

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed Emergency After Notice

Rule making related to submission of voter eligibility lists

The Public Employment Relations Board hereby amends Chapter 15, “Retention and Recertification Elections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 20.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 20.15(2).

Purpose and Summary

These amendments were adopted after feedback and internal review. The adopted amendments relate to the submission of employee voter eligibility lists for retention and recertification elections. These amendments require employers to submit lists to the agency via secure upload rather than by email.

Item 1 requires employers and certified employee organizations to have a representative or agent for service listed in the agency’s secure upload filing system and also requires the employers and certified employee organizations to maintain the accuracy of that information.

Items 2 through 4 address retention and recertification voter eligibility lists. These amendments change the process of submission of voter eligibility lists from email to a secure upload filing system.

Items 2 and 4 also contain conforming amendments regarding the contents of the voter eligibility lists.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as **ARC 6413C**. A public hearing was held on August 2, 2022, at 10 a.m. via videoconference.

The agency received both informal and formal comments regarding language proposed to be stricken in Item 3 requiring employers to notify employee organizations about the submission of the list.

As a result of the feedback, the language in Item 3 requiring employers to notify employee organizations about the submission of the list was changed to mirror the language already contained in Item 2.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b) and (c), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on August 22, 2022, because the amended rules ensure the safe upload of Iowa public employees’ personally identifiable information to the agency’s secure upload filing system for the fall 2022 recertification election. Without these amendments, employers may transfer this sensitive data using unsecure email.

Adoption of Rule Making

This rule making was adopted by the Board on August 22, 2022.

Fiscal Impact

The use of a secure upload filing system requires an increase in the expenditure of funds by the agency. However, the cost of the secure upload filing system will be offset by the automation of functions, which reduces the agency time necessary to complete such tasks. Additionally, this system will be used for various functions of the agency.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

These rules do not provide for a waiver of their terms, but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on August 22, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 621—15.1(20) as follows:

621—15.1(20) General procedures. The agency shall determine the date of the election or election period, and the place, method, and other procedural aspects of conducting a retention and recertification election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot.

Each election will be assigned a “BU” case number in the agency's electronic document management system (EDMS). A party shall electronically file all documents in its respective BU case file unless the rules specify otherwise.

Employers and certified employee organizations shall have a representative or agent for service listed in the applicable BU case file in EDMS and in the agency's secure upload filing system. Employers and certified employee organizations have a continuing duty to update the representative or agent for service in the BU case file in EDMS and in the agency's secure upload filing system.

15.1(1) to 15.1(3) No change.

ITEM 2. Amend subrule 15.2(2) as follows:

15.2(2) Initial *eligible voter eligibility list*.

a. List for determining fees.

(1) The agency will determine the election fee based on the following initial employer-provided list of employees. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, within seven days of the notice, ~~email~~ submit to the agency through the agency's secure upload filing system an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was ~~emailed~~

submitted to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency's secure upload filing system in a manner determined by the agency.

(2) The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the employee organization the voter list containing the employees' contact information.

b. Final voter eligibility list.

(1) When the agency files an order that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ securely upload to the ~~agency a second~~ agency's secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. If the ~~original~~ previous list the employer provided for ~~determining fees~~ is unchanged, the employer does not need to ~~email~~ upload this ~~second~~ additional list. ~~The original list, if unchanged, or this second list will become the final list.~~ The agency shall file the list of eligible voters' names and job classifications. This list shall become the official ~~eligible voter~~ voter eligibility list for the election to be conducted except as provided in subparagraph 15.2(2) "b"(2). The agency shall provide to the employee organization the voter list containing the employees' contact information.

(2) The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the ~~list of employees' names~~ voter list. The employer shall securely upload any mutually agreed upon amended list to the agency's secure upload filing system prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ITEM 3. Amend subrule 15.5(4) as follows:

15.5(4) ~~Eligible voter~~ *Voter eligibility list for determining election fee.*

a. The public employer shall ~~email~~ submit to the agency through the agency's secure upload filing system a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election. This list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was ~~emailed~~ submitted to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency's secure upload filing system in a manner determined by the agency. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 15.5(5).

b. No change.

ITEM 4. Amend subrule 15.5(6) as follows:

15.5(6) *Final voter eligibility list.*

a. When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ submit to the agency ~~a second~~ through the agency's secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also

include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. If the previous list the employer previously provided pursuant to subrule 15.5(4) is unchanged, the employer does not need to email a subsequent upload this additional list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official ~~eligible voting~~ voter eligibility list for the election to be conducted except as provided in subparagraph 15.2(2) "b"(2). The agency shall provide to the certified employee organization the voter list containing the employees' contact information.

b. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

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