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# JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE ADAM NEYLON

January 10, 2022

Ann Jacobs, Chairperson  
Meagan Wolfe, Administrator  
Wisconsin Elections Commission  
P.O. Box 7984  
Madison, WI 53707-7984

**RE: Correction of Errors and Omissions on Absentee Ballots**

Dear Chairperson Jacobs and Administrator Wolfe:

We are writing to inform you that the Joint Committee for Review of Administrative Rules (JCRAR) voted on January 10, 2022, pursuant to s. 227.26 (2) (b), Stats., to **require the Wisconsin Elections Commission (WEC) to show statutory authority for its guidance regarding completeness of addresses and correction of errors and omissions on absentee ballots and promulgate it as an emergency rule or cease issuing such guidance to clerks.**

The motion passed by JCRAR is as follows:

Moved, that the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (b), Stats., determines that the written guidance of the Wisconsin Elections Commission relating to the completeness of addresses and correction of errors and omissions on absentee ballots, as described by the Legislative Audit Bureau, below, meets the definition of a rule under s. 227.01 (13), Stats., and directs the agency to promulgate the guidance as an emergency rule within 30 days.

*In October 2016, WEC approved written guidance indicating that municipal clerks must take action to correct errors in the witness addresses on certificates. This guidance indicated that clerks were not required to contact the individuals who cast the ballots but were required to include their initials next to any corrections they made to witness addresses. This guidance also indicated that a complete address must include at least a street name and number as well as a municipality. In October 2020, WEC's staff updated this guidance to indicate that clerks should attempt to resolve any missing witness address information before Election Day, and this can be done by using reliable information, such as personal knowledge, voter registration information, or a telephone call with a voter or witness. The guidance indicates that a witness does not need to appear in person to add a missing address. If certificates did not have signatures or*

*contained other errors, the updated guidance indicated that clerks must require the individuals who cast the ballots or the witnesses to resolve these issues.*

[Legislative Audit Bureau, Elections Administration, Report 21-19, pp. 40-41 (October 2021)]

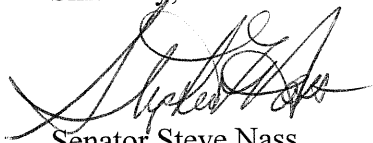
As required by s. 227.26 (2) (b), Stats., the Wisconsin Elections Commission has 30 days to comply with the Joint Committee for Review of Administrative Rules' directive and must complete promulgation of the emergency rule by publishing it no later than February 9, 2022 or cease issuance of its guidance relating to completeness of addresses and correction of errors and omissions on absentee ballots.

The nonpartisan Wisconsin Legislative Audit Bureau (LAB) report on elections administration, issued in October 2021, found that the WEC's guidance to clerks on completeness of addresses and correction of errors and omissions on absentee ballots fails to comply with Chapter 227 of state statutes, the state's Administrative Rules Law. WEC's guidance that allows clerks to correct or add missing information to absentee ballots must be promulgated as an administrative rule, if the agency believes it has the authority to permit clerks to do so under current law. [*Legislative Audit Bureau, Elections Administration, Report 21-19, October 2021*].

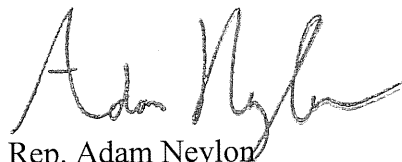
As required by s. 227.26 (2) (b), Stats., the Wisconsin Elections Commission has 30 days to comply with the Joint Committee for Review of Administrative Rules' directive and must complete promulgation of the emergency rule by publishing it no later than February 9, 2022 or cease issuance of its current guidance to clerks relating to correction of errors and omissions on absentee ballots. If WEC cannot show statutory authority to do so, the agency would be prohibited from advancing an emergency rule or directing this action by clerks.

Please contact us if you have further questions on this matter.

Sincerely,



Senator Steve Nass  
Co-Chair, JCRAR



Rep. Adam Neylon  
Co-Chair, JCRAR

Cc: Commissioners Marge Bostelmann, Julie Glancey, Dean Knudson, Robert Spindell, Jr., and Mark Thomsen