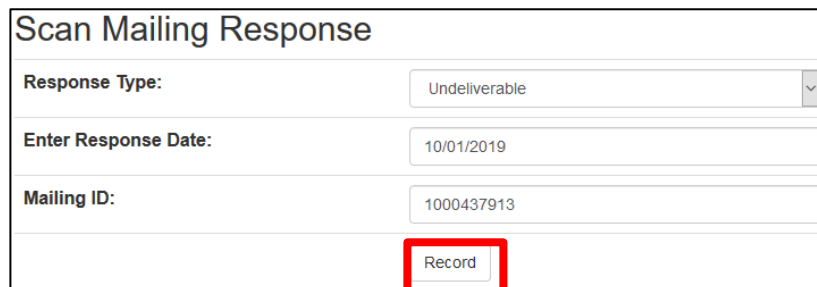
No.	Mailing ID	Name	Response Date	Response Type
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- b. Enter the **Response Date**

A screenshot of the "Scan Mailing Response" form. The "Response Type" is set to "Undeliverable". The "Enter Response Date:" field is active, and a calendar for "October 2019" is displayed. The date "1" is selected. Below the form is a table with columns: "No.", "Mailing ID", "Name", and "Resp".

No.	Mailing ID	Name	Resp
-----	------------	------	------

- c. Scan or enter the **Mailing ID** (to scan, be sure the cursor is in the Mailing ID field before scanning)

A screenshot of the "Scan Mailing Response" form. The "Response Type" is "Undeliverable", the "Enter Response Date:" is "10/01/2019", and the "Mailing ID:" is "1000437913". A red box highlights the "Record" button at the bottom of the form.

No.	Mailing ID	Name	Resp
-----	------------	------	------

- d. If you are manually entering the mailing ID (not scanning), click **Record**

4. All scanned records will appear in the list below, but only those entered for the current session. Once the window is closed, this list will not reappear

Enter Response Date & Mail ID				
No.	Mailing ID	Name	Response Date	Response Type
1	2019173330	Aaron D Johnson	10/01/2019	Undeliverable

- Close the window – click the **X** at the top right corner

Track ERIC List Maintenance from the Mailings Record in WisVote

Tracking from the Mailing Record

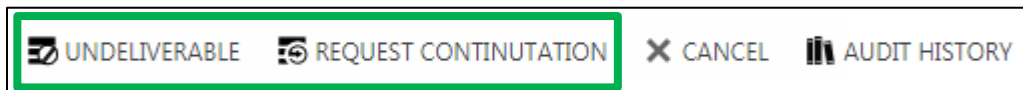
- Click the **Mailings** tile on the Easy Navigate tile



- Open the mailing record by clicking the voter's name

2019 ERIC No Response ▾					
✓	MailingId	Name ↑	Postcard Address	Sent Date	Respon
	2019264434	Aaron M Hechimovich	761 W SCOTT S...	10/1/2019	
	2019173637	Aaron M Zivkovich	81 15TH ST FON...	10/1/2019	

- On the **Mailing Record**, click one of the response buttons at the top of the page



- Enter the **Mailing Response** information
 - Enter or select the **Response Date**
 - Click **Record**

Mailing Response

Response Type:

Enter Response Date:

Changing a Response Type for a Previously Tracked Postcard

Unlike previous WEC mailings, no voter records will be deactivated at the time an Undeliverable response is recorded. Response type should still be corrected to prevent erroneous deactivations at a later date.

1. For updating the response using the **Mailings Views**, choose either the ALL view or the appropriate response view (**2019 ERIC Undeliverable** or **2019 ERIC Continuation**) to find the mailing record.
2. Select the mailing record to correct
3. Select the correct response type by clicking the button at the top of the page
4. Enter the **Response Date**; click **Submit**
 - a. When changing the response from **Undeliverable** to **Request Continuation**, the voter record will update to **Active-Registered**; no further action is required
 - b. If the response is changing from **Request Continuation** to **Undeliverable**, the voter status must be changed back to **Active – Movers**. This can be done through the Voter Record or by contacting WEC staff.

Voter Verification & Status

Voter Status *

Status Reason *

DMV Check Link

Active

- Movers
- Registered
- Suspended
- Presidential Only

SAMPLE LETTER (FRONT)



Leann Schroeder
City of Milton
710 S JANESVILLE ST
MILTON, WI 53563

August 1, 2019

Tester Smith
1018 Sue Ln
Milton, WI 53563-1792

Dear Tester,

A transaction with a government agency or a voter registration in another state indicates your address may be different than the address on your current Wisconsin voter registration. If you registered after 7/1/2019, disregard this notice.

If you have moved, you can register at your new address in one of these three ways:

- Online at myvote.wi.gov; *or*
- On Election Day at your polling place. This option requires you to provide proof of residence. Check if your polling place has changed at myvote.wi.gov or contact your municipal clerk; *or*
- Submit a registration form to your clerk's office, in-person or by mail. A voter registration form, clerk information and proof of residence information can be found here: <https://elections.wi.gov/voters/>.

If you still reside at this address, please use one of the following three options below to confirm:

- Click the gray **My Voter Info** button at myvote.wi.gov and enter your first name, last name, and date of birth then click search button. Click the green **Confirm Your Address** button; *or*
- Vote at the next election; *or*
- Sign and return the postcard at the bottom of this letter, by mail, or in person to your clerk.

If you have questions, call the Wisconsin Elections Commission toll free at (866) 868-3947 or email elections@wi.gov.

¿Necesitas ayuda en Español? Llama a su secretario municipal o visita myvote.wi.gov/es-es/.



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov



5000167546

City of Milton – Rock County

I, Tester Smith, certify I still live at 1005 Sue Ln, Milton WI 53563-1792 and want to keep my voter registration active in Wisconsin.

Voter signature: _____ Date ____ / ____ / ____

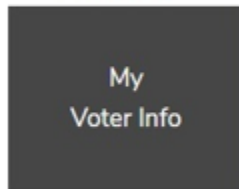
Postcard may be returned by mail or in person to your municipal clerk (address on other side).

SAMPLE LETTER (BACK)

STEP 1: VISIT



STEP 2: CLICK



Verify and confirm your address

Tester Smith
1018 Sue Ln
Milton, WI 53563-1792


Return
Postage
Required

LEANNE SCHROEDER – City of Milton
Municipal Clerk
710 S JANESVILLE ST
MILTON, WI 53188-3646

Movers – MyVote Response Option

Voter information screen for voters marked Active: Movers

MY VOTER INFORMATION

 Johnson, John

Status: You are Registered to Vote! **Current Address:** 212 E Washington Ave , Madison, WI 53703-2855

Response pop-up w/ certification text and redirect to OVR option

You are registered to vote at: ×

212 E Washington Ave , Madison, WI 53703-2855

OR

Confirmation pop-up after choosing certification option

Your address has been confirmed at: ×

212 E Washington Ave , Madison, WI 53703-2855

Thank you!

You do not need to take any further action



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984

DATE: October 7, 2019

TO: Members, Wisconsin State Senate
Members, Wisconsin Assembly

FROM: Wisconsin Elections Commission

SUBJECT: Answering Common Questions about Wisconsin's Membership in ERIC

This month, the Wisconsin Elections Commission (WEC) is mailing letters to more than 234,000 Wisconsin voters who may have moved and need to reregister. The mailing is required under the membership agreement for the Electronic Registration Information Center (ERIC), which the Legislature required Wisconsin to join in 2016. This fact sheet is designed to help legislators and their staffs answer common questions about ERIC and the required mailings to voters.

What is ERIC? ERIC is a nonprofit group of 29 states that securely share information about their voters. ERIC uses that shared information to help member states improve the accuracy and efficiency of their voter registration systems. Meagan Wolfe, Wisconsin's chief election official, is Secretary of ERIC's Board of Directors.

What specifically does ERIC do? ERIC helps its members identify voters who have moved or died, as well as people who are eligible to vote but are not registered. ERIC does this by comparing information about registered voters and people with motor vehicle licenses from each member state with U.S. Postal Service address changes and Social Security death records. The membership agreement requires participating states to contact Wisconsin residents ERIC has identified as eligible to vote but who are currently unregistered and provide them the opportunity to register to vote. Member states are also required use data provided by ERIC concerning voters who may have moved or have died in another state to improve the accuracy of voter rolls.

Is Wisconsin's data safe with ERIC? Yes. WEC and DMV encrypt their data before sending it to ERIC. ERIC secures the data, and undergoes regular security audits.

What information does Wisconsin get back from ERIC? Wisconsin gets reports that show voters who have moved in-state, voters who have moved out of state, voters who have died, duplicate registrations and persons who are potentially eligible to vote but are not yet registered.

What gaps does ERIC fill? ERIC gives Wisconsin elections officials access to death records nationally, which is particularly helpful if a voter dies while out of state. ERIC also provides information about voters with current registrations in Wisconsin who may also be registered in another ERIC member state.

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Jodi Jensen | Mark L. Thomsen

Administrator
Meagan Wolfe

What does Wisconsin do with ERIC reports? We use this data to contact voters who may have changed their address, connect with people who are eligible to vote but unregistered, and assess voter participation. This allows us an opportunity to identify questionable, duplicate or inaccurate voter records and reach out to voters to correct these problems. The results of these list maintenance processes are voter rolls in Wisconsin that are both more accurate and updated at a more rapid pace than when only the statutorily-required 4-Year Maintenance process is used.

What is the Movers Mailing? Every two years, Wisconsin sends a mailing to voters identified as having potentially moved from their current registration address. Wisconsin's first mailing took place in 2017 and the second is scheduled for October 2019. The recipients of this mailing will remain active and can confirm their residential address is valid on MyVote.wi.gov or by participating in an election through Spring 2021. If they have moved, they can register at their new address through MyVote.wi.gov, submit a new registration to their municipal clerk, or complete an election day registration at their new polling place. If no action has been taken through the Spring 2021 elections, the voter's record will be inactivated.

If a legislator's office gets questions from voters who receive the movers letter, you can assure them that it is official and that it is designed to help eligible voters stay actively registered while also keeping the voter rolls accurate and up-to-date. If they have questions you are not able to answer immediately, please let us know or refer them to the WEC and we will be happy to answer them.

What is the Eligible but Unregistered Mailing? By comparing Wisconsin voter records and Wisconsin DMV records, ERIC identifies unregistered citizens who are potentially eligible to vote. Wisconsin is required to send a mailing to these potential voters which provides them with information to register. We can only contact a person once, so the initial postcard mailing in September of 2016 was to 1.28 million people while the second, in June of 2018, was to 384,000 newly-identified people who were eligible but unregistered to vote.

What are Voter Participation checks? ERIC matches voter participation records across state lines and generates reports of individuals who may have voted in the same election in multiple states. ERIC sends reports of possible matches to each state for investigation. When WEC staff and clerks are able to verify possible matches, we make referrals to District Attorneys for further investigation and possible prosecution. ERIC began sending these voter participation reports to member states after the 2018 General Election.

Is ERIC similar to Four-Year Voter Record Maintenance? Both are designed to improve the accuracy of Wisconsin's voter registration list, but Four-Year Maintenance statutes set specific procedures and exact timelines for deactivating voters who have not voted in four years and who do not respond to a mailing. The data provided by ERIC gives the WEC and local election officials additional tools to clean up voter rolls, but the membership agreement does not outline specific procedures in regard to the inactivation of voter records. ERIC serves as a supplement to the 4-Year Maintenance process as it gives Wisconsin access to data from the 28 other member states that is essential to timely updates to the voter rolls.

ERIC Resources

- ERIC Website: <https://ericstates.org>.
- WEC Memo to Clerks about 2019 Movers Mailing: <https://elections.wi.gov/node/6581>
- WEC Memo to Clerks about 2018 Eligible But Unregistered Mailing: <https://elections.wi.gov/node/5877>
- Wisconsin ACT 261 – <https://docs.legis.wisconsin.gov/2015/related/lcactmemo/act261>
- State Statute 6.36(1)(a)(e) – <https://docs.legis.wisconsin.gov/statutes/statutes/6/II/36/1/ae>