

Retention and Recertification Elections



Iowa Public Employment Relations Board

History of Public Employment Relations Act

- Chapter 20, Public Employment Relations Act (PERA) enacted in 1974
- Permitted public employees and employers to organize and bargain collectively
- Prohibited and prevented all strikes by public employees



PERB's Duties

- o Determine appropriate bargaining units
- o Conduct certification elections
- o Adjudicate prohibited practice complaints
- o Adjudicate state merit system discipline appeals and grievances
- o Provide mediators and arbitrators to resolve impasses in collective bargaining negotiations



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Iowa has 1,174 public sector bargaining units



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Retention and Recertification Elections – New Elections resulting from 2017 legislation, H.F. 291

Employees (eligible voters) in represented bargaining units will vote to KEEP (retain) or REMOVE (decertify) their current certified bargaining representative.

Effect of retention and recertification elections

If more than 50% of eligible voters vote “yes” to retain the representative, the employee organization will be *retained and recertified* and *continue to represent the bargaining unit*.



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Effect of Retention and Recertification Elections

If 50% or more of eligible voters either vote “no” or do not vote, the employee organization will be *decertified* and will *no longer represent the unit.*



PERB's Role

- o Conduct election as required
- o Ensure a fair election process for all participants
- o Provide accurate tally of the results



When will PERB conduct recertification elections?

- Ø Election is triggered by the expiration date of the applicable collective bargaining agreement (CBA) between employer and certified representative.
- Ø Iowa Code 20.15(2) requires PERB to hold the election approximately 8-10 months prior to the expiration date of the CBA.



Schedule for bargaining units voting this fall

CBA Expiration Date	Election Period	Notice of intent to conduct election	Employer must send Employee list	CEO Fee Due	Direction and Notice of Election
June 30, 2019	October 15-29, 2018	August 27, 2018	Sept. 4, 2018	Sept. 17, 2018	Sept. 19, 2018



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Bargaining units voting this fall:

- Paperless voting system—phone and online voting services
- A vendor, Everyone Counts, will provide the voting services.



Bargaining units voting this fall

- 600 elections with 70,000 voters – comparable to Dubuque County
- First recertification election for employees in the State units



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Ballot Question

- o Voters will be asked, “Do you want [Employee Organization] to be retained and recertified and continue to be your exclusive bargaining representative?”
 - o Yes
 - o No



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At-a-Glance: Steps in a Recertification Election

Identified representatives received an email “alert” that a filing was submitted to that specific unit.

1. PERB determines a recertification election must be conducted based on expiration date of CBA.
2. PERB electronically files a **Notice of Intent to Conduct a Recertification Election** and a **Notice to Employees**.
 - ✓ eFiled on August 27th
 - ✓ Employer must post/distribute information as directed in notice.
 - ✓ Email “alert” from perbfile@mail-relay.iowa.gov



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At-a-Glance: Steps in a Recertification Election

3. Employer provides requested **voter list** by **September 4th**.
 - ✓ Must be formatted and sent as described in notice.
 - ✓ Must separately email certified representative telling them the list was submitted, date of submission, and # of employees on list.
4. If voter list timely received, certified representative pays **election fee** by deadline.
 - ✓ PERB will NOT send an invoice – representative must calculate fee based on the submitted voter list and fee schedule.



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Election Fee Schedule

# of Eligible Voters on Initial Voter Eligibility List**	Election Fee
10 or less	\$10.00
10 or more	\$1.00 per eligible voter

- o Make payment by check made out to PERB.
- o If writing a check for an individual unit, please include the certified employee organization name, employer name, and bargaining unit number on the check.
- o If writing one check for multiple units, attach a document with the check that lists the employee organization name, employer name, bargaining unit number, and the number of employees in the unit for each unit for which you are paying.

**Any overpayment or underpayment resulting from changes to the voter list due to the supplemental list, mutual agreement of parties, or challenges upheld by the Board will be handled by PERB rule 5.1(2).



At-a-Glance: Steps in a Recertification Election, cont.

5. If election fee is timely received, PERB electronically files a **Direction of Election** which includes a **Notice of Election**
 - ✓ Employer must post/distribute these notices as directed
 - ✓ This notice contains all the information for voters on how and when to vote.
 - ✓ Contains sample ballot question.

Identified representatives received an email “alert” that a filing was submitted to that specific unit

- ✓ From perbfile@mail-relay.iowa.gov



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At-a-Glance: Steps in a Recertification Election, cont.

6. Employer provides requested supplemental voter list, if needed, by deadline. Must be formatted and sent as described in notice.
7. Challenges to the voter list or mutual agreements to the list are due seven days prior to election.
8. Eligible voters cast their vote during set voting period.



Direction of Election

- o PERB will eFile the *DIRECTION OF ELECTION, NOTICE of ELECTION* and *SAMPLE BALLOT QUESTION*.
 - All one document
 - Should be eFiled on September 19th.
- o Direction of Election contains:
 - Bargaining unit description
 - Orders that a retention and recertification election be conducted
 - Orders supplemental eligible voter list if necessary
- o Notice of Election contains:
 - All the information for voters on how and when to vote.



Employer's responsibility is to provide the VOTER LIST

- o Employer has a duty to amend within 7 days of Direction of Election if the eligible voter list has changed.
- o Employer has ongoing duty to inform certified representative if an eligible employee leaves employment in the unit prior to the end of the election period.



Challenges to Voter Lists

Eligible voters are employees who were employed on the date of the direction of election, likely September 19, 2018.

- o Parties may alter the eligible voter list *by mutual agreement*. Must be done 7 days before election begins.
- o Certified bargaining representatives can challenge the eligibility of an employee on the list. Challenge must be done 7 days before election begins.



Notice of Election

- o NOTICE OF TELEPHONIC AND WEB-BASED RETENTION AND RECERTIFICATION ELECTION that the employer must post/distribute to eligible voters.
- o Contains the voting information for the employees.
 - Includes the voting schedule (October 15, 2018 beginning at 8:00 a.m. and ending October 29, 2018 at 9:00 a.m.)
 - Includes the phone number and web address to vote.
- o Contains the ballot questions and options.
- o Contains the voting instructions.



Voting

- o Election period:
 - Starting: October 15 at 8:00 a.m.
 - Ending: October 29 at 9:00 a.m.
- o Employees vote by phone or by internet
 - Notice will contain phone number and website address.
 - Employee will provide birth date (MM/DD/YYYY) and the last four digits of social security number.
 - Follow the instructions provided
 - Employee will answer the ballot question
 - After voting “yes” or “no”, employee will be asked to confirm the choice. Employee **MUST CONFIRM** choice. For your vote to be counted.

Ballot Question

Do you want
[Employee Organization]

TO BE RETAINED AND RECERTIFIED AND CONTINUE TO BE
YOUR EXCLUSIVE BARGAINING REPRESENTATIVE?

- ☐ Yes.
- ☐ No.



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Employer/Employee (Voter) Responsibilities

Employer

- Post and distribute information to employees on how to vote (PERB will provide the material)
- Information will include telephone number to call or website to use to cast a ballot
- If an employee on the eligible voter list leaves the bargaining unit prior to the end of the election, notify the certified representative.

Employee

- Eligible voters will cast a ballot by phone or internet if they choose to vote in the election.
- Voters will have their own unique login when they vote (online or phone) that will be personally identifiable.
- 2-week period to cast a ballot (Opens October 15 at 8:00 a.m. and closes October 29 at 9:00 a.m.)

Who do I ask?

If voter experiences
any problems with
the voting system
or need special
assistance in
voting



Everyone Counts

Questions about
the election in
general?



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- o PERB can disclose who is eligible to vote. However, PERB **cannot** disclose if an individual voter has voted. That information is confidential.
- o PERB will distribute participation reports throughout the election. These reports will not list who has voted.



At-a-Glance:
Steps in a Recertification Election, cont.

8. PERB tabulates votes and electronically files **tally**.
9. 10-day objection period and 10-day post-election challenge period from filing of tally. If no objections or challenges received or are not outcome determinative, PERB files appropriate **order** (order of recertification OR order of decertification).



Election results

PERB will e-file “tally of ballots” & post on website

If the majority of the members of the bargaining unit VOTE YES, the collective bargaining agreement remains intact and the certified representative continues to represent the employees in the unit.

If a tie or the majority of the employees in the unit DO NOT VOTE YES (no and nonvotes are majority), PERB will issue an order of decertification and the certified employee organization will no longer represent the unit.

Objectionable Conduct During Election Campaign

- o Either party can object to the conduct of the election within 10 days of the filing of the tally (same as before)
- o PERB can invalidate an election if
 - 1) Objectionable activity took place during the election; AND
 - 2) It could have affected the results of the election

What could invalidate an election?

- o Misuse of PERB documents, including an indication that PERB endorses any particular choice on the ballot
- o Misstatements of material facts by any party to the election or its representative without sufficient time for the adversely affected party to adequately respond
- o Commission of a prohibited practice

What could invalidate an election? Cont.,

- o Campaign speeches by employer to assembled groups of employees during working hours during the election period
- o Any polling of employees by a public employer which relates to the employees' preference for or against a bargaining representative
- o Any other misconduct or other circumstance which prevents employees from freely expressing their preferences in the election

Postelection Challenges

- o Challenges to the number of bargaining unit employees
- o When unresolved and determinative of the outcome of an election, the Board will hold hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of election
- o If challenge upheld, the Board may either adjust the tally or order a new election

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The screenshot shows the homepage of the Iowa Public Employment Relations Board (PERB). The header features the PERB logo and the text "Iowa Public Employment Relations Board". To the right of the header is a search bar labeled "Searchable Database" and a link for "eFiling". Below the header is a red navigation bar with the following links: Home, About Us, Iowa Code & Rules, Units, **Recertifications** (circled), Decisions, Impasse, Calendar, Forms, and FAQs. Below the navigation bar, the "Recertifications" section is displayed, starting with a "Home" link. The section lists several topics related to retention and recertification elections, including schedules for September and October, sample notices, and bargaining units.

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Searchable Database

eFiling

Home About Us Iowa Code & Rules Units **Recertifications** Decisions Impasse Calendar Forms FAQs

Home

Recertifications

- Schedule for Retention Elections
- Bargaining Units Scheduled for Retention and Recertification Elections in September
- September Sample Notice to Employees of PERB's Intent to Conduct a Retention and Recertification Election
- September Sample Notice of Intent to Conduct a Retention and Recertification Election
- Bargaining Units Scheduled for Retention and Recertification Elections in October
- October Notice of Recertification Intent
- October Notice to Employees of Intent



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Searchable Database

eFiling

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Thanks for
coming today!

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Any questions?