



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

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

Committee Motions for January 4, 2022 Executive Session:

Wisconsin Elections Commission – Agency Guidance Regarding Return of Absentee Ballots to Drop Boxes

- 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 return of absentee ballots to drop boxes, 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 March 2020, WEC's staff issued written guidance indicating that municipal clerks can allow individuals to return absentee ballots to drop boxes that are secure, monitored, and emptied regularly, or return the ballots through mail slots at municipal facilities and book return slots at municipal libraries, as long as clerks collected such ballots daily. In July 2020, WEC's staff issued written guidance indicating that alternate sites for requesting, voting, and returning absentee ballots could be established according to the statutory requirements.

[Legislative Audit Bureau, Elections Administration, Report 21-19, p. 46 (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 3, 2022 or cease issuance of its guidance relating to the return of absentee ballots to drop boxes.

Wisconsin Elections Commission – Agency Guidance Regarding Completeness of Addresses and Correction of Errors and Omissions on Absentee Ballots

- 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



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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 3, 2022 or cease issuance of its guidance relating to completeness of addresses and correction of errors and omissions on absentee ballots.