
Wisconsin Elections Commission

Meeting of the Commission
Monday, December 30, 2019
9:00 A.M.

Agenda
Open Session

Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin

A. Call to Order

B. Administrator's Report of Appropriate Meeting Notice

C. Closed Session

1. Litigation Update

a. *Timothy Zignego et al vs. Wisconsin Election Commission et al*

b. *League of Women Voters of Wisconsin et al. v. Knudson, et al.*

19.85 (1) (g) The Commission may confer with legal counsel
concerning litigation strategy.

D. Movers List Procedures

E. Adjourn

The Elections Commission will convene in open session but may move to closed session under Wis. Stat. § 19.851 and then reconvene into open session prior to adjournment of this meeting. This notice is intended to inform the public that this meeting will convene in open session, may move to closed session, and then reconvene in open session. Wis. Stat. § 19.85 (2).



Wisconsin Elections Commission

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(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the December 30, 2019 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe
Administrator, Wisconsin Elections Commission

SUBJECT: Considerations for Movers Process

I. Introduction

This memorandum outlines options for the Commission to consider regarding the voter registration status of individuals that did not respond to the 2019 Movers mailing or whose letter was returned as undeliverable. Commission staff has developed these alternatives in light of the status of litigation regarding the Movers mailing and important deadlines related to upcoming elections.

As the Commission is aware, on December 13, 2019, Ozaukee County Circuit Court Judge Paul Malloy issued a writ of mandamus ordering the WEC “to comply with the provisions of § 6.50(3) and deactivate the registrations of those electors who have failed to apply for continuation of their registration within 30 days of the date the notice was mailed under that provision.” The writ was requested by the plaintiffs in the lawsuit, three individual electors represented by the Wisconsin Institute for Law and Liberty (WILL).

On behalf of the Commission, the Department of Justice (DOJ) immediately filed an appeal with the District IV Court of Appeals along with a motion to stay the Circuit Court’s order. The appeal argues that Wis. Stat. § 6.50(3) applies to municipalities and not to the Commission and that the Movers mailing was not mailed under that provision. The Court of Appeals declined to issue a stay on an *ex parte* basis but set an expedited response deadline of December 23, 2019. Attorneys for the plaintiffs filed a response opposing the motion for a stay and also filed a motion with the Wisconsin Supreme Court requesting that it bypass the Court of Appeals and assume jurisdiction of the case. The Supreme Court has requested a response from DOJ by January 3, 2020.

In the meantime, another lawsuit was filed in federal court by the League of Women Voters of Wisconsin and two individual plaintiffs. The individual plaintiffs allege that they received the Movers mailing and one had not moved while the other had not moved outside of her municipality. That lawsuit alleges that the Commission would violate Due Process rights of voters if it deactivated registrations as a result of the ERIC mailing without clear notice regarding the effect of a non-response. The plaintiffs have filed a motion for a preliminary injunction and the Court has set a deadline for responding to that motion by January 3, 2020.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Due to deadlines related to the upcoming spring elections, it was anticipated that the Court of Appeals might issue a ruling regarding the stay motion in the WILL case sometime in the last week, although the holidays reduced the business week. No decision has been issued and there is disagreement between the parties' attorneys as to whether the Court of Appeals has the jurisdiction to rule on the motion for a stay while the plaintiffs' motion to bypass is pending with the Supreme Court.

The remainder of this memorandum outlines data regarding the 2019 ERIC Movers mailing as well as options for the Commission to consider for changing the status of voter registrations and notifying individuals of such changes. In the event that the Court of Appeals issues a stay of the Circuit Court's order, no Commission action would be required.

II. Movers Voter Data

Between October 9 and 17, 2019 the WEC sent 232,579 letters to voters who were flagged as having potentially moved. The mailing list was a result of data provided by the Electronic Registration Information Center (ERIC). The ERIC data set identifies differences in addresses between the statewide voter registration system and other sources such as the Wisconsin Department of Motor Vehicles and the U.S. Postal Service. The mailing sent to voters was informational and alerted the voter that records show they may have moved and informed them of their voter registration options. Options included requesting continuation at their original address or registering at their new address either online, at the clerk's office, or at the polls. The mailing also advised that voters could continue their registration by participating in the 2020 elections. A copy of the letter is provided as an attachment to this memo.

Since the date of the mailing, voters have taken various actions based on the information provided in the letter. The number of voters who request continuation, re-register, or update their address changes daily. The letter did not include a deadline to request continuation and that option currently remains available to voters who received the letter. WEC staff maintains an up-to-date list of movers voter data which can be found here: <https://elections.wi.gov/node/6649>

As the Commission considers next steps, the charts below present data on the composition of voters who were sent the movers mailing, statewide, as of December 27, 2019:

Statewide 2019 Movers Data	
Total Mover Letters Mailed ¹	232,579
Records Marked Undeliverable ²	60,941
Records with No Response Recorded ³	169,125
Voters Who Requested Continuation at Original Address ⁴	2,513

¹ The number 234,039 was used in earlier reports. That number was the number of records originally provided to the printer, however, prior to sending out the mailing, WEC staff re-ran the data against new voter registrations. Staff then removed 1,460 voters who had already re-registered to vote at their new address from the final mailing list. This saved costs and avoided confusing voters who had already taken action.

² This is the number indicated by the US Postal Service mail tracking service.

³ The number of voter records that do not indicate action taken by the recipient. There may be responses or actions taken by voters that have been received by clerks but have not yet been recorded in WisVote.

⁴ The number of continuations recorded by municipal clerks. There may be other continuations that have not yet been recorded in WisVote.

Of the data presented above, there are sub-categories which may also be of use when considering next steps:

Statewide 2019 Movers Sub Data	
Requested Continuation Within 30 Days from Date of Mailing ⁴	2,060
Requested Continuation More Than 30 Days from Date of Mailing ⁴	453
Re-registered to vote at a new address ^{2,3}	18,760
Re-registered to vote at an original address ^{2,3}	424

It is also important to note that for the election being held on February 18, 2020 to fill the vacancy in the 7th Congressional District, the deadline for municipal clerks to send absentee ballots is January 2, 2020. Because the Congressional contest is a federal contest, the ballots must be sent 47 days prior to the election to comply with state law and at least 45 days prior to the election to comply with federal law. Ballots for local and state contests for the February 18, 2020 Spring Primary do not need to be sent until 21 days prior to the election which is January 28, 2020

Here is the data on the composition of voters who were sent the movers mailing in the 7th Congressional District as of December 27, 2019:

7th Congressional District Movers Data	
Total Mover Letters Mailed	23,422
Records Marked Undeliverable	5,421
Records with No Response Recorded	17,548
Voters Who Requested Continuation at Original Address	453

Of the data presented for the 7th Congressional District above, there are sub-categories of the data that may also be of use when considering next steps:

7th Congressional District Movers Sub Data	
Requested Continuation Within 30 Days from Date of Mailing ⁴	385
Requested Continuation More Than 30 Days from Date of Mailing ⁴	68
Re-registered to vote at a new address ^{2,3}	1,680
Re-registered to vote at an original address ^{2,3}	35

III. Changing the Registration Status of Voters – Process and Timeline

In considering next steps, the Commission should weigh the process and timeline required to change the status of voter records within the statewide voter registration database. Changing the registration status of a large data set of voters requires planning and testing within the statewide voter registration system to ensure it is done correctly. Should staff be directed to change the voter registration status for those identified as part of the 2019 Movers list, WEC staff expects that the process would take three business days. If the Commission directs staff to change the registration status of anywhere between 10,000 to 210,000 voter records on December 30, 2019 WEC staff anticipates the change can be made by the end of day on January 3, 2020. This timeline allows consideration for thoughtful treatment of the data including a testing time period to make sure the implementation is updating the correct records in both

the WisVote and MyVote system as well as time to conduct outreach to clerks concerning the changes to voter records in their jurisdiction.

WEC staff would communicate with municipal and county clerks on the first day of this process to make them aware that if they have any voter records that have not yet been entered into WisVote to do so immediately. Communicating with clerks about this important task will ensure that the WEC batch process to deactivate registrations is comprehensive. In some smaller municipalities, clerks may not have prioritized updating voter records as they handle more immediate tasks such as property tax preparation and collection.

A large-scale change to voter records would also require staff to test the data in a non-production environment before going live. Staff would first generate a test data file that contains the records for between 500-1,000 mover records. Staff would then analyze the test data to ensure it was including the correct voters and then test those voter records within the WisVote database and the MyVote website, to ensure they are updating properly before making the status changes in the live WisVote environment.

IV. Mailing – Process, Timeline, and Cost

In considering the options for next steps, the Commission may also want to review the process, costs, and timeline for producing a mailing. WEC staff worked with the Department of Administration Print Center to determine a timeline and approximate pricing, should staff be directed to send a mailing.

The approximate minimum timeline to draft, proof, print, and post a mailing would be 10 business days, or by January 14, 2020. This minimum timeline would assume that WEC staff received direction and approved verbiage to produce a mailing on December 30, 2019. The minimum timeline also does not include any additional days for usability testing of the mailing text with voters to ensure that it is understandable or additional proofing of drafts after the print center receives the initial files. The 2019 Movers mailing took WEC staff approximately three months to ensure that data fields were mapped properly, to proof the mailing and the data, and to usability test the text of the mailing to ensure it was understandable to voters. Usability testing in 2018 discovered that voters were much more likely to read and understand the movers letter than the postcard that was sent in 2017.

Here are the timeline considerations for a mailing:

Mailing Step	Number of Business Days to Complete	Approximate Date of Mailing if Included
Drafting and Design	2-3 Days	January 14, 2020
Proofing	Cumulative 1 Day	January 14, 2020
Usability Testing	1-2 Weeks	January 24, 2020
Data Mapping Testing	1 Day	January 14, 2020
Additional Proofing (Data and Text)	Cumulative 2 Days	January 20, 2020
Printing	3 Days	January 14, 2020
Postage and Distribution	3 Days	January 14, 2020

There are also many options for sending a mailing. In 2017 the movers mailing was sent using a two-piece, black and white, tear away postcard. In 2019 the movers mailing was sent in the form of a color letter in a windowed envelope. The prices for forwarding and address validations are also considerations.

Based on the options selected and pricing available for the 2017 postcard and the 2019 letter it is estimated that a mailing could cost:

Mailing Costs Based on 2017/2019 Options Chosen			
Type of Mailing	Number of Voters	Cost	Cost per Card
4x6 Postcard, Color or BW, Election Mail, No Forwarding, No Tear Off Mail Back	230,066 Statewide Undeliverable and No Response	~\$36,810	16 cents
	22,969 7 th Congressional Undeliverable and No Response	~\$3,675	
4x6 Double Postcard, Color or BW, Election Mail, With Forwarding, Folded With Tear Off Mail Back Continuation	230,066 Statewide Undeliverable and No Response	~\$92,026	40 Cents
	22,969 7 th Congressional Undeliverable and No Response	~\$9,187	
Letter in Window Envelope, Color or BW, First Class Mail, With Forwarding, No Tear Off/Mail Back, One Sided	230,066 Statewide Undeliverable and No Response	~\$117,334	51 cents
	22,969 7 th Congressional Undeliverable and No Response	~\$11,714	
Letter in Window Envelope, Color, First Class Mail, With Forwarding, With Tear Off/Mail Back	230,066 Statewide Undeliverable and No Response	~\$140,340	61 cents
	22,969 7 th Congressional Undeliverable and No Response	~\$14,011	

A second mailing is not currently accounted for in the WEC budget. Therefore, cost would need to be diverted from other agency functions such as supplies and services to cover the expenditure. There may also be emergency funding options available through the legislature or the Department of Administration. WEC staff does not have additional information about those potential avenues for funding at this time WEC staff has also not yet drafted potential text for a mailing, but initial designs for the Commission’s consideration will be provided to the Commission as part of their supplemental materials at the Monday, December 30 meeting.

WEC also analyzed the mover voter data to determine if there may be alternate ways of contacting voters such as phone or email. Of the approximately 209,000 voters who did not request continuation or re-register, 42,759 voter records contain an email address and approximately 128,000 include phone numbers as part of their voter record. However, initial screening of the email and phone data show that many of the phone numbers and email addresses are incomplete.

V. Options for Next Steps

If the Court of Appeals issues a stay of the Circuit Court's order, no Commission action would be required. As the Commission considers next steps, there are five options outlined below which utilize the information presented in the sections above. The options are to facilitate Commission discussion and are not listed in order of preference or feasibility:

Option #1- Deactivate Voter Registration Records- No Mailing Sent

The Commission could choose to deactivate the records of voters who were sent the 2019 Movers mailing and either did not respond or whose letter was returned undeliverable. The total number of records, statewide, would be about 209,000. This number would not include voters who requested continuation or voters who re-registered at a new or their original address. Voters who requested continuation up until 12/30/19 could be considered registered and would not be deactivated. In this option, no additional mailing would be sent to the deactivated voters and they would need to re-register at their current address in order to participate in future elections.

Option #2- Deactivate Voter Records and Then Send a Mailing

In this option, the deactivation process would be the same as Option #1, however, a mailing would then be sent to voters after deactivation alerting them that their registration status had changed and informing them of options to register to vote at their current address. The Commission could consider sending the mailing to all 209,000 voters or may choose to exclude the 60,676 voters whose 2019 mailings were undeliverable as the U.S. Post Office has already determined that they cannot deliver mail to the voter at that address.

Option #3- Send a Mailing to Voters and Then Deactivate Those who do Not Respond

The Commission could consider first sending a mailing to the 209,000 voters who have not requested continuation or re-registered alerting them that their voter registration will be deactivated if they do not request continuation within a set time period. Once the time period has passed, any voter who has not requested continuation will be deactivated and will need to re-register at their current address in order to participate in future elections.

Option #4- Act on Records in 7th Congressional District Only

Because of the looming January 2, 2020 ballot deadline in the 7th Congressional District, the Commission may wish to consider utilizing options 1-3 only for voters in the 7th Congressional district. The Commission could then consider actions at a later date, such as the January 14 Commission meeting, for the remaining voters statewide. The option may mitigate costs and risks of a pending Court decision changing the Commission's direction.

Option #5- No Change to Voter Status

The Commission could also choose to not change the status of voters on the mover list and await further direction from the courts. The Commission could choose to schedule a special meeting to discuss or could plan to discuss this matter further at the January 14, 2020 teleconference meeting.



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/.



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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 ____ / ____ / ____

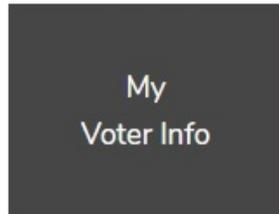
Postcard may be returned by mail or in person to your municipal clerk (address on other side).

STEP 1: VISIT



myvote.wi.gov

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