



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: For the February 3, 2021 Commission Meeting

TO: Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator

Prepared by:

Dawn Soletski, WisVote Specialist

Connie Shehan, WisVote Specialist

Jodi Kitts, Senior WisVote Specialist

SUBJECT: Electronic Registration Information Center (ERIC) Movers List Update

This memo provides updates on the most current status for the 2019 Movers List maintenance process and discussion of future requirements.

2019 Movers Mailing Background

The Electronic Registration Information Center (ERIC) is a non-profit organization with the mission of: (1) assisting states to improve the accuracy of America's voter rolls and (2) increasing access to voter registration for all eligible citizens. ERIC obtains data from a variety of sources, such as Wisconsin motor vehicle records, voter registration and motor vehicle records from participating states, and the National Change of Address database from the U.S. Postal Service.

As part of Wisconsin's membership in ERIC, the WEC is required to contact voters who ERIC has flagged as having potentially moved. These individuals are considered the "Movers List" and assigned the status of "Active-Mover" in the statewide voter registration database. This status indicates their voter registration is active but additional follow-up is required to evaluate if the person has moved. In the most recent Movers List review 232,579 voters were identified by ERIC as potentially having moved.

At the June 11, 2019 meeting, the Commission adopted a process for the 2019 Movers List maintenance. Among other things, this process flagged voters who did not respond to Movers mailings within 30 days with a pollbook watermark. It also allowed those voters to affirm their active registrations during the 2020 election cycle. Any voters that did not affirm their active registrations would be inactivated following the Spring 2021 election.

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The 2019 ERIC Movers Mailing process was challenged and has been in litigation since 2019. The Ozaukee County Circuit Court granted a writ of mandamus and ordered the Commission to comply with the provisions of Wis. Stat. § 6.50(3) and deactivate voter registrations of individuals present on the ERIC Movers List and later found three members of the Commission in contempt of court for failure to comply with that order. After the Wisconsin Supreme Court denied a motion to bypass the Court of Appeals, that Circuit Court's decisions (mandamus and contempt) were stayed. In February 2020, the Wisconsin Court of Appeals reversed the Circuit Court decision on the writ of mandamus and vacated the contempt order. The Wisconsin Court of Appeals concluded "that the phrase "board of election commissioners" in WIS. STAT. § 6.50(3) does not refer to the Commission, and the Commission has no duties pursuant to § 6.50(3)." *State Ex Rel Zignego, et al. v. WEC, et al.*, 2020 WI App 17, ¶71. Additionally, the Wisconsin Court of Appeals concluded that under the statutory scheme set forth by the Legislature, the Commission did not have the authority to deactivate voter registrations based on the 2019 ERIC mailer. *Id.* at ¶91. That decision was then appealed to the Wisconsin Supreme Court. The case was fully briefed, and oral argument took place on September 29, 2020. The Commission is currently waiting for the decision from the Wisconsin Supreme Court to determine what authority the Commission has under current statutes regarding the voter registration status of individuals on the 2019 ERIC Movers List. Ultimately, this means that until the Wisconsin Supreme Court renders a decision, the Wisconsin Court of Appeals ruling remains in place, and WEC may not take action on deactivating 2019 Movers or Movers identified in future lists provided by ERIC.

2019 Movers Mailing Status

After each election since August 2019, WEC staff has analyzed the voter participation of those records that were flagged as part of the Movers process. The analysis helps us to understand how many of these voters either re-register, affirm that they have not moved, have taken no action, or have been deactivated by local election officials for other reasons. The data presented in the charts below is divided into two main categories:

- **Inactive** voters do not appear on the poll book and need to register to vote before they can participate. Voters can be inactive because they became ineligible to vote or because they were inactivated for required list maintenance or other reasons as permitted by statute.
- **Active** voters appear on the poll book and are actively registered.

Further, there are two types of Active voter records as they relate to the ERIC movers mailing:

- **Active-Movers** records are voters who were sent the 2019 Movers mailing, but have not requested continuation of their address, have not re-registered at a new address, and have not voted in an election since October 2019. Put simply, they have not taken any action in response to the mailing. A "Movers" watermark appears on the poll book next to these voter's records and they must affirm they live at that address or re-register at a new one before they can receive a ballot.

- **Active-Updated Registrations** records are voters who have either requested continuation of their registration, have re-registered to vote, or who have affirmed their registration by signing the poll book and voting since October 2019. No watermark appears in the poll book next to these records.

The number of voters in Active-Movers status has declined as voters have affirmed their active registrations, as shown in Table 1. The number of Active-Movers who remain on the list are voters who have taken no action on their voter record.

Table 1: Active - Movers Status Timeline

Voter Status	Voter Count
Original 2019 Active – Movers Designations	232,579
May 2020 Active – Movers Designations	129,151
January 2021 Active – Movers Designations	71,579

The tables below include data generated on January 25, 2021 regarding voters marked as ‘Movers’. The total letters mailed to potential Movers in October 2019 was 232,579. These are in-state voters who had a transaction with the Department of Motor Vehicles or United States Postal Service listing a residential address that was different from their voter record.

Of the 2019 Movers mailing recipients, 30.8% have not updated their voter records and remain on Active-Movers status. Almost 66% of voters who were sent the mailing have now either registered to vote at a new address or have requested continuation at their original address. Another 3.6% are inactive for reasons such as: moving out of state, being deemed incompetent, being listed as deceased, a felony conviction, the voter having requested deactivation, or because the clerk has other reliable information that the voter moved or is ineligible.

Table 2: Current Status of All 232,579 ERIC Voters Sent a Movers Mailing in 2019

All ERIC Movers Status as of January 25, 2021	Voter Count	Percentage of Mailing
1. Active - Movers Designations	71,579	30.8%
2. Active – Updated Registrations (includes Inactive-Merged records replaced by new registrations)	152,524	65.6%
3. Inactive Records	8,476	3.6%
4. Total Records	232,579	100%

Of the 232,579 voters who were sent the Movers mailing, 152,524 of them either sent back the continuation postcard, continued their registration on MyVote, have re-registered at their original address, or have signed the affirmation in the poll book that they have not moved. Approximately

7.2% of the original group have taken an action to affirm they have not moved and are now actively registered at their original address and the watermark has been removed from their poll book record. Another 58.4% of these voters have re-registered at a new address either online, by mail, or at the polls on election day. They are now actively registered to vote at their new address and the watermark has been removed from their poll book record.

Table 3: Movers List Recipients Who Updated Their Registration

Movers List Registrations as of January 25, 2021	Voter Count	Percentage of Mailing
1. Voters who updated or affirmed their registration at same address	16,698	7.2%
2. Voters who updated their registration at new address	135,826	58.4%
3. Total Voters with Updated Address Records	152,524	65.6%

In the 2020 General Election, 30% of the original Active-Movers list cast a ballot. While most updated their registration data prior to Election Day, a small number remained on Active-Movers status and were required to affirm their address when signing the pollbook.

Table 4: General Election Participation

Original ERIC Movers List - General Election Voting	Voter Count	Percentage of Mailing
1. Voted: Registered Status ^[1]	51,460	22.1%
2. Voted at Same Address: Active-Mover Status	5,329	2.3%
3. Voted at New Address: Active-Mover Status	13,757	5.9%
4. Did Not Vote: Registered Status	81,979	35.2%
5. Did Not Vote: Active-Mover Status	71,578	30.8%
6. Did Not Vote: Inactivated Status	8,476	3.6%
7. Total	232,579	100%

^[1] Registered status in this table indicates the voter’s status on Election Day. It indicates that these voters either re-registered at a new address or affirmed their existing registration at the original address prior to November 3, 2020.

2021 Movers Mailing Process

Since joining ERIC in 2016, Wisconsin has performed just two iterations of the Movers process. These processes helped staff and clerks to refine procedures, but also revealed several noteworthy opportunities for improvement. The considerable time between mailings meant that an effective backlog of routine registration updates accumulated over months. Previous iterations of Movers List maintenance involved hundreds of thousands of records and represented an enormous amount of additional work for clerks and WEC staff. The large volume also created a large one-time expense for the WEC and presented printing, storage, and mailing challenges for the Department of Administration Publishing and Distribution office. Finally, the large number of potentially out-of-date records generate public concerns about the accuracy and integrity of voter rolls.

The ERIC Membership Agreement recommends that member states obtain the Movers list annually but does not require states to make a request. (ERIC Membership Agreement Sec 5.) Upon receipt of the list, Wisconsin has until October 1 of the next even numbered year to initiate contact with at least 95% of the eligible or potentially eligible citizens on the list. (ERIC Membership Agreement Sec 5(a)). Although the agreement recommends an annual review, it does not prohibit procurement of the Movers List at more frequent intervals. In fact, ERIC staff report that some states obtain the list multiple times each year.

A more frequent Movers List maintenance process may address the drawbacks listed above and simplify the process for both voters and clerks. Clerks would have a smaller number of files to process at more frequent intervals and voters would receive more timely reminders to update their registration. WEC staff are currently exploring how to implement the Movers process on a bi-monthly interval, and will bring a plan to the Commission for review at a future meeting. Subject to that guidance, and any future court decisions, staff will research alternative approaches more fully. Regardless of the process that is ultimately applied, the next iteration of the Movers List will be available to Wisconsin no later than early summer 2021. A Court decision in this matter is necessary before WEC will know how to instruct voters in future mailing and what action to take on records of voters who do not respond. However, WEC staff continue to build the technical framework for more regular intervals to prepare for the specifics that will be determined by the Court.

Other ERIC Processes

Other processes performed in conjunction with ERIC, and pursuant to the Member Agreement, are a review of cross-state voter participation and a review of citizens who are eligible to vote but unregistered.

The Voter Participation comparison between states will be provided by ERIC by summer of 2021. This process is performed in order to identify people who may have voted in different states for the same election. Staff will contact other states, research with clerks to make sure there were no data entry errors, and use the matching criteria set by the commission to finalize a referral list for the commission to review, no later than September 2021. Once approved by the commission, the referral list is provided to district attorneys for further investigation and possible criminal prosecution.

The ERIC agreement specifies that list maintenance reports, such as the Movers, duplicates, and deceased list must be requested every 425 days. Wisconsin is currently in compliance with this requirement by accepting duplicate record and deceased reports which are implemented into our statewide system for local election officials to examine as part of the registration list alert process.

The review of eligible but unregistered (EBU) voters is performed to identify people who are eligible to vote and to encourage them to participate. The next Eligible but Unregistered (EBU) mailing will not be done until the summer of 2022 in accordance with the ERIC agreement.