

Meeting of the Board

Thursday, December 17, 2009 - 8:30 A.M.

Agenda  
Open Session

State Capitol Building

Room 300 Northeast and North Hearing Room, Second Floor

Madison, Wisconsin

**Thursday, December 17, 2009**

**8:30 A.M. – Room 300 Northeast**

**A. Call to Order**

**B. Director’s Report of Appropriate Meeting Notice**

**C. Closed Session**

- 5.05 (6a) and 19.85 (1) (h)      The Board’s deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (g)      The Board may confer with legal counsel concerning litigation strategy.
- 19.851              The Board’s deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.
- 19.85 (1) (c)      The Board may consider performance evaluation data of a public employee over which it exercises responsibility.

**Approximately 10 A. M. – North Hearing Room, Second Floor**

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**D. Reconvene in Open Session**

**E. Approval of Minutes of Previous Meeting**

- 1. November 9, 2009 Meeting – Open Session** **4**

**F. Public Comment (Limit of 5 minutes per individual appearance)**

*Break*

**G. Approval of Electronic Voting Equipment** **12**

The Government Accountability Board may conduct a roll call vote, a voice vote, or otherwise decide to approve, reject, or modify any item on this agenda.

**Approval of Elections Systems and Software Voting System Components -  
Election Management System, AutoMark Accessible Ballot Marker,  
DS-200 Polling Pace Tabulator, M650 Central Count Tabulator**

**H. Administrative Rules**

- 1. Status Report on Administrative Rule Defining Scope of Regulated Activity, GAB 1.28 (Issue Ad Regulation)**
- 2. GAB 6.03 Assistance by G.A.B. Staff (Technical Change) 28**
- 3. GAB 9.03 Voting Procedure for Challenged Electors (Technical Change) 28**
- 4. Proposed GAB 1.90 – Regulation of Nonprofit Corporations Organized Solely for Political Activity (MCFL Corporations) 35**
- 5. GAB 6.02 Registration statement sufficiency 60**
- 6. Status Report on Pending Administrative Rules 70**

**I. Legislation**

- 1. Significant Legislative Activity 75**
- 2. Legislative Status Report 87**

**J. Report on Campaign Finance Information System 94**

**K. Director’s Report**

Elections Division Report – election administration. **121**

Ethics and Accountability Division Report – campaign finance, state official financial disclosure, lobbying registration and reporting. **132**

Office of General Counsel Report – general administration **134**

***Break***

**L. Public Comment on Early Voting**

**Legislative Panel Presentation**

**Comments from the Public and Local Election Officials**

**M. Staff Report on Early Voting**

The Government Accountability Board may conduct a roll call vote, a voice vote, or otherwise decide to approve, reject, or modify any item on this agenda.

The Government Accountability Board has scheduled its next meeting for Thursday, January 14, 2010 at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor in Madison, Wisconsin beginning at 10:30 a.m. The meeting will be conducted by teleconference and will last no more than two hours.

The Government Accountability Board may conduct a roll call vote, a voice vote, or otherwise decide to approve, reject, or modify any item on this agenda.

# State of Wisconsin\Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## Wisconsin Government Accountability Board

Risser Justice Center, Room 150, 120 Martin Luther King Jr. Blvd.

Madison, Wisconsin

November 9, 2009

9:30 a.m.

### Open Session Minutes

**DRAFT**

Not yet  
approved by  
the Board

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Deferred action on certification of ES&S voting equipment	3
B. Approved changes to ensure absentee ballot security in Chapter GAB 5.	5
C. Received a report from staff on improvements to the Campaign Finance Information System	6

Present: Judge Michael Brennan, Judge William Eich, Judge Gerald Nichol, Judge Thomas Cane and Judge Thomas Barland. Judge Gordon Myse joined the meeting at 11:50 a.m.

Staff present: Kevin Kennedy, Jonathan Becker, Nathaniel E. Robinson, Shane Falk, Michael Haas, David Buerger, Ross Hein, Sharrie Hauge, Tommy Winkler, and Reid Magney

### **A. Call to Order**

Chairperson Brennan called the meeting to order at 9:36 a.m.

### **B. Director's Report of Appropriate Meeting Notice**

G.A.B. Director Kevin Kennedy informed the Board that proper notice was given for the meeting.

### **C. Approval of Minutes of Previous Meetings**

MOTION: Approve the minutes of the October 5, 2009 meeting of the Government Accountability Board. Moved by Judge Nichol, seconded by Judge Eich. Judge Barland suggested adding one item to the Summary of Significant Actions Taken: "Received a report from staff on improvements to the Campaign Finance Information System." Motion as amended carried unanimously.

## D. Public Comment

1. **Mary Ann Hanson** of Brookfield appeared on her own behalf to comment on the HAVA Check process. She thanked Board staff for an extensive response to her questions, as well as the opportunity to meet with the Chair of the U.S. Election Assistance Commission during her recent visit. She expressed concern about the number of people who did not respond to postcards and letters mailed by the Board and said there should be consequences for voters who do not respond to HAVA Check letters.
2. **Ginny Graham** of Waukesha appeared on her own behalf to comment on GAB Chapter 5, Ballot and Electronic Voting System Security, as well as the selection of poll workers. She supported the Board's proposed changes to Chapter 5 and asked how the Board plans to measure results. She also said many clerks do not appear to be selecting poll workers from lists supplied by the political parties, as required by Statutes.
3. **Annette Kuglitsch** of Waukesha appeared on her own behalf to support proposed changes to GAB Chapter 5, Ballot and Electronic Voting System Security. She called the changes very clear, logical and well thought-out. She urged the Board to provide clerks with a template for developing plans to comply with the new rules.
4. **Barbara Smith** of Madison appeared on her own behalf to comment on possible changes to the Statewide Voter Registration System, and express concern that any work should be done by state employees and not by private contractors.
5. **Paul Malischke** of Madison appeared representing Fair Elections Wisconsin to oppose approval of the ES&S voting system because of problems with overvotes. He said that based on a report prepared by the Florida Secretary of State, the DS200 scanner produces significantly more overvotes than do Eagle vote scanners.
6. **Jody Hanna** of Madison appeared representing Disability Rights Wisconsin to express concerns about the accessibility of the DS200 scanner because it does not provide for people with visual impairments and the height is too tall for people who use wheelchairs.
7. **Maribeth Witzel-Behl** of Madison appeared on behalf of the City of Madison Clerk's Office and the Wisconsin Municipal Clerks Association to comment on GAB Chapter 5, Ballot and Electronic Voting System Security. She thanked the Board for acknowledging that not all clerks have the same resources to comply with regulations, and expressed hope that the Board would address what happens in emergency situations if a clerk is not able to comply.
8. **Diane Hermann-Brown** of Sun Prairie appeared on behalf of the City of Sun Prairie and the Wisconsin Municipal Clerks Association. She said a number of clerks were in attendance to learn about the certification of Election Systems & Software's

election equipment. She also thanked Board staff for considering clerks' comments on the Early Voting study, and said changes will have an impact on clerks. She suggested the Board staff work with clerks on developing templates to comply with GAB Chapter 5, Ballot and Electronic Voting System Security.

9. **Steve Pearson**, vice president of certification for Election Systems & Software, appeared on behalf of his company to answer comments about the Unity system. He said the company believes the system is compliant with Wisconsin statutes and accessibility requirements, and said they would not be here if it had not already been certified by the U.S. Election Assistance Commission. He said the system can be coded so it rejects overvotes instead of giving the voter the choice of accepting the overvote.
10. **Mark Manganaro**, state certification manager for Election Systems & Software, appeared on behalf of his company to answer comments about the Unity system. He said that if there is an overvote, the system will give an explanation of the first race on the ballot in which there is an overvote.

An extended discussion ensued between Mr. Pearson, Mr. Manganaro, Board members and Board staff about ES&S election equipment.

Chairman Brennan called a recess at 11:07 a.m. The Board reconvened at 11:20 a.m.

## **E. Approval of Electronic Voting Equipment**

1. **Demonstration of Elections Systems and Software Voting System Components – Election Management System, AutoMark Accessible Ballot Marker, DS-200 Polling Pace Tabulator, M650 Central Count Tabulator**

Elections Specialists Ross Hein and David Buerger conducted a demonstration of the ES&S equipment being considered for certification by the Board.

Discussion.

Chairman Brennan called a recess at 12:13 p.m. The Board reconvened at 12:52 p.m.

2. **Approval of Elections Systems and Software Voting System Components**

Elections Specialist Ross Hein presented the staff recommendation to approve the ES&S Unity 3.2.0.0 System, which includes the Unity Election Management System software, the intellect DS200 precinct optical scan ballot counter, the M650 central county optical scan ballot counter, and four versions of the AutoMark Voter Assist Terminal ballot marking device, per the certificate from the U.S. Election Assistance Commission, with the condition that ES&S not set deadlines for clerks that are contrary to state statutes.

Discussion.

MOTION: To adopt staff recommendation to approve the ES&S Unity 3.2.0.0 System. Moved by Judge Cane.

Discussion.

MOTION: withdrawn by Judge Cane.

Discussion.

MOTION: To defer this matter to the next meeting with instructions to staff to make recommendations with regard to certification, modifications to the present program, if it is felt desirable, as well as the appropriate role of the Board at some time in the future for making recommendations or comments on certified equipment. Moved by Judge Myse, seconded by Judge Eich.

Roll call vote: Brennan:	Nay	Cane:	Nay
Eich:	Aye	Barland:	Aye
Myse:	Aye	Nichol:	Nay

Motion failed, 3-3.

Chairman Brennan called a recess at 2:08 p.m. The Board reconvened at 2:20 p.m.

MOTION: To defer certification to a future meeting, and ask staff to recommend to the Board suggestions both about certification and methodology for addressing concerns regarding the precinct count optical scan and the manner in which the system processes ballots that contain overvotes or cross-party votes. Also, to request staff further analyze the proper role of the Board in making a commentary about the strengths and weaknesses of each of the certified voting systems. Moved by Judge Myse, seconded by Judge Nichol.

Discussion.

Roll call vote: Brennan:	Aye	Cane:	Nay
Eich:	Aye	Barland:	Aye
Myse:	Aye	Nichol:	Nay

Motion carried, 4-2

## **F. Administrative Rules**

- 1. Status Report on Administrative Rule Defining Scope of Regulated Activity, GAB 1.28 (Issue Ad Regulation)**

Staff Counsel Shane Falk updated the Board on the status of the Citizens United case heard by the United States Supreme Court, which involves the scope of regulation of political communications permitted by the Constitution. He briefly commented on Senator Russ Feingold's speech on the U.S. Senate Floor that was directed to the U.S. Supreme Court regarding the Citizens United case. He said release of the Court's opinion is more likely in December.

## **2. GAB Chapter 5 Ballot and Electronic Voting System Security**

Staff Counsel Michael Haas and Election Specialist Ross Hein presented the staff recommendations for changes to GAB Chapter 5 with regard to improving the security of absentee ballots. The staff has not recommended changes regarding maintenance of voted ballots until their destruction or security of electronic voting systems.

Discussion.

MOTION: To approve changes to GAB Chapter 5, Ballot and Electronic Voting System Security. Moved by Judge Nichol, seconded by Judge Eich. Passed on a voice vote, with Judge Myse voting Nay.

## **3. Status Report on Pending Administrative Rules**

Staff Counsel Shane Falk reported that because emphasis has been placed on closing up investigations, there has not been a substantial change in progress on administrative rules.

# **G. Legislation**

## **1. Summary of Recent Legislative Activity**

Director and General Counsel Kevin Kennedy informed the Board that the Legislature had approved a bill to provide public financing for Wisconsin Supreme Court elections. He said Board staff is going through the legislation line by line to analyze its impact. The next election for Supreme Court is scheduled for 2011. He also discussed the federal Military and Overseas Voter Empowerment Act, which was recently signed into law. He said Wisconsin is one of 11 states with September primaries, and would need a federal waiver from some of the Act's requirements.

## **2. Legislative Status Report**

Written summary was included in Board packet. No action was taken.

# **H. Report on Campaign Finance Information System**

Ethics & Accountability Division Administrator Jonathan Becker provided the Board with an update on improvements to the Campaign Finance Information System (CFIS). He said the cost estimate from the vendor to make changes to the system has dropped from more than \$100,000 to \$24,000, though that number is growing. Staff has decided to cut back on many of the changes to the user interface and focus on the speed of the system. Staff has found that many of the problems experienced during the last two filing cycles may not be caused by the software or its design, but potentially by the hosting system provided by the Department of Administration's Division of Enterprise Technology (DET). Staff continues to find problems with the hosting environment. The system has been improved so that an upload that once took 12 minutes now takes a minute and a half. Staff is working with DET staff to look at the design of the system.

Discussion.

Judge Barland suggested keeping Legislators and their staffs updated on progress.

## **I. Director's Report**

### **Elections Division Report – election administration**

Written report from Nathaniel E. Robinson was included in Board packet. Mr. Robinson gave an oral presentation, and complimented the staff, especially Ross Hein, for his work on the voting equipment certification.

### **Ethics and Accountability Division Report – campaign finance, state official financial disclosure, lobbying registration and reporting**

Written report from Jonathan Becker was included in Board packet.

### **Office of General Counsel Report – general administration**

Written report from Kevin J. Kennedy, Sharrie Hauge and Reid Magney was included in Board packet. Ms. Hauge said the staff is preparing for an upcoming federal compliance audit regarding HAVA funds, and that James Malone has been hired to run the Contract Sunshine program. Also, 10 limited term employees have been hired to assist with the remaining Retroactive HAVA Check letters.

Mr. Kennedy discussed the schedule of upcoming meetings and asked Board members if they would consider moving the December meeting from the 14<sup>th</sup> to the 17<sup>th</sup>, and holding it in the State Capitol. He also asked about holding a second day of meetings in March, on the 23<sup>rd</sup> and 24<sup>th</sup>. There was agreement on both changes.

Judge Nichol expressed a concern about a rule recently adopted by the Wisconsin Supreme Court regarding whether Justices should recuse themselves from cases in which one of the parties is a campaign contributor. He asked Board members whether they should take a formal position on the matter, even though it is outside of the Board's purview. Judge Barland said he is sympathetic to Judge Nichol's position, but did not

believe the Board should take a position. Judge Cane said it is not the Board's role, and Judge Eich agreed.

## **J. Closed Session**

Adjourn to closed session to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation.

MOTION: Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Eich, seconded by Judge Cane.

Roll call vote: Brennan:	Aye	Cane:	Aye
Eich:	Aye	Barland:	Aye
Myse:	Aye	Nichol:	Aye

Motion carried.

Hearing no objection, the Chairman called a recess at 3:40 p.m. The Board reconvened in closed session beginning at 3:58 p.m.

**Summary of Significant Actions Taken in Closed Session:**

- A. Investigations and enforcement: 21 pending matters considered with three dismissed and four investigations authorized; 13 new matters considered with investigations authorized, and 1 new matter considered.

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The next meeting of the Government Accountability Board is scheduled for 8:30 a.m., Thursday, December 17, 2009 in the State Capitol, Rooms 400NE and 413N, Madison, Wisconsin.

November 9, 2009 Government Accountability Board meeting minutes prepared by:

\_\_\_\_\_  
Reid Magney, Public Information Officer

November 12, 2009

November 9, 2009 Government Accountability Board meeting minutes certified by:

\_\_\_\_\_  
Judge Gerald Nichol, Board Secretary

December 17, 2009

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the December 17, 2009, Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Ross Hein, Election Specialist  
Voting Equipment Certification Coordinator

**SUBJECT:** Update: Election Systems and Software (ES&S)  
Petition for Approval of Electronic Voting Systems

### Introduction

At the Government Accountability Board (Board) meeting on November 9, 2009 the Board, in a 4-2 vote, decided to have staff further investigate the Election Systems and Software (ES&S) voting equipment application. Board staff received a request from ES&S to have electronic voting equipment approved for use in Wisconsin. No electronic voting equipment may be utilized in Wisconsin unless the Board approves it. ES&S submitted the following equipment for testing:

Equipment	Firmware Version	Type
Unity Election Management System	3.2.0.0	Election Management Software
intElect DS200	1.3.10.0	Precinct Optical Scan Ballot Counter
M650	2.2.2.0	Central Count Optical Scan Ballot Counter
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3.1 with Print Engineering Board 1.65 1.3.1 with Print Engineering Board 1.70	Ballot Marking Device

The Board expressed a concern with the ES&S intElect DS200, the precinct count optical scan which tabulates votes at the polling place and the manner in which the system processes ballots that contain overvotes or cross party votes. The Board directed staff to examine this issue in greater detail and report on potential options.

## Discussion

Before any voting system may be used in Wisconsin, it must first demonstrate the ability to meet the voting system requirement provided in Wisconsin Statutes § 5.91.

Section 5.91 (7), Wis. Stats., requires voting systems that are approved for use in Wisconsin to reject all choices recorded on a ballot for an office or a measure if the number of choices exceed the number which an elector is entitled to vote for on such office or on such measure. Section 5.91 (6), Wis. Stats., requires voting equipment to reject any ballot on which votes are cast in the primary of more than one recognized political party. Additionally, § 5.91 (12), Wis. Stats., mandates the voting system minimize the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization of the voting system. The Board determined the manner in which overvotes or cross party votes were processed by the DS200 may be inconsistent with these provisions.

In the instance that a voter casts a ballot that contains a vote in excess of the number of choices the voter is allowed to vote for (overvote), the voting system is required to reject the ballot. Also, if a voter selects multiple parties in the primary election, the voting system is required to reject the ballot. The DS200 provides notification to the voter in the event of an overvote or cross party vote. On the screen of the DS200 the error message appears and the voter is given the option to “accept” the ballot or “return” the ballot to the voter. Staff believes the DS200 fails to fully explain the effect to the voter of pressing the “accept” button; that the office that contained excess votes or the ballot that contained multiple party votes in the primary election will be left uncounted.

In follow up research, G.A.B. staff reviewed a report produced by the Florida Department of State titled, “Analysis and Report of Overvotes and Undervotes for the 2008 General Election.” This report is required by Florida Statute to be issued following every general election to study the “no valid vote” rate. The “no valid vote” rate is calculated by adding together undervotes, overvotes and invalid write-ins. Based upon statistical data compiled by the Florida Division of Elections, the ES&S DS200 had the highest “no valid vote” rate and overvote rate of any optical scan system used in Florida. Many of the same optical scan voting systems in use in Florida are also in use in Wisconsin, including the Optech Eagle, Sequoia Insight, Premier OS and ES&S M100. The statistical data are provided in the table below:

<b>Equipment</b>	<b>No Valid Vote</b>	<b>Overvote</b>
ES&S DS200	.92%	.47%
Sequoia Insight	.74%	.27%
Premier OS	.57%	.09%
Optech Eagle	.60%	.11%
ES&S M100	.89%	.20%

The Florida Elections Division attributed the higher “no valid vote” rate to the change from touchscreen voting equipment to paper ballot optical scan equipment for the 13 counties that used the DS200 in the 2008 general election.

## Resolution

The DS200 can be configured to turn off the query in which the voter is given the option to either “accept” or “return” the ballot in the case of an overvote or cross party vote. When the DS200 is programmed with this configuration, each ballot that contains an overvote or cross party vote will automatically be rejected by the voting system and the ballot will be returned to the voter. The voter will then be required to re-make the ballot to correct the error. Under state law, a voter may be issued up to three separate ballots to correct voter errors made when casting the ballot. In the instance a voter casts a ballot that contains no votes, considered to be a blank ballot, the DS200 can be programmed to query the voter and the voter may choose to either “accept” or “return” the ballot. Some voters intentionally cast a blank ballot simply out of protest or to keep their voter registration status active.

Under this option, there is potential to increase the amount of time it may take for voters to cast their ballot and for election inspectors processing absentee ballots. Because the voting system will not accept any ballot that contains an overvote or cross party vote, every elector casting their ballot at the polling place must correct this type of error before their ballot may count. Additionally, election inspectors will need to remake every absentee ballot that contains a similar marking error. When re-making a ballot, two election inspectors must first attempt to determine if voter intent may be determined relating to the marking error. When voter intent is determined by the election inspectors, they must re-make the ballot to correct the error. If voter intent cannot be determined, the office(s) that contains the excess votes will be left blank. Similarly, if voter intent cannot be determined for a ballot that contains multiple party votes for a primary, the entire ballot will be re-made and left blank. The DS200 will provide notification with the option to either “accept” the blank ballot or “return” the blank ballot. Whenever a ballot is re-made by election officials, the original ballot is labeled and retained for a record in the event of post-election review.

## Recommendation

1. Board staff recommends approval of these ES&S voting systems. Each system accurately completed the mock elections and was able to accommodate the voting requirements of the Wisconsin election process. In addition, these systems include accessibility features which enhance independence and privacy throughout the voting process.
2. Board staff has received complaints from our partners, the Wisconsin county and municipal clerks, regarding some ballot coding and printing deadlines imposed by ES&S. In most cases, the concerns expressed are that ES&S requires election information and data prior to deadlines imposed by Wisconsin statute. This is frustrating for many clerks and produces added stress during an already hectic time.

Board staff recommends that as a condition of the Board’s approval, that ES&S may not impose deadlines contrary to requirements provided in Wisconsin statute, as determined by the Board. In order to enforce this provision, local jurisdictions purchasing ES&S equipment should include a provision in their respective purchase contract ensuring ES&S does not require submission of election-related data before it is practically available.

3. As part of EAC certificate **ESSUnity3200**, only systems included in this certificate are allowed to be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board are not compatible with the new ES&S voting system, and are not to be used together with the equipment versions seeking approval by the Board, as this would void the US-EAC certificate.
4. **Unity EMS 3.2.0.0 may only program the intElect DS200 precinct optical scan ballot counter, firmware version 1.3.10.0, the M650 central count optical scan ballot counter, firmware version 2.2.2.0 and AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 ((Print Engineering Board (PEB)1.65)), 1.3.1 (PEB 1.70).**
5. As part of state approval, the DS200 is required to be configured to reject all overvote or cross party votes automatically, and the voter will not be provided the opportunity to “accept” a ballot that contains these marking errors. Ballots that contain no valid votes (blank ballot) will provide a query to either “accept” or “return” the ballot.

#### Proposed Board Motion

The Government Accountability Board approves staff’s five-point recommendation for the ES&S voting systems application to be used in Wisconsin, in compliance with EAC certificate ESSUnity3200.

Special Note: As indicated in the previous attached report, elaborated on page 11, the ES&S voting system does not enhance access to the electoral process for individuals with disabilities and neither does it reduce or mitigate access for disabled voters.

#### Attachments

- ✓ November 9, 2009 Board Report: ES&S Petition for Approval of Electronic Voting Systems
- ✓ Wisconsin Administrative Code, GAB, Chapter 7
- ✓ Section 5.91, Wisconsin Statutes
- ✓ US-EAC Scope of Certification
- ✓ US-EAC Certificate of Conformance

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the November 9, 2009, Board Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Ross Hein, Election Specialist  
Voting Equipment Certification Coordinator

**SUBJECT:** Election Systems and Software (ES&S)  
Petition for Approval of Electronic Voting Systems

### Introduction

On July 27, 2009, the Government Accountability Board (Board) staff received a request from Election Systems and Software (ES&S) to have electronic voting equipment approved for use in Wisconsin. No electronic voting equipment may be utilized in Wisconsin unless the Board approves it. Wis. Stats. § 5.91. The Board has adopted administrative rules that detail the approval process. Wis. Admin. Code Ch. GAB 7. The complete text of § 5.91 and GAB 7 are attached. GAB 7.01(1)(e) requires all electronic voting equipment approved for use be certified by the Federal government. The United States Election Assistance Commission (US-EAC) is the Federal agency responsible for accrediting electronic voting equipment according to the Voting Systems Standards (VSS) / Voluntary Voting System Guidelines (VVSG).

Board staff scheduled voting equipment evaluation and demonstrations for ES&S during the week of September 28, 2009. ES&S submitted the following equipment for testing:

Equipment	Firmware Version	Type
Unity Election Management System	3.2.0.0	Election Management Software
intElect DS200	1.3.10.0	Precinct Optical Scan Ballot Counter
M650	2.2.2.0	Central Count Optical Scan Ballot Counter
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3.1 with Print Engineering Board 1.65 1.3.1 with Print Engineering Board 1.70	Ballot Marking Device

The former State Elections Board approved the Unity Election Management Suite, version 3.0.1.0, AutoMARK electronic ballot marking device, version 1.2 and the M650 version 2.1.2.0 at its January 18, 2006 meeting. The majority of the equipment tested in September was upgraded to the above equipment that are currently approved for use. However, the DS200 is a new precinct-based optical scan voting system now offered by ES&S.

ES&S submitted its testing application to the US-EAC on March 19, 2007. As such, the system was tested against the 2002 Voting System Standards. Only systems submitted to the US-EAC for testing after December 13, 2007, are tested using the 2005 Voluntary Voting System Guidelines. All of the systems, products and versions submitted for approval have been qualified under the 2002 Federal Voting System Standards.

ES&S submitted complete specifications for hardware, firmware and software related to the systems to G.A.B. staff. In addition, ES&S submitted technical manuals, documentation and instruction materials necessary for the operation of the equipment. The Voting System Test Laboratory responsible for testing the ES&S systems, iBeta Quality Assurance, recommended the US-EAC to certify ES&S Unity 3.2.0.0. iBeta provided that the acceptance requirements of the Federal Election Commission 2002 Voting System Standards have been met as demonstrated in testing. ES&S provided the iBeta report to the Board along with the application for approval of electronic voting equipment.

#### Voting Equipment Evaluation

As part of the review process, Board staff examined the ES&S application along with the manuals, specifications, documents, reports and instructions necessary for the operation of the equipment. As required by GAB 7.02(1), staff conducted three mock elections with each component of the voting system: a partisan primary, a general election with both a presidential and gubernatorial vote, and a nonpartisan election combined with a presidential preference vote. The mock elections offered an opportunity for staff to perform functional testing to ensure the system conforms to all Wisconsin requirements.

Staff tested the four separate hardware configurations for the ES&S AutoMARK independently, creating 100 test ballots with each hardware configuration for the three separate mock elections, totaling 1,200 ballots. The AutoMARK-marked ballots were tabulated by the optical scan equipment and verified by staff. For the optical scan systems, the DS200 and M650, staff tested each voting system by feeding 300 pre-marked ballots into the scanner for each separate mock election, for a total of 900 ballots per system. Staff determined the results produced by the optical scan system matched the staff's test plan.

Following the mock elections, the Wisconsin Election Administration Council (WI-EAC), which is made up of municipal and county clerks, representatives of the disability community, and community advocates, participated in a demonstration by the manufacturer and evaluated the equipment. An evening public demonstration of the voting system was also conducted September 30, 2009, and members of the public were able to provide comment. Below is a description and assessment of the equipment including any concerns staff and the WI-EAC may have regarding the approval of the equipment.

#### Election Systems and Software: Unity Election Management Suite v. 3.2.0.0

The Unity Election Management System (EMS) supports a jurisdiction's election needs by creating and maintaining a central database of election information, formatting and printing ballots on demand, programming election equipment and collecting and reporting of election results.

The Unity 3.2.0.0 includes:

- Election management system election preparation software:

- Election Data Manager v. 7.8.1.0,
  - ES&S Ballot Image Manager v. 7.7.1.0,
  - Hardware Programming Manager v. 5.7.1.0,
  - AutoMARK Information Management System (AIMS) v. 1.3.157.
- Audit Manager v. 7.5.2.0;
  - Election Reporting Manager v. 7.5.4.0;
  - Pre-vote hardware: Ballot-on-Demand COTs printer;

#### Board Staff's Feedback

- The Unity Election Management System was used successfully to program each of the four hardware versions of the AutoMARK Voter Assist Terminal, the M650 and the DS200 optical scan ballot counter. ES&S demonstrated within Unity how to create the election / ballots for each given election. After the equipment counted the ballots, ES&S demonstrated the tabulation of the election results within Unity. ES&S also demonstrated the maintenance of the results by transferring the election data (programming, ballot definition and results) to a flash drive or the computer's hard drive. Staff visually verified the version numbers for each component of the Unity 3.2.0.0 EMS by checking the component's configuration display.
- As part of EAC certification for the system, the US-EAC requires all election programming and results reporting to use a "hardened system" for the Unity EMS and AIMS. A "hardened system" is a computer that contains only the Unity EMS and / or AIMS program and is used only for programming and results reporting. No other program or application is permitted on the unit.

#### Wisconsin Election Administration Council's Feedback

- No component of the ES&S voting system seeking State approval may be used with any of the previously approved voting systems. This would require different programming and ballots for jurisdictions that have combined systems and increase the overall cost to administer elections because you will need to have two separate databases to program the equipment and tabulate the results.
- A WI-EAC member thought it would be beneficial to have election officials do ballot layout and programming of the voting systems rather than the voting equipment manufacturer, so it is closer to Wisconsin election practices.

#### Election Systems and Software, AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 ((Print Engineering Board (PEB)1.65)), 1.3.1 (PEB 1.70)

The AutoMARK VAT is comprised of a color touch screen monitor and integral ballot printer. To use the device, the voter inserts a pre-printed blank ballot into the input tray of the device. The mechanism draws in the ballot and scans a preprinted bar code on the ballot to determine which form of ballot has been inserted. The VAT then displays a series of menu-driven voting choices on its screen. The voter uses the touch screen to make voting selections. The VAT stores these choices in its internal memory.

When the voter has completed the selection process, the VAT provides a summary report for the voter to review his or her choices, and the AutoMARK VAT marks the ballot using its built-in printer. The print mechanism is a duplex device and can print both sides of the ballot. When the printing of the ballot is completed, the VAT feeds the ballot back to the voter. Once the ballot has been marked and provided to the voter, the AutoMARK VAT clears its internal memory and the paper ballot is the only lasting record of the voting selections made. The voter may visually confirm his or her selections, or

the ballot may be re-inserted into the VAT and the voter selections summary report will provide an audio summary for voters with visual impairments. The voter proceeds to enter the ballot into an optical scan voting system or a secured ballot box to be hand tabulated by election inspectors after the polls have closed.

Overvotes and crossover votes cannot occur on this equipment and a voter is warned about undervotes prior to the completion of voting. The AutoMARK VAT generates audio voting instructions that guide a visually impaired voter through the election sequence. The voter wears headphones to hear the spoken instructions. The voter makes his or her selections by pressing on a specially designed switch panel. The voter can adjust the volume and the screen may be “blacked out” to deactivate the LCD screen, to provide enhanced privacy. The voter may adjust the tempo (speed) of the audio instructions and the VAT accommodates a sip-puff device. The VAT can be programmed in multiple languages, although languages other than English are not currently required.

### Board Staff’s Feedback

- Staff tested the four separate hardware configurations for the ES&S AutoMARK independently, creating 100 test ballots for each hardware configuration for the three separate mock elections, totaling 1,200 ballots. The AutoMARK-marked ballots were tabulated by the optical scan equipment and verified by staff. Each hardware version of the AutoMARK VAT produced accurate results and matched the test decks created by staff.
- Although there were no errors with the physical marking of the test ballot by the VAT and the systems produced accurate results, there were some instances in which the system produced error messages that would require intervention by an election inspector. The messages displayed by the systems during testing were “paper misfeed,” “error while printing” and “ballot not recognized.” These errors generally occurred less than 5 times for every 100 ballots processed. The ballot was reinserted and correctly marked by the system. On one occasion, during testing of the AutoMARK version 1.3.1, PEB 1.65 for the Presidential Preference mock election, the system frequently provided the message “error while printing” and occurred approximately in 15% of all ballots tested. ES&S believed the errors were caused from a dirty read-head which caused the system to produce the “error while printing” notification. Another system with the same make and model was sent overnight by ES&S. A further testing of the system provided error-free results.
- The AutoMARK VAT does not seem to provide full privacy and independence for voters with disabilities, especially voters with dexterity or motor disabilities, as voters may need assistance inserting the ballot, removing the ballot and placing the ballot in the ballot box or tabulator.
- For the Partisan Primary, voters are unable to skip to other parties without triggering an undervote warning.

### Wisconsin Election Administration Council’s Feedback

- The AutoMARK device requires the voter to manually handle the paper ballot to verify or cast the official paper ballot. The device also requires a voter to place the voted ballot into a ballot box or counter. Individuals with a variety of motor disabilities may not be able to verify and cast ballots independently.
- The AutoMARK does not allow a voter to re-verify a write-in candidate, so a voter with vision impairments would not be able to verify the entire ballot if they cast write-in votes.
- If the zoom in/out button is pressed multiple times, the ballot is cancelled and comes out blank. The zoom in/out is not an option on all screens.

- Not only a point of concern about the AutoMARK, but all voting systems review should meet the current accessibility standards as defined by the US-EAC in the 2005 Voluntary Voting System Guidelines (VVSG). The ES&S system has been certified to the 2002 Voting System Standards.
- It takes longer to cast a ballot on the AutoMARK than manually marking the ballot with a marking device.
- Navigating the keypad is not instructive when casting a vote for a write-in candidate.
- Difficulty to read the screen with bi/tri focals and at times had to “punch” the screen to select a candidate. At one time it took three different ballot orientations before the system would accept the ballot.
- If the voter wants to vote for only one candidate, the voter has to scroll through the entire ballot before getting to the desired office.
- Of the members of the WI-EAC rating the AutoMARK systems, ten members provided their overall impression of the system on a scale of 1 to 5, 1 representing the evaluator “loved it,” 5 representing “It’s not for me.” The mean score for the AutoMARK VAT is 2.5.

Election Systems and Software, intElect DS200 precinct optical scan ballot counter, firmware version 1.3.10.0

The intElect DS200 is a digital paper ballot tabulator used primarily as a precinct counting system to tabulate paper ballots at the polling place. Each system can process ballots for up to ten wards or reporting units. After the voter makes a selection with a marker, or a ballot marking device (AutoMARK VAT), the ballot is inserted into the DS200 for immediate tabulation. The precinct count optical scanner tabulates votes and feeds inserted ballots into an attached storage bin.

The system includes a large touch screen display to provide feedback to the voter on the disposition of their ballot. If any errors or irregularities (overvote / crossover vote) are recognized, the voter has the ability to return the ballot for review, or instruct the system to read it as-is. Both sides of the ballots are scanned using a high-resolution image-scanning device, and the votes and ballot images of an election are stored on an external USB flash drive. The flash drive can be removed and transported to the central tabulation location. The DS200 does not store any ballot data, election totals or election images in its internal memory. Results may not be “modemed-in” from the DS200 to a central location as the newer federal guidelines prohibit the use of modems to assist in the accumulation of election results.

Board Staff’s Feedback

- Staff tested the DS200 by feeding 300 pre-marked ballots into the scanner for each separate mock election, for a total of 900 ballots. Staff determined the results produced by the DS200 were accurate and matched the test plan.
- Write-in votes for the DS200 ballot bin are indicated by a small pink circle and are not separated into a separate write-in bin. The ballot bin for a M100 optical scan voting system, currently approved for use in Wisconsin, may be used with the DS200 and will separate write-in votes to a separate compartment. Because all ballot images for the DS200 are stored on the external USB flash drive, write-in votes may be sorted within the Unity EMS for hand tabulation.
- Due to the configuration of this component (height and location of ballot input slot), it may be difficult for individuals with certain types of disabilities to insert a ballot without assistance.

- There were a few occasions where a ballot jam occurred while inserting the ballot into the DS200. An error message is displayed on the touch screen and there is an audio alert notifying the voter. The ballot is returned back to the voter and is reinserted to be counted.

#### Wisconsin Election Administration Council's Feedback

- The DS200 requires increased voter interaction compared to previous optical scan versions. There is a screen that requires a voter if they overvoted an office or cross-party voted, to manually push on the screen to determine if the ballot should be accepted as is, or returned to the voter correct the error. The screen is very high and someone in a wheelchair might not be able to see the screen and leave the polling place without knowing the error. A voter who is visually impaired will not see the screen notification and someone who has a motor disability may find it difficult to push the screen based on the location and height of the system.
- The party selection is designated on the screen of the DS200 within a partisan primary when an overvote occurs, taking away the secrecy of the ballot. In addition, if a voter casts a defective ballot (overvote), the office is identified on the screen of the system and could jeopardize full privacy.
- The ballot is not returned automatically to the voter when an overvote or crossover vote occurs. The voter is provided the opportunity to accept the ballot as-is, or the voter may choose to have the ballot returned to the voter. However, the system does not sufficiently explain the effect of the error. If the voter chooses to accept the ballot, the office that is overvoted or the entire crossvoted ballot will not be counted.
- The DS200 does not allow election night results to be “modemed-in” to the central location where results are tabulated. Requires all flash drives to be physically delivered to the central location.
- The report printed by election officials before the polls open does not provide lines for the election inspectors to sign and certify.
- The DS200 does not separate write-in votes into a separate write-in bin and requires more time to locate all write-in votes.
- The DS200 does not accommodate multiple ballot sizes and the auxiliary ballot bin is too small.
- Of the members of the WI-EAC casting a vote, four members voted in favor of approving this system for use in Wisconsin, with no negative votes. Four members did not cast a vote and two were undecided.

#### Public Comment

- The DS200 does not provide sufficient notice to the voter if he or she selects too many candidates for an office (overvote). The voter is told on the screen which races they have voted twice in and then has the option of hitting either “accept” or “return.” The instructions do not convey that if the voter chooses to “accept” the ballot, the overvoted offices will not be counted.

#### Election Systems and Software, M650 central count optical scan ballot counter, firmware version 2.2.2.0

The Model 650 central-count systems uses green light sensors to process optical scan ballots at high speeds that have either been marked by hand by a voter or by ballot marking equipment. Ballots will be placed in a secured ballot container and delivered to the central location for tabulation. As the ballots

are counted at a central location, voters are not provided the opportunity to correct ballot errors made at the polling place. The scanner saves election results to a zip disk in order to make a permanent record of the election.

Board Staff’s Feedback

- The Model 650 was able to process and accurately tabulate the optical scan ballots used in the mock election portion of the testing.

Wisconsin Election Administration Council’s Feedback

- Of the members of the WI-EAC casting a vote, one member voted in favor of approving the Model 650 for use in Wisconsin, with no negative votes.

**Analysis**

To determine whether a voting system should be approved for use in Wisconsin, the following recommendations are based upon three goals. First, does the voting system meet Wisconsin’s statutory requirements? Second, can the voting system successfully run an open, fair and secured Wisconsin election? Third, does the system enhance access to the electoral process for individuals with disabilities?

§ 5.91, Wis. Stats. provides the following requirements voting systems must meet to be approved for use in Wisconsin:

§ 5.91 (1)
The voting system enables an elector to vote in secret.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (2)
The voting system enables an elector to vote a straight party ticket.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (3)
The voting system enables the elector, for all elections, except primary elections, to vote for a ticket selected in part from the nominees of one party, and in part from nominees from other parties and write-in candidates
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (4)
The voting system enables an elector to vote for a ticket of his or her own selection for any person for any office for whom he or she may desire to vote whenever write-in votes are permitted.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (5)
The voting systems accommodate all referenda to be submitted to electors in the form provided by law.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (6)
The voting system permits an elector in a primary election to vote for the candidates of the recognized political party or independent candidates of his or her choice, and the system rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party or independent candidate designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (7)
The voting system enables the elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.
<b>Staff Analysis</b>
The voting system meets these requirements with one exception: where the elector casts excess write-in votes in addition to voting for a named candidate. All currently-certified systems will interpret this scenario as an overvote and reject such ballots for the voter to make the necessary revisions to the ballot. To meet this requirement, election procedures require election inspectors to inspect all ballots for write-in votes that may not be properly counted and separated into the proper receptacle by the voting system; this ensures all ballots are properly accounted for.

§ 5.91 (8)
The voting system permits an elector at a General Election by one action to vote for the candidates of a party for President and Vice President or for Governor and Lieutenant Governor.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (9)
The voting system prevents an elector from voting for the same person more than once, except for excess write-in votes upon a ballot that is distributed to the elector.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (10)
The voting system is suitably designed for the purpose used, of durable construction, and is usable safely, securely, efficiently and accurately in the conduct of elections and counting of ballots.
<b>Staff Analysis</b>
The ES&S voting system meets this requirement.

§ 5.91 (11)
The voting system records and counts accurately every vote and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.
<b>Staff Analysis</b>

The ES&S voting system meets this requirement.

§ 5.91 (12)

The voting system minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting system, or other related equipment or materials.

**Staff Analysis**

The ES&S voting system meets this requirement. For the DS200, concerns were stressed regarding the overvote or crossover vote notification that prompts the voter to either “accept” or “reject” the ballot but does not convey to the voter the effects of doing so. For optical scan voting systems currently in use, if a voter overvotes or crossvotes the ballot, the system will reject the ballot and the election inspector stationed at the equipment will explain the effect of the error to the voter and in most cases the voter will re-make the ballot; there is no explanation provided by the system.

The poll worker must examine a paper printout to determine the reason the ballot was returned to the voter. If the DS200 is approved, it is recommended as normal protocol, that an election official be present and able to support the voting system if error notices are provided to a voter. Staff requested ES&S to investigate if the system could provide notice to the voter explaining the effect of overvotes or crossvotes. It was determined that such change would require an alteration to the current version seeking approval, as this specific component is hard coded within the system and would need to be properly vetted through the testing and approval process.

§ 5.91 (13)

The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.

**Staff Analysis**

The ES&S voting system meets this requirement.

§ 5.91 (14)

The voting system does not use any mechanism by which a ballot is punched or punctured to record the votes cast by an elector.

**Staff Analysis**

The ES&S voting system meets this requirement.

§ 5.91 (15)

The voting system permits an elector to privately verify the votes selected by the elector before casting his or her ballot.

**Staff Analysis**

The ES&S voting system technically meets this requirement. Many of the concerns stressed by the WI-EAC and by the public address the inconveniences presented by the systems; however, the ES&S voting system would function similarly to other voting systems currently approved.

§ 5.91 (16)

The voting system provides an elector the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.

**Staff Analysis**

The ES&S voting system meets this requirement.

§ 5.91 (17)

Unless the ballot is counted at a central counting location, the voting system includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office the ballot will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive a replacement ballot.

**Staff Analysis**

The ES&S voting system meets this requirement.

**§ 5.91 (18)**

If the voting system consists of an electronic voting machine, the voting system generates a complete, permanent paper record showing all votes cast by the elector, that is verifiable by the elector, by either visual or nonvisual means as appropriate, before the elector leaves the voting area, and that enables a manual count or recount of each vote cast by the elector.

**Staff Analysis**

Since the ES&S voting system presented for approval requires paper ballots to be used to cast votes, this requirement does not apply.

The Help America Vote Act of 2002 (HAVA) also provides the following applicable requirements that voting systems must meet:

**HAVA § 301(a)(1)(A)**

The voting system shall:

- (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
- (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
- (iii) if the voter selects votes for more than one candidate for a single office –
  - (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;
  - (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and,
  - (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted

**HAVA § 301(a)(1)(C)**

The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

**HAVA § 301(a)(3)(A)**

The voting system shall—

- (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters

**Staff Analysis**

The ES&S voting system meets these requirements. However, concerns were stressed regarding the accessibility and privacy of the AutoMARK and the DS200 optical scan system, that the entire voting process is not completely accessible. There are approximately 1,000 AutoMARK units used in polling places to provide accessible means to the disabled voters and the upgrades would supplement these systems if the jurisdiction determined to upgrade their entire system.

The AutoMARK voting systems for which approval is being sought, do not change the degree of accessibility currently provided by previously approved AutoMARK systems. Accessibility was determined by the former Elections Board to apply to the act of voting, not the insertion or removal of the ballot into the marking device and placing the ballot into the ballot box or optical scan voting system.

All of the systems, products and versions submitted for approval have been qualified under the 2002 Federal Voting System Standards. The system was tested against the 2002 VSS. Voting applications received by the US-EAC after December 13, 2007, are tested to the 2005 Voluntary Voting System Guidelines (VVSG). However, no voting equipment manufacturer currently approved for use in Wisconsin has made application to be tested under the 2005 VVSG and it is difficult to say when that would occur.

It has been nearly four years since any new ES&S voting equipment technology has been approved for use in Wisconsin. It has taken time for the US-EAC to get its testing certification process rolled out and issuing certified voting systems. Many of the voting systems used in Wisconsin, both optical scan and central count voting systems, have been in use since the 1990's and there are questions how long these systems will last. It is not a question of voting system accuracy that is driving the new approval request.

These voting systems produce verifiable and accurate results, but instead, the availability of parts for the old systems may require the acquisition of new voting systems. Some of the parts are becoming obsolete and it is unknown how long manufacturers will be able to provide maintenance services for the voting systems currently in use. There are municipalities seeking upgrades to their voting systems and some are looking to purchase new voting equipment altogether. However, as the ES&S systems seeking approval may only be used together and may not be used with previously approved systems, it is unknown how many jurisdictions would purchase these systems. Regardless, approval by the Board would provide ES&S customers the opportunity to upgrade voting systems that are currently in use and purchase new voting equipment technology.

### Conclusion

1. Does the voting system meet Wisconsin's statutory requirements?

Staff's Response: Yes.

2. Can the voting system successfully run an open, fair and secured Wisconsin election in compliance with Wisconsin Statutes?

Staff's Response: Yes. Each system accurately completed the mock elections and was able to accommodate the voting requirements of the Wisconsin election process.

3. Does the system enhance access to the electoral process for individuals with disabilities?

Staff's Response: This system does not enhance access to the electoral process for individuals with disabilities, and neither does it reduce or mitigate access for disabled voters. The current scope and degree of accessibility remains substantially the same.

### Board Staff's Concerns

- The voting systems upgrades will not be compatible with other ES&S precinct-based optical scan voting equipment currently approved for use in Wisconsin.
- During testing of the AutoMARK voting system, staff experienced errors for approximately 5% of all ballots generated by staff. These errors did not involve the accuracy of marking the ballot.

- Due to the configuration of the DS200 (height and location) it may be difficult for individuals with certain disabilities to insert a ballot without assistance.
- As voting equipment results are not permitted be “modemed-in” under the new voting equipment guidelines, many municipalities would need to change its process for tabulating the election results. This may create delays in how quickly unofficial results are made available to the public as flash drives will need to be delivered in person to the central tabulation site.
- This system does not measurably enhance access to the electoral process for individuals with disabilities, and neither does it reduce or mitigate access for disabled votes. The current scope and degree of accessibility remains substantially the same.

### Recommendation

1. Board staff recommends approval of these ES&S voting systems. Each system accurately completed the mock elections and was able to accommodate the voting requirements of the Wisconsin election process. In addition, these systems include accessibility features which enhance independence and privacy throughout the voting process.
2. Board staff recommends that as a condition of the Board’s approval, that ES&S may not impose deadlines contrary to requirements provided in Wisconsin statute, as determined by the Board. In order to enforce this provision, local jurisdictions purchasing ES&S equipment should include a provision in their respective purchase contract ensuring ES&S does not require submission election related data before it is practically available.

Board staff has received complaints from our partners, the Wisconsin county and municipal clerks regarding some ballot coding and printing deadlines imposed by ES&S. In most cases, the concerns expressed are that ES&S requires election information and data prior to deadlines imposed by Wisconsin statute. This is frustrating for many clerks and produces added stress during an already hectic time.

3. As part of EAC certificate: **ESSUnity3200**, only systems included in this certificate are allowed to be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board are not compatible with the new ES&S voting system, and are not to be used together with the equipment versions seeking approval by the Board, as this would void the US-EAC certificate.
4. **Unity EMS 3.2.0.0 may only program the M650 central count optical scan ballot counter, firmware version 2.2.2.0, the M650 central count optical scan ballot counter, firmware version 2.2.2.0 and AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 ((Print Engineering Board (PEB)1.65)), 1.3.1 (PEB 1.70).**

### Proposed Board Motion

The Government Accountability Board approves staff’s four-point recommendation for the ES&S voting systems application to be used in Wisconsin, in compliance with EAC certificate: ESSUnity3200.

### Attachments

- ✓ Wisconsin Administrative Code, GAB, Chapter 7
- ✓ Section 5.91, Wisconsin Statutes
- ✓ US-EAC Scope of Certification
- ✓ US-EAC Certificate of Conformance

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:

Shane W. Falk, Staff Counsel

**SUBJECT:** Promulgation of Revisions of ch. GAB §§6.03 and 9.03, Wis. Adm. Code

Pursuant to §5.05(1)(f), Stats., the legislature authorized the Government Accountability Board specific power to promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration. Furthermore, the legislature has generally authorized agencies, such as the Government Accountability Board, to promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute. §227.11(2)(a), Stats.

Throughout the review process mandated by 2007 Wisconsin Act 1, the Government Accountability Board has taken several actions to update certain provisions of the Administrative Code to bring the rules in compliance with current law and opinions of the Board, correct grammatical errors, or correct references to forms. The proposed changes to ch. GAB §6.03, Wis. Adm. Code, simply amend statutory references that changed with the adoption of 2007 A. 1. The proposed change to ch. GAB §9.03, Wis. Adm. Code, removes a reference to lever voting machines which are no longer permitted or used in Wisconsin elections.

Attached to this Memorandum is the proposed Statement of Scope, Notice of Proposed Order Adopting Rule, and Notice of Submittal to Legislative Council Clearinghouse. The Statement of Scope and Analysis section of the Notice of Proposed Order provide details on the revisions previously approved by the Board. Please note that a public hearing is not required for the proposed amendments to ch. GAB §§6.03 and 9.03, Wis. Adm. Code. A public hearing is not required when the proposed rule brings an existing rule into conformity with a statute that has been changed or enacted or with a controlling judicial decision. §227.16(2)(b), Wis. Stats.

Approval of the attached documents will allow staff to proceed forward with promulgation of the rules necessary to revise the relevant provisions of ch. GAB §§6.03 and 9.03, Wis. Adm. Code, and keep things moving between Board meetings.

***Recommendations and Proposed Motions:***

1. **MOTION:** Pursuant to §§5.05(1)(f), 227.11(2)(a), 227.135, 227.14(4m), 227.15(1), and 227.16(2)(b), Wis. Stats., the Board formally approves the attached Statement of Scope, Notice of Proposed Order Adopting Rule, and Notice of Submittal to Legislative Council Clearinghouse for revisions to ch. GAB §§6.03 and 9.03, Wis. Adm. Code, and directs staff to proceed with promulgation of the rules.
  
2. **MOTION:** Staff shall take all other steps necessary to complete promulgation of the rules revising ch. GAB §§6.03 and 9.03, Wis. Adm. Code.

Statement of Scope  
Government Accountability Board  
Assistance from Board Staff and Voting Procedures for Challenged Electors  
ss. GAB 6.03 and 9.03

**Subject**

Amend ss. GAB 6.03 and 9.03.

**Objectives of the Rules**

Amend s. GAB 6.03 to correct statutory references that were changed by 2007 Wisconsin Act 1 and amend s. GAB 9.03 to remove a reference to lever voting machines.

**Policy Analysis**

The proposed amendments do not result in any policy changes. The amendments bring the sections into conformity with current statutes.

**Statutory Authority**

Sections 5.05(1)(f), and 227.11(2)(a), Stats.

**Comparison with Federal Regulations**

Requests for assistance from Government Accountability Board staff and voting procedures for challenged electors are state and local functions and are not functions of the federal government. Federal regulations do not govern these matters.

**Entities Affected by the Rules**

Individuals requesting advice from Government Accountability Board staff, persons challenging electors, and challenged electors.

**Estimate of Time Needed to Develop the Rules**

10-15 hours.

Proposed Rule  
Government Accountability Board  
Assistance from Board Staff and Voting Procedures for Challenged Electors  
ss. GAB 6.03 and 9.03

NOTICE IS HEREBY GIVEN that pursuant to ss. 5.05(1)(f) and 227.11(2)(a), Stats., and interpreting ss. 5.05(6a) and 6.95, Stats., and according to the procedure set forth in s. 227.16(2)(b), Stats., the State of Wisconsin Government Accountability Board will adopt the following rule as proposed in this notice without public hearing.

The Government Accountability Board proposes an order to amend provisions of ss. GAB 6.03 and 9.03, Wis. Adm. Code, relating to assistance from Board staff and voting procedures for challenged electors.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statutes Interpreted: ss. 5.05(6a) and 6.95, Stats.
2. Statutory Authority: ss. 5.05(1)(f), 227.11(2)(a), and 227.16(2)(b), Stats.
3. Explanation of agency authority: Section 5.05(6a), Stats., permits the Government Accountability Board to authorize staff to provide informal opinions to individuals requesting advice. In s. GAB 6.03, the board has authorized the staff to provide these informal opinions. Section 6.95, Stats., provides procedures for challenged electors to cast a ballot. Section GAB 9.03 provides additional details on the voting procedures for challenged electors.
4. Related statute(s) or rule(s): ss. 5.05(6a), 6.95, Stats.
5. Plain language analysis: The amendments to ss. GAB 6.03 and 9.03 are technical amendments to bring the rules into conformity with the statutes.
6. Summary of, and comparison with, existing or proposed federal regulations: Requests for assistance from Government Accountability Board staff and voting procedures for challenged electors are state and local functions and are not functions of the federal government. Federal regulations do not govern these matters.
7. Comparison with rules in adjacent states:  
  
The proposed amendments reflect recent statutory changes in Wisconsin's election law. There are no similar changes in adjacent states.
8. Summary of factual data and analytical methodologies: Adoption of the rules were primarily predicated on aligning the requirements in administrative rules and the statutes they interpret.

9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.
10. Effect on small business: The creation of this rule does not affect business.
11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 266-2094; Shane.Falk@wisconsin.gov
12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, no later than January 31, 2010.

FISCAL ESTIMATE: The creation of this rule has no fiscal effect.

INITIAL REGULATORY FLEXIBILITY ANALYSIS: The creation of this rule does not affect business.

TEXT OF PROPOSED RULE:

SECTION 1. GAB 6.03 is amended to read:

**GAB 6.03 Assistance by government accountability board staff.** Pursuant to the authority and responsibility vested in the government accountability board by the statutes, specifically s. 5.05 (6a) ~~and (7)~~, Stats., the staff of the board is authorized to provide advice to any interested person with respect to the proper application of title II. Such advice should not be construed as a formal opinion of the board under s. 5.05 (6a), Stats.

SECTION 2. GAB 9.03 is amended to read:

**GAB 9.03 Voting procedure for challenged electors.** Whenever the inspectors under ss. 6.92 to 6.94, Stats., determine to receive the vote of a person who has been challenged, they shall give the elector a ballot. Before giving the elector the ballot, the inspectors shall write on the back of the ballot the serial number of the challenged person corresponding to the number kept at the election on the registration or poll list, or other list maintained under s. 6.79, Stats. If ~~lever~~ or direct record voting machines are used in the municipality where the person is voting, the person's vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding serial number from the registration or poll list or other list maintained under s. 6.79, Stats., written on the back of the ballot before the ballot is deposited. The inspectors shall indicate on the voter list the reason for the challenge. The challenged ballots shall be counted under s. 5.85 or 7.51 (2) (c), Stats.

SECTION 3. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Government Accountability Board  
Assistance from Board Staff and Voting Procedures for Challenged Electors  
ss. GAB 6.03 and 9.03  
CR 09-

On December \_\_\_\_, 2009, the Government Accountability Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed order amends certain provisions of ss. GAB 6.03 and 9.03 to conform to law and actions of the Government Accountability Board. The amendments to ss. GAB 6.03 and 9.03 are technical in nature and necessary to bring the rules into conformity with the statutes.

**Agency Procedure for Promulgation**

No public hearing will be scheduled pursuant to Sec. 227.16(2)(b), Wis. Stats. The proposed rules bring existing rules into conformity with a statute that has been changed or enacted. The Government Accountability Board is primarily responsible for preparing the proposed rule.

**Contact Information**

Shane W. Falk, Staff Counsel  
Government Accountability Board  
212 E. Washington Avenue, 3<sup>rd</sup> Floor  
P.O. Box 7984, Madison, Wisconsin 53707-7984  
Phone 266-2094; Shane.Falk@wisconsin.gov

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:

Shane W. Falk, Staff Counsel

**SUBJECT:** Promulgation and Creation of ch. GAB §1.90, Wis. Adm. Code

### **Introduction and Recommendation:**

Throughout the review process mandated by 2007 Act 1, the Government Accountability Board has taken several actions to update certain provisions of the Administrative Code to bring the rules in compliance with current law and opinions of the Board. The proposed changes to ch. GAB §1.90, Wis. Adm. Code, codifies four informal opinions of the Board regarding corporations that qualify for exemption from Wisconsin's §11.38, Stats., prohibition on corporate expenditures pursuant to the U.S. Supreme Court case entitled *FEC v. Massachusetts Citizens for Life, Inc. (MCFL)*, 479 U.S. 238 (1986). For reference, staff has attached to this Memorandum the four informal opinions re-affirmed by this Board on August 27, 2008 and upon which the Board directed staff to codify the requirements for MCFL corporations so as to provide much clearer direction to registrants.

The Federal Election Commission codified *MCFL* into rules long ago. The four informal opinions relied upon in Wisconsin are lengthy and likely cumbersome to use in practice. The codification of *MCFL* into ch. GAB §1.90, Wis. Adm. Code, will provide clarity to corporations wishing to qualify for the exemption from Wisconsin's §11.38, Stats., prohibition on corporate expenditures.

Attached to this Memorandum is the proposed Statement of Scope, Notice of Proposed Order Adopting Rule, Notice of Submittal to Legislative Council Clearinghouse, and Notice of Hearing. The Statement of Scope and Analysis section of the Notice of Proposed Order provide more details on the proposed rule. The codification and formal recognition of MCFL corporations will require staff to revise the registration statement, Form GAB-1, to include MCFL corporations as an option for registration. This is necessary because *MCFL* does not classify MCFL corporations as political committees, which is the closest option for registration type on the current Form GAB-1.

Approval of the attached rulemaking documents will allow staff to proceed forward with promulgation of the rules necessary to create ch. GAB §1.90, Wis. Adm. Code, and keep things moving between Board meetings.

**Background:**

Wisconsin statutes currently provide that all corporations are prohibited from making contributions or disbursements for a political purpose other than to support or oppose a referendum. §11.38, Stats.

However, in *FEC v. MCFL*, 479 U.S. 238 (1986), the Supreme Court held that the federal statute prohibiting corporate political contributions and disbursements was unconstitutional as applied to a nonprofit corporation's independent disbursements. This decision created a class of corporations, commonly referred to as MCFLs, that were exempt from prohibitions on corporate independent disbursements. To qualify for this exemption the corporation must meet the following requirements:

[I]t was formed for the express purpose of promoting political ideas, and cannot engage in business activities. . . . [I]t has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. . . . [I]t was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities.

*Id.* at 264.

MCFL organizations are still required to file the same campaign finance disclosure reports as other entities making independent disbursements. *Id.* at 263. Proposed s. GAB 1.90 codifies the reporting requirements for MCFL organizations as set forth in four informal opinions of the Board.

***Proposed Motions:***

1. **MOTION:** Pursuant to §§5.05(1)(f), 227.11(2)(a), 227.135, 227.14(4m), 227.15(1), and 227.16-17, Wis. Stats., the Board formally approves the attached Statement of Scope, Notice of Proposed Order Adopting Rule, Notice of Submittal to Legislative Council Clearinghouse, and Notice of Hearing for the creation of ch. GAB §1.90, Wis. Adm. Code, and directs staff to proceed with promulgation of the rules.
2. **MOTION:** Staff shall take all other steps necessary to complete promulgation of the rules revising ch. GAB §1.90, Wis. Adm. Code.
3. **MOTION:** Staff shall revise Form GAB-1, as necessary, to include MCFL corporations as an option for registration.
4. **MOTION:** Formally withdraw the four informal MCFL opinions upon publication and official effective date of ch. GAB §1.90.

# State of Wisconsin \ Elections Board

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JOHN P. SAVAGE  
Chairperson

KEVIN J. KENNEDY  
Executive Director

September 13, 2006

MCFL-1

Attorney Mike B. Wittenwyler  
LaFollette, Godfrey & Kahn  
One East Main Street  
P.O. Box 2719  
Madison, WI 53701-2719

Re: Non-Resident MCFL Organizations

Dear Mr. Wittenwyler:

This letter is in response to your inquiry that our office received on July 14, 2006, and that is excerpted or summarized below, to wit:

*Per our earlier telephone discussions, I am writing to you to confirm that 2005 Wisconsin Act 176 does not affect any reporting requirements or other obligations under Wisconsin law for an MCFL organization located in a state other than Wisconsin (a "nonresident MCFL organization") that sponsors independent expenditure communications in Wisconsin.*

*As you also know, a new Wisconsin law, 2005 Wisconsin Act 176, modifies the reporting requirements for nonresident committees. Under this new law, a nonresident committee is required to disclose all contributions (\$20+) to the nonresident committee and all disbursements (\$20+) by the nonresident committee. Accordingly, a committee located in another state that engages in regulated campaign finance activity in Wisconsin (makes contributions to Wisconsin committees or sponsors independent expenditures involving Wisconsin candidates) must now disclose information about all of the committee's activities, regardless of where that activity occurred. These new disclosure requirements, however, only apply to nonresident committees and do not apply to nonresident MCFL organizations.*

*Because of the unique constitutional status of a nonresident MCFL organization, I want to confirm that:*

- a nonresident MCFL organization may sponsor independent expenditures affecting Wisconsin elections;*
- a nonresident MCFL organization that sponsors an independent expenditure affecting state elections in Wisconsin should file an "Oath for Committees and Individuals Making Independent Expenditures" (Form EB-6) with the Elections Board;*
- in addition to the Oath, the nonresident MCFL organization should file any necessary "Report of Independent Expenditures" (Form EB-7) disclosing the value of its expenditures in a timely manner;*
- a nonresident MCFL organization is not required to file a "Campaign Registration Statement" (Form EB-1) or a "Campaign Finance Report" (Form EB-2) or any other form that would*

require the disclosure of the identity of any contributors to the nonresident MCFL organization; and,

- there are no other reporting requirements or obligations for a nonresident MCFL organization that sponsors independent expenditures affecting Wisconsin elections.

*In summary, I request a written opinion of the Elections Board's staff confirming that the reporting requirements for a nonresident MCFL organization have not changed on account of 2005 Wisconsin Act 176 and that the reporting requirements outlined above are accurate. Please let me know if you have questions or need any additional information.*

The staff believes that the enhanced non-resident reporting requirements of 2005 Wisconsin Acts 176, applicable to all non-resident political committees, do not apply to MCFL organizations because, under the U.S. Supreme Court's decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.* (MCFL), 479 U.S. 238 (1986), such organizations are not considered political committees and, therefore, for purposes of ch.11, Stats., are not considered political committees.

The subject of disclosure requirements applicable to MCFL organizations was addressed by the Board's staff in a letter to Attorney Mike Maistelman, of Milwaukee, on October 2, 2002. Notwithstanding the enhanced reporting requirements established by 2005 Wisconsin Acts 176, the staff believes that the following excerpt from the Maistelman letter sets forth the reporting requirements that are still applicable to MCFL organizations based on the Supreme Court's decision in the MCFL case:

*The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:*

*Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act. Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL. . . .*

*Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See Buckley, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]*

*Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination of candidates to state or local office. In addition, the organization is required to report those*

*contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24<sup>1</sup>*

At the end of the Maistelman letter, the Board's staff added a caveat that the disclosure requirements for MCFL organizations only apply as long as those organizations qualify for MCFL status. In the event that an organization ceases to qualify for that status - for the reasons described in the MCFL decision - the Board's staff is not aware of any reason why that organization would not have to commence full disclosure under ch.11, Stats.

*Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In MCFL, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:*

*Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.*

*In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.*

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

---

<sup>1</sup> See s.11.12(6), Stats.: (6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or pre-election report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

Page 4

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

## STATE ELECTIONS BOARD

George A. Dunst  
Legal Counsel

Infrml ops 06/ ltr m wtnwylr nonrsdnt mcfl orgs 5 aug

State of Wisconsin \ Elections Board

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STEVEN V. PONTO  
Chairperson

KEVIN J. KENNEDY  
Executive Director

October 2, 2002

Attorney Michael S. Maistelman  
1201 North Prospect  
Milwaukee, Wisconsin 53202

Re: Disbursements and Reporting thereof by MCFL Organizations on Wisconsin Elections

Dear Mr. Maistelman:

This letter is in response to your inquiry of September 5, 2002, to wit:

*I represent a Wisconsin registered 501(c)(4) non-profit corporation (the "501(c)(4)"). The 501(c)(4) wishes to take advantage of certain aspects of the U. S. Supreme Court's decision in Federal Election Commission v. Massachusetts Citizens for Life, Inc. (MCFL), 479 U.S. 238 (1986).*

*The 501(c)(4) organization wishes to make independent expenditures from its general treasury fund to expressly advocate the election or defeat of clearly identifiable state candidates to the general public.*

*As I read the MCFL case, a 501(c)(4) organization would only be required to report monies deposited into its general treasury fund from individuals who have specifically earmarked their contributions for political purposes. See 479 U. S. 238, 261 (entities other than political committees must disclose names of those persons making earmarked contributions over \$200).*

*I respectfully request a formal legal opinion from the State Elections Board as to how the MCFL decision interacts with Wisconsin campaign finance law, and more specifically, whether a Wisconsin 501(c)(4) organization is only required to report monies received from individuals who have specifically earmarked their contributions for political purposes.*

The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:

*Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of*

contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act. Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL. . . .

Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See *Buckley*, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]

Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24<sup>1</sup>

Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In *MCFL*, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:

*Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.*

*In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.*

(Emphasis supplied)

<sup>1</sup> See s.11.12(6), Stats.: (6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or pre-election report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

Page 3

We have assumed for the purposes of this opinion that your organization would qualify under the Court's standards. Obviously, if the organization does not so qualify, or ceases to qualify, then it is subject to the same disclosure requirements as any other political committee.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

**STATE ELECTIONS BOARD**

George A. Dunst  
Legal Counsel

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SHANE FALK  
Chairperson

KEVIN J. KENNEDY  
Executive Director

November 5, 2003

Attorney Michael S. Maistelman  
3127 W. Wisconsin Avenue  
Milwaukee, Wisconsin 53208-3957

Re: Political Contributions by MCFL Corporations thru Umbrella Organizations in Wisconsin

Dear Mr. Maistelman:

This letter is in response to your inquiry of November 4, 2003, to wit:

*As you know, I represent a Wisconsin MCFL-like organization ("the client"). When we spoke a few weeks ago, I informed you that the client wished to become a member of a newly formed nonpartisan organization that was comprised of entities, which included Unions. The focus of the organization would be to coordinate issue advocacy activities including nonpartisan candidate recruitment. The client would contribute resources to the organization including but not limited to money from its general treasury. Money contributed toward this effort would come directly from the 501c4 MCFL recognized entity and pooled with other resources to conduct coordinated advocacy activities.*

*Given the MCFL case and the prohibition that a qualifying MCFL organization could not receive Corporate or Union monies, I asked you if the client might be in jeopardy of losing its MCFL status should it become a member of a larger organization which also had Union and or Corporate members.*

As we said in our discussion about this issue, the Board's staff is not aware that the courts have addressed the following issue: whether membership by a MCFL corporation in an umbrella organization that includes unions or for-profit corporations would jeopardize the MCFL status of the MCFL corporation if the MCFL corporation received no contributions from the umbrella organization or from its members.

The Board's staff believes that the answer to your question depends on whether the MCFL corporation continues to meet the three-part test articulated in the Supreme Court's MCFL decision. That test is described in the decision (*Federal Election Commission v. Massachusetts Citizens for Life, Inc. (MCFL)*, 479 U.S. 238 (1986)). as follows:

*In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. <sup>13</sup> Third, MCFL was not established by a business corporation or a labor union, and it is its*

*policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.*

As you can see, first, the organization has to have been "formed for the express purpose of promoting political ideas, and cannot engage in business activities." That means that an MCFL corporation has to maintain as its express purpose the promotion of political ideas and it must continue to refrain from engaging in business activities. You appear to be saying that membership in the umbrella organization will not affect either the MCFL corporation's promotion of political ideas or cause it to engage in business activities.

Secondly, the MCFL corporation may "have no shareholders or other persons affiliated so as to have a claim on its assets or earnings." That would mean that the umbrella organization could not (and cannot) have acquired an ownership interest in the MCFL corporation or have any claim on the MCFL corporation's assets or earnings other than for past dues. Also, membership in the umbrella organization by your client would probably have to be voluntary and terminable at any time.

Third, the MCFL corporation may not have been "established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities." You have already postulated that your client was not established by a business corporation or a labor union and that it will not accept contributions from such entities, including from the umbrella organization. The Board's staff's conjecture is that the pooling of money with labor unions for the purpose of funding a combined political message would not be treated as an in-kind contribution to the MCFL corporation because of the indirect benefit received thereby by the MCFL corporation, but we do not know of any case law (to which we could refer) on that subject.

The bottom line would appear to be that as long as you are prepared to defend your client's compliance with all three of the MCFL tests, the Board's staff has no basis to disagree. If circumstances imperiled your client's compliance with the three MCFL tests, your client should be advised to make a choice between MCFL status and whatever circumstance jeopardizes that status.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

## **STATE ELECTIONS BOARD**

George A. Dunst  
Legal Counsel

State of Wisconsin \ Elections Board

MCFL 4

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JOHN C. SCHOBER  
Chairperson

KEVIN J. KENNEDY  
Executive Director

October 18, 2004

Kelda Helen Roys, J.D.  
NARAL  
Pro-Choice Wisconsin  
122 State Street, Suite 201  
Madison, WI 53703

Re: MCFL Status for Certain Qualified Nonprofit Corporations

Dear Ms. Roys:

This letter is in response to your inquiry of September 10, 2004, to wit:

*We are writing to request a letter confirming that we meet the standards for Qualifying Nonprofit Corporation status ("MCFL" status), allowing us to make independent expenditures on behalf of state or federal candidates within 60 days of an election.*

*We are a 501(c) (4) membership organization with an affiliated PAC and conduit, all organized under Wisconsin law. According to the FEC's June 2001 "Campaign Guide for Corporations and Labor Unions," available at . . . , Qualified Nonprofit Corporations (QNCs) may make independent expenditures if they meet the following five criteria:*

- 1. Corporation is a social welfare organization as described in 26 U.S. C. 501(c)(4), 114.10(c)(5).*
- 2. The corporation's organic documents, authorized agents or actual activities must indicate that its only purpose is issue advocacy, election influencing activity or research, training or educational activities tied to the corporation's political goals. 114.10(b) and 114.10(c)(2).*
- 3. The corporation cannot engage in business activities, such as provision of goods, services, advertising or promotional activity that results in income. 114.10(b)(3) and(c)(2).*
- 4. The corporation does not have shareholders or persons who receive benefits (other than staff/creditors) that are disincentives for individuals to disassociate from the organization. 114.10(c)(3)*
- 5. The corporation was not established by a corporation or a labor organization, does not accept direct or indirect donations from such organizations. 114.10(c)(4).6.*

*We certify that we meet each of these requirements. As such we hope to be recognized by the Wisconsin State Elections Board as a Qualifying Nonprofit Corporation for the purpose of federal and state election laws.*

The Board's staff has issued an opinion<sup>1</sup> on organizations qualifying for MCFL status. A reprint of that opinion follows:

The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:

*Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act.*

*Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL.*

*Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See Buckley, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]*

Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24<sup>2</sup>

Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In *MCFL*, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:

*Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.*

*In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of*

<sup>1</sup> October 2, 2002 letter to Atty. Mike Maistelman.

<sup>2</sup> See s.11.12(6), Stats.: (6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

*promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. <sup>13</sup> Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.*

We have assumed for the purposes of this opinion that your organization would qualify under the Court's standards. Obviously, if the organization does not so qualify, or ceases to qualify, then it is subject to the same disclosure requirements under ch.11, Stats., as any other political committee.

The five criteria set forth in the FEC Guidelines (re-printed in your letter) would appear to meet the U. S. Supreme Court's qualifications, set forth in the MCFL decision, for MCFL status. Consequently, because you have certified that your organization meets all those criteria, your organization would appear to qualify as an MCFL-type organization for purposes of Wisconsin's campaign finance law. Please note from our earlier opinion that qualifying for MCFL status does not relieve your organization of registration and reporting requirements, it just limits your reporting to those contributions that have been earmarked for political purposes and those expenditures that are made for express advocacy purposes in Wisconsin. Please review that earlier opinion for reporting requirements that may apply to your organization and its Wisconsin campaign finance activities.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

**STATE ELECTIONS BOARD**

George A. Dunst  
Legal Counsel

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Statement of Scope  
Government Accountability Board  
MCFL Corporations, GAB 1.90

**Subject**

Create s. GAB 1.90 relating to the filing of campaign finance reports in electronic format.

**Objective of the Rule**

Codify the U.S. Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“*MCFL*”) exempting corporations meeting certain requirements from the statutory prohibition on corporations making independent disbursements. The rule will specify the requirements corporations must meet and enumerate the provisions of reporting statutes that apply to qualifying corporations.

**Policy Analysis**

Currently the Government Accountability Board has implemented the *MCFL* decision through four informal opinions. Corporations meeting the requirements of *MCFL* are allowed to make independent disbursements and are required to file campaign finance reports. Proposed s. GAB 1.90 codifies current Government Accountability Board informal opinions and practice.

**Statutory Authority**

Sections 5.05(1)(f), and 227.11(2)(a), Stats.

**Comparison with Federal Regulations**

At the federal level, the FEC has codified the *MCFL* decision at 11 CFR 114.10. The federal rule lists the requirements to qualify for the *MCFL* exemption and requires corporations wishing to take advantage of the exemption to file a letter or form certifying that they meet all of the requirements. The regulation also specifies with which provisions of federal campaign finance laws *MCFL* corporations are required to comply.

**Entities Affected by the Rules**

Corporations wishing to make independent disbursements that are formed to promote political ideas and do not engage in business, that have no shareholders or other affiliates with a claim on their assets or earnings, and that were not formed by a business corporation or labor union and have a policy of not accepting contributions from business corporations or unions.

**Estimate of Time Needed to Develop the Rules**

20 hours.

Proposed Rule  
Government Accountability Board  
MCFL Corporations, GAB 1.90

The Government Accountability Board proposes an order to create s. GAB 1.90, Wis. Adm. Code, relating to MCFL corporations.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statute Interpreted: s. 11.38, Stats.
2. Statutory Authority: ss. 5.05(1)(f) and 227.11(2)(a), Stats.
3. Explanation of agency authority: Under the current statute, s. 11.38, Stats., all corporations are prohibited from making contributions or disbursements for a political purpose other than to support or oppose a referendum.

In *Federal Election Commission v. Massachusetts Citizens for Life, Inc.* (“MCFL”), 479 U.S. 238 (1986), however, the Supreme Court held that the federal statute prohibiting corporate political contributions and disbursements was unconstitutional as applied to a nonprofit corporation’s independent disbursements. This decision created a class of corporations, commonly referred to as MCFLs, that were exempt from prohibitions on corporate independent disbursements. To qualify for this exemption the corporation must meet the following requirements:

[I]t was formed for the express purpose of promoting political ideas, and cannot engage in business activities. . . . [I]t has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. . . . [I]t was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities.

*Id.* at 264.

MCFL organizations are still required to file the same campaign finance disclosure reports as other entities making independent disbursements. *Id.* at 263. Proposed s. GAB 1.90 codifies the reporting requirements for MCFL organizations as set forth in four informal opinions of the Board.

4. Related statute(s) or rule(s): s. 11.06, 11.12(6), 11.20, and 11.38 Stats.
5. Plain language analysis: The proposed order will codify four informal opinions of the Board adopting the U.S. Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“MCFL”), which exempts corporations meeting certain requirements from the

statutory prohibition on corporations making independent disbursements. The proposed rule will specify the requirements corporations must meet and enumerate the provisions of reporting statutes that apply to qualifying corporations.

6. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the FEC has codified the *MCFL* decision at 11 CFR 114.10. The federal rule lists the requirements to qualify for the MCFL exemption and requires corporations wishing to take advantage of the exemption to file a letter or form certifying that they meet all of the requirements. The regulation also specifies with which provisions of federal campaign finance laws MCFL corporations are required to comply.
7. Comparison with rules in adjacent states:

Illinois allows corporations to make contributions to candidates and independent disbursements.

Iowa regulations define a class of entities known as political corporations. The definition of “political corporations” is substantively identical to the elements that the Supreme Court held justified the exemption in the *MCFL* case. Iowa Admin. Code 351-4.50(68A). Political corporations are exempted from the Iowa statute’s prohibition on corporations making independent disbursements. *Id.* Corporations wishing to take advantage of the exception must submit a letter certifying that they meet the requirements to be considered a political corporation. *Id.*

Michigan regulations define a class of entities known as qualified nonprofit corporations. The definition of “qualified nonprofit corporations” is substantively identical to the elements that the Supreme Court held justified the exemption in the *MCFL* case. Mich. Admin. Code 169.39b(3). Corporations meeting the definition are exempted from the Michigan statute’s prohibition on independent disbursements during the last 45 days before an election. *Id.*

Minnesota regulations also create an exemption for certain nonprofit corporations. To qualify for the exemption, the nonprofit corporation must meet three criteria that are substantively identical to the elements that the Supreme Court held justified the exemption in the *MCFL* case; however, Minnesota regulations go further than required by the *MCFL* decision exempting qualifying corporations from the prohibition on both corporate contributions and disbursements. Minn. Stat. 211B.15 subd. 15.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes and federal case law.

9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.
10. Effect on small business: The creation of this rule does not affect business.
11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 266-2094; [Shane.Falk@wisconsin.gov](mailto:Shane.Falk@wisconsin.gov)
12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, no later than January 31, 2010.

FISCAL ESTIMATE: The creation of this rule has no fiscal effect.

INITIAL REGULATORY FLEXIBILITY ANALYSIS: The creation of this rule does not affect business.

TEXT OF PROPOSED RULE:

SECTION 1. GAB 1.90 is created to read:

**1.90 MCFL Corporations**

(1) In this section:

- (a) "Contribution" has the meaning given in s. 11.01(6), Stats.
- (b) "Disbursement" has the meaning given in s. 11.01(7), Stats.
- (c) "Filing officer" has the meaning given in s. 11.01(8), Stats.
- (d) "Incurred obligation" has the meaning given in s. 11.01(11), Stats.
- (e) (i) "Business activities" includes but is not limited to:

(A) Any provision of goods or services that results in income to the corporation; and

(B) Advertising or promotional activities which results in income to the corporation, other than in the form of membership dues or donations.

(ii) "Business activities" does not include fundraising activities that are expressly described as requests for donations that may be used for political purposes, such as supporting or opposing candidates.

- (f) "MCFL corporation" means a corporation that meets all of the following requirements:
  - (i) The corporation was formed only for the express purpose of promoting political ideas and does not engage in business activities.
  - (ii) The corporation has no shareholders or other persons with a claim on its assets or earnings.
  - (iii) The corporation was not established by a business corporation or a labor union and does not accept contributions from such entities.
  - (iv) The corporation's major purpose is not campaign activity.
  - (v) The corporation has filed a letter with its filing officer certifying that it meets the requirements of this paragraph.
- (2) The prohibition on corporate independent expenditures in s. 11.38, Stats., shall not apply to MCFL corporations.
- (3) An MCFL corporation that accepts contributions or makes disbursements exceeding \$25 in aggregate during a calendar year shall file a registration statement with the appropriate filing officer and comply with the requirements of s. 11.05(3), Stats. The MCFL corporation's name shall include the acronym "MCFL."
- (4) An MCFL corporation may not make a contribution to any candidate or committee.
- (5) An MCFL corporation shall file the reports required by s. 11.20, Stats.
- (6) An MCFL corporation's reports shall include all of the information required by ss. 11.06(1)(a), (b), (f), (g), (h), (i), (k), and (L), Stats.
- (7) An MCFL corporation making independent disbursements shall file the oath for independent disbursements required by s. 11.06(7), Stats., and the report of independent disbursements required by s. 11.06(1)(j), Stats.
- (8) An MCFL corporation making independent disbursements aggregating more than \$20 later than 15 days prior to a primary or election file the special report of late disbursement required by s. 11.12(6), Stats.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Government Accountability Board  
MCFL Corporations, GAB 1.90  
CR 09-

On December \_\_\_\_, 2009, the Government Accountability Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed order will codify four informal opinions of the Board adopting the U.S. Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“MCFL”), which exempts corporations meeting certain requirements from the statutory prohibition on corporations making independent disbursements. The proposed rule will specify the requirements corporations must meet and enumerate the provisions of reporting statutes that apply to qualifying corporations.

**Agency Procedure for Promulgation**

A public hearing will be scheduled at a later time. The Government Accountability Board is primarily responsible for preparing the proposed rule.

**Contact Information**

Shane W. Falk, Staff Counsel  
Government Accountability Board  
212 E. Washington Avenue, 3<sup>rd</sup> Floor  
P.O. Box 7984, Madison, Wisconsin 53707-7984  
Phone 266-2094; Shane.Falk@wisconsin.gov

NOTICE OF HEARING  
GOVERNMENT ACCOUNTABILITY BOARD  
CR 09-

NOTICE IS HEREBY GIVEN that pursuant to ss. 5.05(1)(f), 227.11(2)(a), Stats., and interpreting s. 11.38, Stats., the Government Accountability Board will hold a public hearing to consider adoption of a rule to create s. GAB 1.90, Wis. Adm. Code, relating to MCFL corporations.

**Hearing Information**

The public hearing will be held at the time and location shown below.

**Date and Time**

\_\_\_\_\_ at \_\_\_\_\_

**Location**

Government Accountability Board Office  
212 E. Washington Avenue, 3<sup>rd</sup> Floor  
Madison, Wisconsin 53703

This public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact the person listed below.

**ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:**

1. Statute Interpreted: s. 11.38, Stats.
2. Statutory Authority: ss. 5.05(1)(f) and 227.11(2)(a), Stats.
3. Explanation of agency authority: Under the current statute, s. 11.38, Stats., all corporations are prohibited from making contributions or disbursements for a political purpose other than to support or oppose a referendum.

*In Federal Election Commission v. Massachusetts Citizens for Life, Inc. ("MCFL")*, 479 U.S. 238 (1986), however, the Supreme Court held that the federal statute prohibiting corporate political contributions and disbursements was unconstitutional as applied to a nonprofit corporation's independent disbursements. This decision created a class of corporations, commonly referred to as MCFLs, that were exempt from prohibitions on corporate independent disbursements. To qualify for this exemption the corporation must meet the following requirements:

[I]t was formed for the express purpose of promoting political ideas, and cannot engage in business activities. . . . [I]t has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. . . . [I]t was not established by a business

corporation or a labor union, and it is its policy not to accept contributions from such entities.

*Id.* at 264.

MCFL organizations are still required to file the same campaign finance disclosure reports as other entities making independent disbursements. *Id.* at 263. Proposed s. GAB 1.90 codifies the reporting requirements for MCFL organizations as set forth in four informal opinions of the Board.

4. Related statute(s) or rule(s): s. 11.06, 11.12(6), 11.20, and 11.38 Stats.
5. Plain language analysis: The proposed order will codify four informal opinions of the Board adopting the U.S. Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“*MCFL*”), which exempts corporations meeting certain requirements from the statutory prohibition on corporations making independent disbursements. The proposed rule will specify the requirements corporations must meet and enumerate the provisions of reporting statutes that apply to qualifying corporations.
6. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the FEC has codified the *MCFL* decision at 11 CFR 114.10. The federal rule lists the requirements to qualify for the MCFL exemption and requires corporations wishing to take advantage of the exemption to file a letter or form certifying that they meet all of the requirements. The regulation also specifies with which provisions of federal campaign finance laws MCFL corporations are required to comply.
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Illinois allows corporations to make contributions to candidates and independent disbursements.

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definition are exempted from the Michigan statute's prohibition on independent disbursements during the last 45 days before an election. *Id.*

Minnesota regulations also create an exemption for certain nonprofit corporations. To qualify for the exemption, the nonprofit corporation must meet three criteria that are substantively identical to the elements that the Supreme Court held justified the exemption in the *MCFL* case; however, Minnesota regulations go further than required by the *MCFL* decision exempting qualifying corporations from the prohibition on both corporate contributions and disbursements. Minn. Stat. 211B.15 subd. 15.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes and federal case law.
9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.
10. Effect on small business: The creation of this rule does not affect business.
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12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, no later than January 31, 2010.

FISCAL ESTIMATE: The creation of this rule has no fiscal effect.

INITIAL REGULATORY FLEXIBILITY ANALYSIS: The creation of this rule does not affect business.

TEXT OF PROPOSED RULE:

SECTION 1. GAB 1.90 is created to read:

**1.90 MCFL Corporations**

- (1) In this section:
  - (a) "Contribution" has the meaning given in s. 11.01(6), Stats.
  - (b) "Disbursement" has the meaning given in s. 11.01(7), Stats.
  - (c) "Filing officer" has the meaning given in s. 11.01(8), Stats.

- (d) "Incurred obligation" has the meaning given in s. 11.01(11), Stats.
  - (e) (i) "Business activities" includes but is not limited to:
    - (A) Any provision of goods or services that results in income to the corporation; and
    - (B) Advertising or promotional activities which results in income to the corporation, other than in the form of membership dues or donations.
  - (ii) "Business activities" does not include fundraising activities that are expressly described as requests for donations that may be used for political purposes, such as supporting or opposing candidates.
  - (f) "MCFL corporation" means a corporation that meets all of the following requirements:
    - (i) The corporation was formed only for the express purpose of promoting political ideas and does not engage in business activities.
    - (ii) The corporation has no shareholders or other persons with a claim on its assets or earnings.
    - (iii) The corporation was not established by a business corporation or a labor union and does not accept contributions from such entities.
    - (iv) The corporation's major purpose is not campaign activity.
    - (v) The corporation has filed a letter with its filing officer certifying that it meets the requirements of this paragraph.
- (2) The prohibition on corporate independent expenditures in s. 11.38, Stats., shall not apply to MCFL corporations.
  - (3) An MCFL corporation that accepts contributions or makes disbursements exceeding \$25 in aggregate during a calendar year shall file a registration statement with the appropriate filing officer and comply with the requirements of s. 11.05(3), Stats. The MCFL corporation's name shall include the acronym "MCFL."
  - (4) An MCFL corporation may not make a contribution to any candidate or committee.
  - (5) An MCFL corporation shall file the reports required by s. 11.20, Stats.
  - (6) An MCFL corporation's reports shall include all of the information required by ss. 11.06(1)(a), (b), (f), (g), (h), (i), (k), and (L), Stats.

- (7) An MCFL corporation making independent disbursements shall file the oath for independent disbursements required by s. 11.06(7), Stats., and the report of independent disbursements required by s. 11.06(1)(j), Stats.
- (8) An MCFL corporation making independent disbursements aggregating more than \$20 later than 15 days prior to a primary or election file the special report of late disbursement required by s. 11.12(6), Stats.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the Meeting of December 17, 2009

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
Michael Haas, Staff Counsel

**SUBJECT:** Promulgation of Rule Recreating GAB 6.02, Registration Statement Sufficiency

### Background Summary

At its meeting of June 22, 2009, the Board approved a Statement of Scope regarding s. GAB 6.02 of the Administrative Code, which governs the sufficiency of registration statements filed by committees, groups and individuals pursuant to §11.05, Stats. The Board directed staff to recommend changes to the current rule to clarify the information that is required for a registration statement to be accepted by the filing officer, and the consequences of an incomplete filing.

The Statement of Scope was published in the Administrative Register on July 30, 2009. Staff has prepared a revised version of s. GAB 6.02 for the Board's review. Staff recommends that the Board proceed with promulgation of the rule under the 30-day notice process, which would not require a public hearing unless the Board receives a petition requesting a hearing.

### Recommended Motion

Pursuant to §§5.05(1)(f), 227.11(2)(a), 227.135, 227.14(4m), 227.15(1), and 227.16-17, Wis. Stats., the Board formally approves the attached Notice of Proposed Rule to repeal and recreate s. GAB 6.02, Registration statement sufficiency, and directs staff to proceed with promulgation of the rule under the 30-day notice process.

### Rule Provisions

Section 11.05, Stats., requires individuals, committees, and groups to file a registration statement (Form GAB-1) with the appropriate filing officer prior to accepting contributions or making disbursements in excess of \$25 in a calendar year. Section 8.30(2), Stats., requires a candidate to file the registration statement as a condition of obtaining ballot access. Also, Section 9.10(2), Stats., requires an individual or group initiating a recall to file a registration statement prior to circulating recall petitions, and the registration filing date commences the 60-day period allowed for obtaining sufficient signatures.

Much of the information required on Form GAB-1 is listed in §11.05(3), Stats., and relates to the registrant's name and contact information, including the names and addresses of the treasurer and officers, the type of committee, bank information, and depository accounts. Some additional information requested by the GAB-1 but not specified in §11.05(3), Stats., is included for administrative purposes, such as party affiliation, election dates, and telephone numbers. A copy of Form GAB-1 is attached.

The current version of s. GAB 6.02 requires a filing officer to accept a registration statement if it is "insufficient or incomplete in some manner but substantially complies with law." The filing officer then notifies the registrant that additional information must be submitted within 15 days, and if the insufficiency is not rectified, the registration lapses. The current rule does not define or set standards for when a registration statement is deemed to be insufficient or incomplete, or to substantially comply with the law. In addition, requiring an insufficient registration to lapse after it has been accepted is problematic because in the meantime a candidate may have achieved ballot access or a committee may have started raising and spending funds or circulating recall petitions. The current rule reads as follows:

#### **GAB 6.02 Registration statement sufficiency.**

(1) Any registration filed with a filing officer under s. 11.05, Stats., which is insufficient as to essential form, information or attestation shall be rejected by such officer and shall be promptly returned if possible to the proposed registrant indicating the nature of the insufficiency. The proposed registrant shall be informed that the attempted registration is not effective.

(2) Any registration statement filed with a filing officer under s. 11.05, Stats., which is insufficient or incomplete in some manner but substantially complies with law shall be accepted by such officer who shall then promptly notify the registrant indicating the nature of the incompleteness or insufficiency. The registrant shall then have 15 days from the date of such notice to rectify the problem. If the incompleteness or insufficiency is not rectified by the registrant within 15 days from the date of the notice, the registration lapses and is not effective.

Board staff believes the rule can be improved to specify the essential information that is required for a registration statement to be accepted, and prohibiting the acceptance of statements that do not include that essential information. The proposed rule also retains the ability of a registrant to provide additional information that is deemed to be of lesser importance or is not specifically itemized in §11.05(3). Under the proposed rule, if a registrant fails to provide the additional information, civil penalties may be imposed pursuant to §11.60, but such failure would not invalidate the original registration. Staff believes this change will reduce the potential for confusion in the election and campaign finance procedures while continuing to require the submission of essential information before any statement is accepted by a filing officer, and to retain adequate enforcement mechanisms.

Section 11.05(3) establishes the information required to be included on Form GAB-1 as follows:

**(3) REQUIRED INFORMATION.** The statement of registration shall include, where applicable:

- (a) The name and mailing address of the committee, group or individual.
- (c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee, a support committee or a special interest committee.
- (e) The name and mailing address of the campaign treasurer and any other custodian of books and accounts. Unless otherwise directed by the registrant on the registration form and except as otherwise provided in this chapter or any rule of the board, all mailings which are required by law or by rule of the board shall be sent to the treasurer at the treasurer's address indicated upon the form.
- (f) The name, mailing address, and position of other principal officers, including officers and members of the finance committee, if any.
- (h) The nature of any referendum which is supported or opposed.
- (L) The name and address of the campaign depository account and of any other institution where funds are kept and the account number of the depository account and of each additional account and safety deposit box used.
- (n) In the case of a labor organization, separate segregated fund under s. 11.38 (1) (a) 2. or conduit established by a labor organization, a statement as to whether the organization is incorporated, and if so, the date of incorporation and whether or not such incorporation is under ch. 181.

- (o) In the case of a legislative campaign committee, a statement signed by the leader of the party in the house for which the committee is established attesting to the fact that the committee is the only authorized legislative campaign committee for that party in that house.
- (p) In the case of a support committee, a statement signed by the individual on whose behalf the committee intends to operate affirming that the committee is the only committee authorized to operate on his or her behalf, unless the committee files a statement under s. 11.06 (7).

The attached Notice of Proposed Rule is required to be published in the Administrative Register in order to proceed with promulgating s. GAB 6.02 under the 30-day notice process. The end of the Notice contains the text of the proposed rule.

The proposed rule specifies that a registration statement may not be accepted by the filing officer unless it contains complete information required by subsections (a), (c), (e), (L) of §11.05(3), Stats., as well as the signed certification required for every statement and amendment pursuant to §11.05(5m), Stats. If the statement does not contain that essential information, the filing officer would be required to reject the registration statement. If the statement does contain that essential information but has omitted other information as required under §11.05(3)(f), (h), (n), (o), or (p), or as requested on Form GAB-1, the filing officer would be required to accept the registration and provide written notification requesting that the registrant provide the additional information.

In addition to specifying the information required to file a registration statement, the proposed rule varies from the current rule in not voiding a registration that has been accepted with the essential information even if the additional information is not provided within 15 days. Therefore, that failure would not affect ballot access decisions, committee activity, or recall petitions which occur in the interim. Instead, failure to timely provide the additional information required by §11.05(3), Stats. would subject the registrant to potential civil penalties pursuant to §11.60, Stats.

Staff recommends Board approval of the proposed rule and attached Notice, and authorization to promulgate the rule under the 30-day process. That process does not require a public hearing unless the Board is petitioned for a hearing within 30 days of the Notice's publication by at least 25 persons who would be affected by the rule, by a municipality, or by an association which is representative of a farm, labor, business, or professional group.



**3. COMMITTEE TREASURER** (Campaign finance correspondence is mailed to this address.)

Treasurer's Name	Telephone Number (residence)
Address (number and street)	Telephone Number (employment)
City, State and Zip Code	

**4. PRINCIPAL OFFICERS OF COMMITTEE AND OTHER CUSTODIANS OF BOOKS AND ACCOUNTS**

Attach additional listing if necessary. Indicate which officers or committee members are authorized to fill a vacancy in nomination due to death of candidate by an asterisk(\*). This provision only applies to independent and local nonpartisan candidates. s.8.35, Stats.

NAME	MAILING ADDRESS	POSITION

**5. DEPOSITORY INFORMATION**

Name of Financial Institution	Account Number (Attach list of any additional accounts and deposit boxes, location, type and number, i.e., savings, checking, money market, etc.)
Address (number and street)	City, State and Zip Code

**CERTIFICATION**

**TREASURER**

I, \_\_\_\_\_ (print full name) certify the information in this statement is true, correct and complete.

Signature \_\_\_\_\_, Treasurer \_\_\_\_\_  
Date \_\_\_\_\_

**CANDIDATE**

I, \_\_\_\_\_ (print full name) certify the information in this statement is true, correct and complete, and that this is the only committee authorized to act on my behalf.

Signature \_\_\_\_\_, Candidate \_\_\_\_\_  
Date \_\_\_\_\_

**+++ EXEMPTION FROM FILING CAMPAIGN FINANCE REPORTS s.11.05(2r), Stats. +++**

You may be eligible for an exemption from filing campaign finance reports. Consult the Campaign Finance Instruction and Bookkeeping Manual to determine if the registrant qualifies for exemption.

This registrant is eligible for exemption. This registrant will not accept contributions, make disbursements or incur obligations in an aggregate amount of more than \$1,000 in a calendar year or accept any contribution or cumulative contributions of more than \$100 from a single source during the calendar year, except contributions by a candidate to his or her campaign of \$1,000 or less in a calendar year.

This registrant is no longer eligible to claim exemption.

Signature of Candidate or Treasurer \_\_\_\_\_ Date \_\_\_\_\_

NOTICE OF PROPOSED RULE: s. GAB 6.02

GOVERNMENT ACCOUNTABILITY BOARD

NOTICE IS HEREBY GIVEN that pursuant to ss. 5.05(1)(f) and 227.11(2)(a), Stats., and interpreting s. 11.05, Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the State of Wisconsin Government Accountability Board will adopt the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice, the Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statute Interpreted: s. 11.05, Stats.
2. Statutory Authority: ss. 5.05(1)(f) and 227.11(2)(a), Stats.
3. Explanation of agency authority: Section 11.05, Stats., requires all candidates and committees or individuals making or accepting contributions or incurring obligations or making disbursements totaling more than \$25 to complete and file a registration statement with the appropriate filing officer. Registration is a prerequisite for a candidate to achieve ballot access pursuant to s. 8.30(2), Stats., for circulating signatures for a recall petition pursuant to s. 9.10(2), Stats., and for raising or spending funds pursuant to s. 11.05(12), Stats. Specific information is required to be included on the registration statement pursuant to s. 11.05(3), Stats. However, the statute and current s. GAB 6.02 do not provide objective criteria for the filing officer to determine the sufficiency of a registration statement, and do not clarify the consequences of filing a sufficient but incomplete statement.
4. Related statute(s) or rule(s): ss. 5.01(1), 8.30(2), 9.20(2), 11.05, Stats.
5. Plain language analysis: The proposed rule provides objective standards to allow filing officers to determine the sufficiency of a committee registration statement (Form GAB-1). The rule provides that filing officers shall accept a registration statement if it contains essential information including the registrant's name, address, and type; the treasurer's name and address; the name, address and account number of any depository account, and a signed certification that the information in the statement is correct. If the registration statement contains at least this information, the filing officer shall accept it as sufficient, notwithstanding that it may omit other required information. Filing of a sufficient registration statement permits the registrant to achieve ballot access, to raise and spend funds, or to collect signatures for a recall petition. The proposed rule allows a registrant to subsequently provide other information specified in s. 11.05(3), Stats. or on Form GAB-1 within 15 days of being notified. Failure to

provide the required additional information within 15 days is subject to civil penalties pursuant to s. 11.60, Stats., but does not invalidate the registration for purposes of achieving ballot access, raising or spending funds, or circulating recall petitions.

6. Summary of, and comparison with, existing or proposed federal regulations: Registration of individuals and political committees related to state and local elections and referendum questions is a state and local election function and not a function of the federal government. Federal regulations do not govern registration of such individuals and committees.

7. Comparison with rules in adjacent states:

Illinois law requires political committees registering with the State Board of Elections to provide the committee's name and address; its area of activity; party and candidate affiliation, if any; the name and address of the committee's custodian of records; the name and address of all of the committee's officers; a list of financial institutions the committee has accounts with; the committee's plans for disposing of excess funds at termination; and the amount of funds the committee has at the date of registration. 10 ILCS 5/9-3. Illinois law does not specify a subset of this information as being sufficient to accomplish registration.

Iowa law requires committees registering with the Ethics and Campaign Disclosure Board to provide the committee's name, purpose, address, and telephone number; the name, address, and position of the committee's officers; the name, address, office sought, and party affiliation of all candidates the committee supports; identification of any parent or sponsor organization; the name of the financial institution at which the committee deposits its receipts; and a signed statement that the committee will abide by applicable campaign finance laws. 68A.201, Iowa Stats. Iowa law does not specify a subset of this information as being sufficient to accomplish registration.

Michigan law requires political committees registering with the Secretary of State to provide the committee's name and address; its treasurer's name and address; the name and address of any financial institution the committee has an account with; the type of committee; if the committee is a candidate committee, the office sought; and if the committee is a referendum group, a statement identifying the substance of each ballot question supported or opposed. 169.224, Mich. Stats. Michigan law does not specify a subset of this information as being sufficient to accomplish registration.

Minnesota law requires political committees registering with the Campaign Finance and Public Disclosure Board to provide the committee's name and address; the name and address of its chair, the name and address of any supporting association; the name and address of the treasurer and any deputy treasurers; a list of all depositories or safety deposit boxes used; and for the state

committee of a political party only, a list of its party units. 10A.14, Minn. Stats. Minnesota law does not specify a subset of this information as being sufficient to accomplish registration.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes and federal case law.
9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.
10. Effect on small business (initial regulatory flexibility analysis): The creation of this rule does not affect business.
11. Agency contact person: Michael Haas, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 2973, Madison, Wisconsin 53701-2973; Phone 608-266-0136; Michael.Haas@wisconsin.gov
12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 212 E. Washington Avenue, 3<sup>rd</sup> Floor, P.O. Box 2973, Madison, Wisconsin 53701-2973, no later than **XXXXXX**.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

TEXT OF PROPOSED RULE

SECTION 1. GAB 6.02 is repealed and recreated to read:

**GAB 6.02 Registration statement sufficiency.**

- (1) In this section:
  - (a) “Substantial compliance” means a registration statement contains complete information regarding each of the following:
    - (i) The committee, individual, or group’s name.
    - (ii) The committee, individual, or group’s address.
    - (iii) If the registrant is a committee, whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee, a support committee, a special interest committee, or a MCFL corporation.

- (iv) The name and mailing address of the registrant's treasurer.
  - (v) The name, address, and account number of the registrant's depository account and any other account where the registrant's funds are kept.
  - (vi) A signed certification that all information contained in the registration statement is correct.
- (b) "Sufficient but incomplete" means a registrant's registration statement is in substantial compliance but it omits additional information required pursuant to s. 11.05(3), Stats., or as requested by Form GAB-1.
- (2) A registration statement that is filed and is not in substantial compliance shall not be accepted by the filing officer and shall be returned to the party filing the statement. A registration statement that is filed and is in substantial compliance shall be accepted by the filing officer. Such filing allows the registrant to make and receive contributions and disbursements pursuant to s. 11.05(12), Stats., to achieve ballot access pursuant to s. 8.30(2), Stats., or to circulate recall petitions pursuant to s. 9.10(2), Stats.
  - (3) The filing officer shall promptly notify a registrant in writing when a registration statement is sufficient but incomplete that its statement contains missing or incorrect information, and that the registrant must provide the additional required information within 15 days of the date of the notice.
  - (4) Within 15 days of the filing officer's notice, the registrant shall correct or complete the registration statement.
  - (5) A registrant that fails to correct or complete its registration statement within 15 days of the date of the filing officer's notice may be subject to civil penalties pursuant to s. 11.60, Stats., but such failure does not void the registration which is effective as of the original filing date.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:  
  
Shane W. Falk, Staff Counsel

**SUBJECT:** Status Report on Pending Administrative Rule-Making

This Status Report is for informational purposes only and no immediate action is requested. Following this cover page is a brief status of pending rule-making resulting from past actions of the Government Accountability Board. All administrative rules identified in this summary reference permanent rule-making. Please note that there are several additional rules not addressed in this status report that the Board has affirmed, but for which the staff has identified the need for additional review and revision. The staff will present recommendations at subsequent meetings regarding those involved rules.

## STATUS REPORT ON PENDING ADMINISTRATIVE RULE-MAKING

### Revise 1.10

**Relating to:** Registration by Nonresident Committees and Groups

**Status:** Board original action on May 5, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to revise title of 1.10. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### Revise 1.15

**Relating to:** Filing Reports of Late Campaign Activity (Postmarked Reports)

**Status:** Board original action on March 30, 2009. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to remove two references to postmarked reports. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### Revise 1.20

**Relating to:** Treatment and Reporting of In-Kind Contributions

**Status:** Board original action on May 5, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to remove a reference to an old form, Schedule 3-C, that is no longer necessary due to the implementation of CFIS. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### Create 1.21

**Relating to:** Treatment of Joint Account Contributions

**Status:** Board original action on June 9, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to create a rule addressing treatment of contributions from joint accounts. Will return to Board with draft rule. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### Revise 1.26

**Relating to:** Return of Contribution

**Status:** Board original action on May 5, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to correct grammatical error. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### Revise 1.28

**Relating to:** Scope of Regulated Activity; Election of Candidates

**Status:** Board original action January 15, 2009. Legislative Council review complete. Public hearing held on March 30, 2009. Legislative Report complete and filed with legislature, but was recalled by the Board pending the Supreme Court decision for Citizens United v. FEC. Supplemental oral arguments for Citizens United v. FEC were held by the U.S. Supreme Court on September 9, 2009 and a decision is anticipated before the end of 2009.

### **Revise 1.43**

**Relating to:** Referendum-related activities by committees; candidate-related activities by groups.

**Status:** Board original action on May 5, 2008. Scope statement drafted for August 10, 2009 meeting and then can begin rule-making process to remove 1.43(2)(a) as the law no longer requires listing all candidates supported and s. 11.05(4), Stats., allows one registration statement. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### **Revise 1.85 and 1.855**

**Relating to:** Conduit Registration and Reporting Requirements; Contributions from Conduit Accounts

**Status:** Board original action on October 6, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to harmonize certain portions of these rules with current law and new CFIS system. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### **Create 1.90**

**Relating to:** MCFL Corporation Registration and Reporting Requirements

**Status:** Board original action August 27, 2008. Scope statement and draft rule will be before the Board at the December 17, 2009 meeting. This will officially begin the rule-making process to codify formal opinions regarding registration and reporting requirements of MCFL corporations. Will likely have to hold public hearing, so following submittal to Legislative Council will hold public hearing and then submittal to legislature before publication.

### **Revise Chapter 3**

**Relating to:** Voter Registration, HAVA Checks

**Status:** Board original action August 27, 2008. Must draft scope statement and then begin rule-making process to make further revisions to Chapter 3 regarding voter registration and HAVA checks. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### **Repeal and Recreate Chapter 4**

**Relating to:** Election Observers

**Status:** Board original action on August 27, 2008. Final draft of Chapter 4 approved March 30, 2009 based upon comments from emergency rule proceedings, but must submit scope statement to the Legislative Reference Bureau before submitting final version to Legislative Council for review. Thereafter, will hold public hearing and then submittal to legislature before publication.

### **Repeal and Recreation of Chapter 5**

**Relating to:** Security of Ballots and Electronic Voting Systems

**Status:** Board original action on May 5, 2008. Legislative Council review complete. Public Hearing held November 11, 2008 and some additions may be necessary. The Legislative Report for Chapter 5 will be submitted after the Board considers an additional provision to the chapter at the October 5, 2009 and now November 9, 2009 meetings. These additions resulted from public comments. Additions approved by the Board at the November 9, 2009 meeting. By the time of the December 17, 2009 Board meeting, Legislative Report will be submitted and upon return, publication.

### **Revise 6.02**

**Relating to:** Registration Statement Sufficiency.

**Status:** Board original action on March 30, 2009. Scope statement submitted for publication. Draft rule must will be presented to Board at the December 17, 2009 meeting and then can continue rule-making process to clarify sufficiency standards. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### **Revise 6.03**

**Relating to:** Assistance by Government Accountability Board Staff

**Status:** Board original action on March 30, 2009. Scope statement and draft rule will be before the Board at the December 17, 2009 meeting. This will officially begin the rule-making process to update statutory citations with new statutes post 2007 Act 1. Likely will complete with a statutory procedure that will not require a public hearing before submittal to legislature.

### **Revise 6.04**

**Relating to:** Filing Documents by FAX or Electronic Means

**Status:** Board original action on March 30, 2009. Scope statement submitted for publication. Draft rule must be presented to Board and then can continue rule-making process to clarify electronic filing requirements. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

### **Revise 6.05**

**Relating to:** Filing Campaign Finance Reports in Electronic Format

**Status:** Board original action on March 30, 2009. Scope statement published. Legislative Council Report back June 25, 2009. Need to make revisions suggested by Legislative Council and publish Notice of Hearing. Thereafter, submittal to legislature.

### **Revise Chapter 7**

**Relating to:** Approval of Electronic Voting Equipment

**Status:** Board original action on May 5, 2008. Division Administrator Robinson establishing a committee to make recommendations. Must draft scope statement and then begin rule-making process. Will require public hearing, so following submittal to Legislative Council will have public hearing before submittal to legislature.

### **Revise 9.03**

**Relating to:** Voting Procedures for Challenged Electors

**Status:** Board original action on May 5, 2008. Scope statement and draft rule will be before the Board at the December 17, 2009 meeting. This will officially begin the rule-making process to remove a reference to lever voting machines. Likely will complete with statutory procedure that will not require a public hearing before submittal to legislature.

### **Creation of Chapter 13**

**Relating to:** Training Election Officials

**Status:** Board original action on January 28, 2008. Rule in draft form and ready for submittal to Legislative Council for review. Board approved draft rule at the August 10, 2009 meeting, so must now submit to Legislative Council for review. Thereafter, if not doing 30 day notice rule-making, will need public hearing and then submittal to legislature before publication.

### **Repeal 21.01, 21.04 and Revise 20.01**

**Relating to:** 21.01—filing of all written communications and documents intended for former Ethics Board  
21.04—transcripts of proceedings before former Ethics Board  
20.01—procedures for complaints before former Elections Board

**Status:** Board original action on January 28, 2008. Legislative Council review complete. No public hearing necessary as processing as 30 day notice rule-making and no petition for public hearing was filed. These rules are ready for completion of legislative report and submittal to legislature. Thereafter, publication.

### **Creation of Chapter 22**

**Relating to:** Settlement of Certain Campaign Finance, Ethics, and Lobbying Violations

**Status:** Board original action on June 9, 2008. Final draft of Chapter 22 approved March 30, 2009. Submitted to Legislative Council and report has been returned. Revisions made and Notice of Public Hearing published. Public Hearing held July 28, 2009 and reviewed by Board at the August 10, 2009 meeting. By the time of the December 17, 2009 Board meeting, Legislative Report will be submitted and upon return, publication.

# State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy, Director and General Counsel  
Wisconsin Government Accountability Board

Prepared by: Kevin J. Kennedy, Director and General Counsel

**SUBJECT:** Significant Legislative Activity

### Introduction

The Legislative Status Report provides a tracking of the key pieces of legislation monitored by the agency staff. This memorandum discusses recent legislative activity on items of particular note for the agency.

### 2009 Wisconsin Act 89

This legislation provides for the public financing of campaigns for Supreme Court Justice. The Governor signed 2009 Senate Bill 40 into law, with a partial veto, and it was published as 2009 Wisconsin Act 89. The veto increased the amount of funding available to counter independent expenditures by eliminating a floor in the matching amount. Independent expenditures will be matched dollar for dollar up to a threshold of three times the initial grant.

Under current law a candidate for Supreme Court Justice may be eligible for a grant of up to \$97,031 for the general election. To qualify the candidate must win nomination in a primary if required, raise a minimum of \$10,781 in contributions, not loans, of \$100 or less from individuals between July 1<sup>st</sup> preceding the election and the date of a primary if required.

A candidate for the office of justice of the supreme court may qualify for public financing from the Democracy Trust Fund to finance a campaign in a primary or election by receiving qualifying contributions from at least 1,000 separate contributors who are electors of this state in amounts of not less than \$5 nor more than \$100 in an aggregate amount of at least \$5,000 but not more than \$15,000. A candidate who accepts public financing may also accept "seed money" contributions from Wisconsin electors in amounts of \$100 or less, subject to aggregate limitations, and may contribute personal funds in specified amounts during specified periods. In order to qualify for a public financing benefit for the primary, a candidate at the spring primary

must have an opponent who qualifies to have his or her name appear on the ballot at the primary, and in order to qualify for a public financing benefit for the spring election, a candidate at the election must have an opponent who qualifies to have his or her name appear on the ballot at the election. A candidate who accepts a public financing benefit may not accept any contributions other than qualifying and seed money contributions and contributions from personal funds within the limitations permitted. Public financing benefits for eligible candidates are \$100,000 in the spring primary and \$300,000 in the spring election.

The source of funding for the Democracy Trust Fund created in the legislation is \$2 from an increased voluntary income taxpayer check off, from the current \$1 to \$3. If the income tax check off does not generate sufficient funds for the Democracy Trust Fund, the balance needed to fund Supreme Court campaigns is drawn from GPR funding.

A copy of the published law accompanies this memorandum.

#### 2009 Senate Bill 236

This legislation permits campaign finance registrants to file a paper campaign finance report rather than filing in an electronic format. Under current law, any registrant with campaign receipts of more than \$20,000 in a campaign period – 2 years in an assembly campaign, 4 years in a state senate campaign – is required to file reports in an electronic format specified by the G.A.B. This legislation is a response to the frustration experienced by candidates with the CFIS tool. Supporters argue many volunteer treasurers will not be computer savvy enough to file campaign finance reports electronically and this would discourage prospective candidates from running for public office. The down side is registrants raising a large amount of money, with skilled staff would not be required to provide campaign finance information electronically. It would be difficult to get the information available to the public in a searchable format in a timely manner. The legislation passed the Senate on November 5<sup>th</sup> on a voice vote and has been referred to the Assembly Committee on Elections and Campaign Reform.

#### 2009 Assembly Bill 494

Representative Corey Mason has introduced legislation that would permit campaign finance registrants subject to the requirement to file electronic reports to use either a web-based system developed by the G.A.B. or file their report in a delimited electronic format such as an Excel spreadsheet. This legislation is also a response to the frustration experienced by candidates with the CFIS tool. The Assembly Committee on Elections and Campaign Reform is scheduled to exec on this bill on December 15, 2009. The Committee will consider two amendments the author had prepared after consulting with our staff. Jon Becker testified on this legislation at a November 17, 2009 hearing

#### Military and Overseas Voter Empowerment (MOVE) Act

On October 28, 2009, President Obama signed the National Defense Authorization Act for Fiscal Year 2010, H.R. 2647. The legislation contains the provisions of the Military and Overseas Voter Empowerment (MOVE) Act. MOVE is largely an amendment to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to address a number of perceived problems with overseas absentee voting. Key among those perceived problems is that military and overseas voters are disenfranchised by lengthy mailing delays. The MOVE Act requires states to

take a number of steps to address these problems including providing the option of electronic methods to transmit and receive election materials overseas (not including voted ballots).

A detailed description of the legislation has been provided at the last two Board meetings. One of the most significant requirements of the MOVE Act is that absentee ballots be transmitted (via mail or electronic means) no later than 45 days before the election to all UOCAVA electors who have a valid absentee application on file for that election. Wisconsin law currently requires that absentee ballots be transmitted no later than 30 days before a September primary or November general election and no later than 21 days before all other elections. Due to the date of Wisconsin's primary election and the subsequent ballot generation window required, it is not possible to comply with this requirement unless Wisconsin's primary was changed to an earlier date.

The MOVE Act conflicts with several existing Wisconsin statutory provisions and election administration business practices. In order to comply with the MOVE Act, the G.A.B. would have to request legislative action, modify existing procedures, promulgate administrative rules, modify the Voter Public Access system and apply for a waiver from some of MOVE's timing provisions before each federal election. These actions would be necessary before the Federal elections of 2010.

In order to proceed with implementation of the MOVE Act, staff believes the Board should request legislation to harmonize state law with the new federal requirements and explore the application for a waiver from some of MOVE's timing provisions. Specifically, the Board should develop legislation that makes the following changes:

- Require election officials to send voter registration and absentee ballot application materials as well as absentee ballots to the elector electronically if requested.
- Amend §6.89 to make information about UOCAVA absentee voters confidential.
- Amend §6.25(1) to permit use of the FWAB at all elections for federal office.
- Eliminate the requirement to send an absentee ballot to an UOCAVA elector for two and for some electors three consecutive general elections subsequent to the original application if the elector so requests.

In my discussion with staff and legislative committee members, we have considered ways to present a waiver request from the 45-day ballot transmission requirement because there is no palpable support for moving the September primary to an earlier date. One factor in pursuing a waiver is whether the Federal Voting Assistance Program will consider our 90-day blank ballot as a viable alternative to the 45-day ballot transmission. In order to keep the momentum on this initiative, staff requests the Board authorize the Director and General Counsel to determine if applying for a waiver from some of MOVE's timing provisions on transmission of official ballots is the best policy course and proceed with submitting an application.

**Proposed motion:** The Government Accountability Board authorizes its Director and General Counsel to develop legislation to harmonize state law with the new federal requirements and proceed with an application for a waiver from some of MOVE's timing provisions if that is the best way to facilitate compliance with MOVE consistent with Wisconsin's election calendar.

### Progress on Agency Legislative Agenda Items

A number of pieces of legislation developed at the direction of the Board are slated for consideration in the Legislature. On December 2, 2009, the Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing introduced legislation at the request of the Government Accountability Board to raise the registration threshold for individuals and groups supporting or opposing referenda from \$25 to \$750. 2009 Senate Bill 417. The Assembly Committee on Elections and Campaign Reform is scheduled to vote on introduction of a companion bill on December 15, 2009. LRB 09-2868/2. This legislation addresses the issues raised on the constitutionality of the current threshold as a result of the *Swaffner* decision earlier this year.

On December 15, 2009, the Assembly Committee on Elections and Campaign Reform is also scheduled to vote on introduction of legislation requested by the Board to clarify electronic voting equipment data retention requirements for non-federal elections. LRB 09-2869/2. The Senate Committee on Labor, Elections and Urban Affairs is also scheduled to vote on introduction of legislation of companion legislation on December 15, 2009. LRB 09-3860/1.

Representative Jeff Smith, Chair of the Assembly Committee on Elections and Campaign Reform, is circulating draft legislation on behalf of the Government Accountability Board to clarify that the preliminary findings and conclusions that the G.A.B. adopts are made more available to the public. Investigations that the Board terminates before concluding a full investigation will still remain confidential. The bill addresses the communications between G.A.B. and the public after an investigation. It provides discretion to the Board to authorize the release of further information, after an investigation has been concluded, in the exercise of its sound judgment. This exception preserves the confidentiality of an ongoing investigation, but would permit the Board's employees to comment on an investigation after its conclusion under the direction of the Board. It also eliminates the criminal penalty for breaching the confidentiality restrictions. LRB 09-2366/3

# State of Wisconsin



2009 Senate Bill 40

Date of enactment: **December 1, 2009**  
Date of publication\*: **December 15, 2009**

## 2009 WISCONSIN ACT 89

(Vetoed in Part)

AN ACT *to repeal* 11.50 (3) (a) 2.; *to amend* 8.35 (4) (b), 11.12 (2), 11.16 (2), 11.16 (3), 11.26 (1) (a), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.31 (1) (d), 11.50 (1) (a) 1., 11.50 (3) (b), 11.60 (4), 11.61 (2), 20.855 (4) (b) and 71.10 (3) (a); and *to create* 11.26 (1) (am), 11.26 (2) (an), 11.26 (9) (ba), 11.501 to 11.522, 20.511 (1) (r), 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (ba), 20.855 (4) (bb), 25.17 (1) (cm) and 25.421 of the statutes; **relating to:** public financing of campaigns for the office of justice of the supreme court, making appropriations, and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 8.35 (4) (b) of the statutes is amended to read:

8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the Wisconsin election campaign fund shall be immediately transferred to any candidate who is appointed to replace such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is no candidate appointed or if no proper application is filed within 7 days of the date on which the vacancy occurs, such moneys shall revert to the state as provided in s. 11.50 (8). Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the democracy trust fund shall be immediately transferred to any candidate who is appointed to replace that candidate upon filing of a proper application therefor under s. 11.502 (1). For purposes of qualification, contributions received and disbursements made by the former candidate are considered to have been received or made by the replacement candidate. If there is no candidate appointed or if no proper

application is filed within 7 days of the date on which a vacancy occurs, the moneys shall revert to the state.

**SECTION 2.** 11.12 (2) of the statutes is amended to read:

11.12 (2) ~~Any No registrant, other than a candidate who receives a public financing benefit from the democracy trust fund, may accept an anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The.~~ No candidate who receives a public financing benefit from the democracy trust fund may accept an anonymous contribution exceeding \$5. Any anonymous contribution that may not be accepted under this subsection shall be donated to the common school fund or to any a charitable organization at the option of the registrant's treasurer.

**SECTION 3.** 11.16 (2) of the statutes is amended to read:

11.16 (2) **LIMITATION ON CASH CONTRIBUTIONS.** ~~Every Except as provided in s. 11.506 (6), every~~ contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

**SECTION 4.** 11.16 (3) of the statutes is amended to read:

11.16 (3) FORM OF DISBURSEMENTS. ~~Every~~ Except as authorized under s. 11.511 (1), every disbursement which is made by a registered individual or treasurer from the campaign depository account shall be made by negotiable instrument. Such instrument shall bear on the face the full name of the candidate, committee, individual or group as it appears on the registration statement filed under s. 11.05 and where necessary, such additional words as are sufficient to clearly indicate the political nature of the registrant or account of the registrant. The name of a political party shall include the word "party". The instrument of each committee registered with the board and designated under s. 11.05 (3) (c) as a special interest committee shall bear the identification number assigned under s. 11.21 (12) on the face of the instrument.

**SECTION 5.** 11.26 (1) (a) of the statutes is amended to read:

11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, or state superintendent ~~or justice~~, \$10,000.

**SECTION 6.** 11.26 (1) (am) of the statutes is created to read:

11.26 (1) (am) Candidates for justice, \$1,000.

**SECTION 7.** 11.26 (2) (a) of the statutes is amended to read:

11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, or state superintendent ~~or justice~~, 4 percent of the value of the disbursement level specified in the schedule under s. 11.31 (1).

**SECTION 8.** 11.26 (2) (an) of the statutes is created to read:

11.26 (2) (an) Candidates for justice, \$1,000.

**SECTION 9.** 11.26 (9) (a) of the statutes is amended to read:

11.26 (9) (a) ~~No~~ Except as provided in par. (ba), no individual who is a candidate for state or local office may receive and accept more than 65 percent of the value of the total disbursement level determined under s. 11.31 for the office for which he or she is a candidate during any primary and election campaign combined from all committees subject to a filing requirement, including political party and legislative campaign committees.

**SECTION 10.** 11.26 (9) (b) of the statutes is amended to read:

11.26 (9) (b) ~~No~~ Except as provided in par. (ba), no individual who is a candidate for state or local office may receive and accept more than 45 percent of the value of the total disbursement level determined under s. 11.31 for

the office for which he or she is a candidate during any primary and election campaign combined from all committees other than political party and legislative campaign committees subject to a filing requirement.

**SECTION 11.** 11.26 (9) (ba) of the statutes is created to read:

11.26 (9) (ba) Paragraphs (a) and (b) do not apply to a candidate who receives a public financing benefit from the democracy trust fund.

**SECTION 12.** 11.26 (13) of the statutes is amended to read:

11.26 (13) Except as provided in sub. (9), contributions received from the Wisconsin election campaign fund and public financing benefits received from the democracy trust fund are not subject to limitation by this section.

**SECTION 13.** 11.31 (1) (d) of the statutes is amended to read:

11.31 (1) (d) Candidates for secretary of state, state treasurer, ~~justice~~ or state superintendent, \$215,625.

**SECTION 14.** 11.50 (1) (a) 1. of the statutes is amended to read:

11.50 (1) (a) 1. With respect to a spring or general election, any individual who is certified under s. 7.08 (2) (a) as a candidate in the spring election for ~~justice~~ or state superintendent, or an individual who receives at least 6% of the vote cast for all candidates on all ballots for any state office, except district attorney, for which the individual is a candidate at the September primary and who is certified under s. 7.08 (2) (a) as a candidate for that office in the general election, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at the spring or general election; and who has qualified for a grant under sub. (2).

**SECTION 15.** 11.50 (3) (a) 2. of the statutes is repealed.

**SECTION 16.** 11.50 (3) (b) of the statutes is amended to read:

11.50 (3) (b) If a vacancy occurs in the office of state superintendent ~~or justice~~ after August 15 in any year and an election is scheduled to fill the vacancy at the spring election in the following year, the state treasurer shall transfer an amount not exceeding 8 percent of the moneys transferred to the fund on the preceding August 15 to the superintendency account ~~for the office in which the vacancy occurs~~, such moneys to be drawn from any account within the accounts created under sub. (4) in the amount or amounts specified by the board.

**SECTION 17.** 11.501 to 11.522 of the statutes are created to read:

**11.501 Definitions.** In ss. 11.501 to 11.522:

(1) "Allowable contribution" means a qualifying contribution, seed money contribution, or personal contribution authorized under ss. 11.502 to 11.522.

(2) "Campaign" has the meaning given in s. 11.26 (17).

(3) “Election campaign period” means the period beginning on the day after the spring primary election or the day on which a primary election would be held, if required, and ending on the day of the succeeding spring election.

(4) “Eligible candidate” means a candidate for the office of justice who has an opponent who has qualified to have his or her name certified for placement on the ballot at the spring primary or election and who qualifies for a public financing benefit by collecting the required number of qualifying contributions, making all required reports and disclosures, and being certified by the board as being in compliance with ss. 11.502 to 11.522.

(5) “Excess disbursement amount” means the amount of disbursements made by a nonparticipating candidate in excess of the public financing benefit available to an eligible candidate for the same office that the nonparticipating candidate seeks.

(6) “Excess qualifying contribution amount” means the amount of qualifying contributions accepted by a candidate beyond the number or dollar amount of contributions required to qualify a candidate for a public financing benefit.

(7) “Exploratory period” means the period that begins after the date of a spring election and ends on the first day of the public financing qualifying period for the next election for justice.

(9) “Immediate family,” when used with reference to a candidate, includes the candidate’s spouse and children.

(10) “Independent disbursement” means a disbursement by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with a candidate, or any authorized committee or agent of a candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of a candidate.

(11) “Nonparticipating candidate” means a candidate for the office of justice who does not apply for a public financing benefit or who is otherwise ineligible or fails to qualify for a public financing benefit under ss. 11.502 to 11.522.

(12) “Personal funds” means funds contributed by a candidate or a member of a candidate’s immediate family.

(13) “Primary election campaign period” means the period beginning on the day after the last day prescribed by law for filing nomination papers for that office and ending on the day of the spring primary election for that office or the day on which the primary election would be held, if required.

(14) “Public financing benefit” means a benefit provided to an eligible candidate under ss. 11.502 to 11.522.

(15) “Public financing qualifying period” means the period beginning on the first day of July of any year and

ending on the day before the beginning of the primary election campaign period for that office.

(16) “Qualifying contribution” means a contribution in an amount of not less than \$5 nor more than \$100 made to a candidate by an elector of this state during the public financing qualifying period, which is acknowledged by written receipt identifying the contributor.

(17) “Seed money contribution” means a contribution in an amount of not more than \$100 made to a candidate by an elector of this state during the exploratory period or the public financing qualifying period, or a contribution made to a candidate consisting of personal funds of that candidate in an amount not more than the amount authorized under s. 11.507 during the exploratory period or the public financing qualifying period.

**11.502 Qualification; certification.** (1) Before a candidate for justice in the primary election may be certified as an eligible candidate to receive a public financing benefit for the primary election campaign period, the candidate shall apply to the board for a public financing benefit and file a sworn statement that the candidate has complied and will comply with all requirements of this section and ss. 11.503 to 11.522 throughout the applicable campaign, which includes the primary and election for that office. A candidate shall file the application and statement no later than the beginning of the primary election campaign period for the office that the candidate seeks.

(2) A candidate shall be certified by the board as an eligible candidate for receipt of a public financing benefit for a primary election if the candidate complies with sub. (1) and receives qualifying contributions from at least 1,000 separate contributors in an aggregate amount of not less than \$5,000 nor more than \$15,000 before the close of the public financing qualifying period.

(3) The board shall verify a candidate’s compliance with the requirements of sub. (2) by such verification and sampling techniques as the board considers appropriate.

(4) Each candidate shall:

(a) Acknowledge each qualifying contribution by a receipt to the contributor which contains the contributor’s name and home address.

(b) No later than the 15th or the last day of the month which immediately follows the date of receipt of a qualifying contribution, whichever comes first, file a copy of the receipt under par. (a) with the board, except that during July, August, and September a copy need only be filed by the last day of the month.

(5) A qualifying contribution may be utilized only for the purpose of making a disbursement authorized by law.

**11.503 Time of application.** (1) Before a candidate may be certified as eligible for receipt of a public financing benefit for the spring election, the candidate shall apply to the board and file a sworn statement that the candidate has fulfilled all the requirements of ss. 11.502 to

11.522 during the primary election campaign period and will comply with such requirements during the election campaign period. Except as authorized in s. 8.35 (4) (b), the application shall be filed no later than the 7th day after the date of the spring primary or the day on which the primary election would be held if a primary were required.

(2) The board shall certify a candidate as an eligible candidate for receipt of a public financing benefit for the spring election if the candidate complies with sub. (1) and the candidate was an eligible candidate during the primary election campaign period.

**11.505 Agreement by candidate.** An eligible candidate who accepts a public financing benefit under ss. 11.502 to 11.522 during the primary election campaign period shall agree to comply with all requirements of ss. 11.502 to 11.522 throughout the election campaign period during the same campaign as a precondition to receipt of a public financing benefit. An eligible candidate who accepts a public financing benefit during a primary election campaign period may not elect to accept private contributions in violation of ss. 11.502 to 11.522 during the corresponding election campaign period.

**11.506 Requirements imposed upon candidates.**

(1) An eligible candidate shall not accept private contributions other than seed money contributions and qualifying contributions that the candidate accepts during the exploratory period and the public financing qualifying period.

(2) In addition to reports required to be filed under ss. 11.12 (5) and 11.20, a candidate who receives a public financing benefit shall furnish complete financial records, including records of seed money contributions, qualifying contributions, and disbursements, to the board on the 15th or the last day of the month that immediately follows the receipt of the contribution or the making of the disbursement, whichever comes first, except that during July, August, and September records need only be furnished by the last day of the month. Each such candidate shall cooperate with any audit or examination by the board.

(3) In addition to adhering to requirements imposed under ss. 11.06 (5) and 11.12 (3), a candidate who receives a public financing benefit shall maintain records of all contributions received by the candidate of more than \$5 but less than \$50, including seed money contributions and qualifying contributions, which shall contain the full name of the contributor and the contributor's full home address. In addition, if a contributor's aggregate contributions to any candidate exceed \$50 for any campaign, the candidate shall also maintain a record of the contributor's principal occupation and the name and business address of the contributor's place of employment.

(4) The failure to record or provide the information specified in sub. (3) disqualifies a contribution from being used by a candidate as a qualifying contribution.

(5) No eligible candidate and no person acting on a candidate's behalf may deposit any contribution that is not recorded in accordance with sub. (3) in a candidate's campaign depository account.

(6) No eligible candidate may accept more than \$25 in cash from any contributor. No eligible candidate may accept cash from all sources in a total amount greater than one-tenth of 1 percent of the public financing benefit for the office that the candidate seeks or \$500, whichever is greater.

**11.507 Personal funds of candidates.** (1) The personal funds of a candidate contributed as seed money contributions may not exceed an aggregate amount of \$5,000.

(2) No eligible candidate may make any disbursement derived from personal funds after the close of the public financing qualifying period.

**11.508 Seed money contributions.** (1) An eligible candidate may accept seed money contributions from any individual or committee prior to the end of the public financing qualifying period, provided the total contributions received from one contributor, except personal funds and qualifying contributions otherwise permitted under ss. 11.502 to 11.522, do not exceed \$100, and the aggregate contributions, including personal funds, but not including qualifying contributions, do not exceed \$5,000.

(2) An eligible candidate may make disbursements derived from seed money contributions only during the exploratory period and the public financing qualifying period.

**11.509 Excess contributions.** If an eligible candidate receives excess seed money contributions or qualifying contributions on an aggregate basis, the candidate may retain the contributions and make disbursements derived from the contributions, in an amount not exceeding \$15,000. An amount equivalent to the excess contributions shall be deducted by the board from the candidate's public financing benefit. An eligible candidate shall transfer to the board all seed money and qualifying contributions that exceed the limits prescribed in this section within 48 hours after the end of the exploratory period. The board shall deposit all contributions transferred under this section in the democracy trust fund.

**11.51 Certification by candidate.** (1) To apply for a public financing benefit, a candidate shall certify to the board that the candidate has complied and will comply, throughout the applicable campaign, with all requirements of ss. 11.502 to 11.522 and that all disclosures required as of the time of application have been made, and shall present evidence of the requisite number of qualifying contributions received by the candidate. The candidate's request for certification shall be signed by the candidate and the candidate's campaign treasurer.

(2) The board shall certify to the state treasurer the name of each eligible candidate at the spring primary

together with the amount of the public financing benefit payable to the candidate promptly after the candidate demonstrates his or her eligibility and, in any event, not later than 5 days after the end of the public financing qualifying period. The state treasurer shall immediately credit that candidate's account with a line of credit for the amount certified. No candidate may utilize a line of credit received under this subsection until the beginning of the primary election campaign period.

(3) The board shall certify to the state treasurer the name of each eligible candidate at the spring election together with the amount of the public financing benefit payable to the candidate not later than 48 hours after the date of the spring primary election for the office of justice, or the date that the primary election would be held if a primary were required. The state treasurer shall immediately credit that candidate's account with a line of credit for the amount certified. However, no candidate for a particular office shall receive a line of credit until all candidates for the office of justice who apply and qualify for a public financing benefit have been certified as eligible candidates.

(4) If any candidate who receives a public financing benefit violates the requirements of ss. 11.502 to 11.522, the board shall require the candidate to repay the amount obligated by the candidate from the democracy trust fund for the primary or election campaign period for which the candidate received the benefit. The board shall deposit all repayments received under this subsection in the democracy trust fund.

**11.511 Public financing benefits.** (1) The state treasurer shall provide to each eligible candidate who qualifies to receive a public financing benefit for the primary or election campaign period separate lines of credit for the public financing benefits payable to the candidate for the primary and election campaign periods in the amounts specified in this section, subject to any required adjustment under s. 11.509, 11.512 (2) or 11.513 (2). An eligible candidate may use this public financing benefit to finance any lawful disbursements during the primary and election campaign periods to further the election of the candidate in that primary or election. An eligible candidate shall not use this public financing benefit to repay any loan, or in violation of ss. 11.502 to 11.522 or any other applicable law.

(2) Except as provided in ss. 11.512 (2) and 11.513 (2), the public financing benefit for a primary election campaign period is \$100,000.

(3) Except as provided in ss. 11.512 (2) and 11.513 (2), the public financing benefit for an election campaign period is \$300,000.

(4) If there is no spring primary for the office of justice, no eligible candidate may receive a public financing benefit for the primary election campaign period.

(5g) An eligible candidate who receives a public financing benefit in the primary election campaign

period and whose name is certified to appear on the ballot at the election following that primary may utilize any unencumbered balance of the public financing benefit received by the candidate in the primary election campaign period for the election campaign period.

(5r) Except as permitted in sub. (5g), an eligible candidate who receives a public financing benefit and who does not encumber or expend some portion of the benefit for a purpose described in sub. (1) shall return any unencumbered portion of the benefit to the board within 30 days after the primary or election in which the candidate participates.

(6) Notwithstanding subs. (2) and (3), beginning on July 1, 2012, and every 2 years thereafter, the board shall modify the public financing benefits provided for in subs. (2) and (3) to adjust for the change in the consumer price index, all items, U.S. city average, published by the U.S. department of labor for the preceding 2-year period ending on December 31.

**11.512 Financial activity by nonparticipating candidates.** (1) In addition to other reports required by law, a nonparticipating candidate for an office at a primary or election who receives contributions or makes or obligates to make disbursements in an amount that is more than 5 percent greater than the public financing benefit applicable to an eligible candidate for the same office at the same primary or election shall file a report with the board itemizing the total contributions received and disbursements made or obligated to be made by the candidate as of the date of the report. The board shall transmit copies of the report to all candidates for the same office at the same election. A nonparticipating candidate shall file additional reports after the candidate receives each additional \$1,000 of contributions, or the candidate makes or obligates to make each additional \$1,000 of disbursements. If such contributions are received or such disbursements are made or obligated to be made more than 6 weeks prior to the date of the primary election at which the name of the candidate appears on the ballot, or prior to the date that the primary election would be held, if a primary were required, the reports shall be made at the next regular reporting interval under s. 11.506. If such contributions are received or such disbursements made or obligated to be made within 6 weeks prior to the date of the primary election at which the name of the candidate appears on the ballot, or within 6 weeks prior to the date that the primary election would be held, if a primary were required, the reports shall be made within 24 hours after each instance in which such contributions are received, or such disbursements are made or obligated to be made.

(2) Upon receipt of such information, the board shall immediately certify to the state treasurer the name of each opposing eligible candidate together with the amount of a supplemental grant that shall become payable to that candidate. The supplemental grant shall be equivalent to the total excess disbursement amount made

or obligated to be made, but not to exceed, in the aggregate, exclusive of any amount to which the candidate is entitled under s. 11.513 (2), an amount equal to 3 times the public financing benefit payable to a candidate for the applicable office at the primary or other election for which the benefit is received. The state treasurer shall immediately credit each opposing eligible candidate with an additional line of credit for the amount certified.

**11.513 Independent disbursements.** (1) If any person makes, or becomes obligated to make, by oral or written agreement, an independent disbursement in excess of \$1,000 with respect to a candidate for the office of justice at a spring primary or election, that person shall file with the board a notice of the disbursement or obligation to make the disbursement. Any such person shall file reports of such disbursements or obligations to make such disbursements on the 15th or last day of the month that immediately follows the date of the disbursement or the obligation to make the disbursement, whichever comes first, except that, within 6 weeks prior to the date of the spring primary election, if a primary is held, and within 6 weeks prior to the date of the spring election, the person shall file such reports within 24 hours after each independent disbursement is made or obligated to be made. Any such person shall file an additional report after each additional \$1,000 of disbursements are made or obligated to be made.

(2) When the aggregate independent disbursements made or obligated to be made by a person against an eligible candidate for an office or for the opponents of that candidate exceed 120 percent of the public financing benefit for that office in the primary election campaign period or the election campaign period, the board shall immediately certify to the state treasurer the name of that candidate together with the amount of a supplemental grant that shall become payable to that candidate. The supplemental grant shall be equivalent to the aggregate independent disbursements **exceeding the applicable public financing benefit** made or obligated to be made by a person, but not to exceed, exclusive of any amount to which a candidate is entitled under s. 11.512 (2), an amount equal to 3 times the public financing benefit payable to a candidate for the applicable office at the primary or other election for which the benefit is received. The state treasurer shall then immediately credit that candidate with an additional line of credit for the amount certified.

**11.515 Democracy trust fund.** The democracy trust fund shall be administered by the state treasurer. The state treasurer shall establish an account within the fund for each eligible candidate.

**11.516 Administration.** Except as otherwise specifically provided in ss. 11.501 to 11.522, the duties of and authority for administering and enforcing ss. 11.501 to 11.522 are vested in the board.

**11.517 Penalties; enforcement.** (1) Notwithstanding s. 11.60 (1), if an eligible candidate makes disbursements that exceed the total amount of the public financing benefit allocated to the candidate for any campaign and the total qualifying and seed money contributions lawfully accepted by the candidate, the candidate may be required to forfeit not more than 10 times the amount by which the disbursements exceed the allocation.

(2) Notwithstanding s. 11.60 (1), any eligible candidate who accepts contributions in excess of any limitation imposed under ss. 11.502 to 11.522 may be required to forfeit not more than 10 times the amount by which the contributions exceed the applicable limitation.

(3) If the board finds that there is probable cause to believe that an eligible candidate has made excess disbursements or has accepted excess contributions contrary to sub. (1) or (2), the board shall attempt for a period of not more than 14 days after its finding to correct the matter by informal methods of conference and conciliation and to enter into a settlement and conciliation agreement under s. 5.05 (1) (c) with the person involved. A settlement and conciliation agreement made pursuant to this subsection shall be a matter of public record. Unless violated, a settlement and conciliation agreement is a bar to any civil action under sub. (4).

(4) If the board has probable cause to believe that an eligible candidate has made excess disbursements or has accepted excess contributions and the board is unable to correct the matter by informal methods within the time prescribed in sub. (3), the board shall make a public finding of probable cause in the matter. After making a public finding, the board may bring a civil action against the eligible candidate as provided in s. 5.05 (1) (c).

(5) If an elector believes that an eligible candidate has violated ss. 11.502 to 11.522 and the elector is entitled to vote for or against the eligible candidate in the election in connection with which the violation is alleged to occur, the elector may file a complaint with the board requesting it to take remedial action. If the board refuses to take remedial action or, within 30 days after the filing of such a complaint, fails to take remedial action, the elector may commence a civil action requesting the court to impose a forfeiture under sub. (1) or (2) in circuit court for the county where the board is authorized to bring an action under s. 5.05 (1) (c).

(6) The board and courts shall expedite all proceedings under ss. 11.502 to 11.522 so that all complaints brought prior to an election are resolved, to the extent possible, before the election is held.

(7) If a complaint brought under ss. 11.502 to 11.522 is resolved against the complainant and is found to have been brought in bad faith and without reasonable basis therefor, the board or court may assess costs, including reasonable attorney fees, against the complainant.

Vetoed  
In Part

**11.518 Prohibited acts.** (1) Notwithstanding s. 11.61 (1) (c), if an eligible candidate or agent of a candidate knowingly accepts more contributions than the candidate is entitled to receive, or makes disbursements exceeding the total amount of the public financing benefit received by the candidate and the qualifying and seed money contributions lawfully received by the candidate, the candidate or agent is guilty of a Class G felony.

(2) Notwithstanding s. 11.61 (1) (c), if in connection with the receipt or disbursement of a public financing benefit for an election campaign, any person knowingly provides false information to the board, or knowingly conceals or withholds information from the board, that person is guilty of a Class G felony.

**11.522 Contributions to nonparticipating candidates; attributions.** (1) A nonparticipating candidate may accept contributions from private sources without limitation, except that no person may make any contribution or contributions to a nonparticipating candidate exceeding a total of \$1,000 during any campaign.

(2) In addition to the attribution required under s. 11.30 (2), any electronic or print communication paid for or authorized by a nonparticipating candidate shall contain the following sentence: "This communication is paid for with money raised from private sources. This

candidate has not agreed to abide by campaign contribution and spending limits."

**SECTION 18.** 11.60 (4) of the statutes is amended to read:

11.60 (4) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (h), 5.08, and 5.081, actions under this section or 11.517 may be brought by the board or by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.

**SECTION 19.** 11.61 (2) of the statutes is amended to read:

11.61 (2) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (i), 5.08, and 5.081, all prosecutions under this section or s. 11.518 shall be conducted by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.

**SECTION 20.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

				2009-10	2010-11
<b>20.511</b>	<b>Government accountability</b>				
(1)	ADMINISTRATION OF ELECTION, ETHICS, AND LOBBYING LAWS				
(r)	Democracy trust fund administration	SEG	A	-0-	-0-
<b>20.585</b>	<b>Treasurer, state</b>				
(1)	CUSTODIAN OF STATE FUNDS				
(r)	Democracy trust fund administration	SEG	A	-0-	-0-

**SECTION 21.** 20.511 (1) (r) of the statutes is created to read:

20.511 (1) (r) *Democracy trust fund administration.* From the democracy trust fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

**SECTION 22.** 20.585 (1) (q) of the statutes is created to read:

20.585 (1) (q) *Public financing benefits; candidates for justice.* From the democracy trust fund, a sum sufficient to provide for payment of public financing benefits to eligible candidates under ss. 11.501 to 11.522.

**SECTION 23.** 20.585 (1) (r) of the statutes is created to read:

20.585 (1) (r) *Democracy trust fund administration.* From the democracy trust fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

**SECTION 24.** 20.855 (4) (b) of the statutes is amended to read:

20.855 (4) (b) (title) *Election campaign fund payments.* A sum sufficient equal to one-third of the amounts determined under s. 71.10 (3) to be paid into the Wisconsin election campaign fund annually on August 15.

**SECTION 25.** 20.855 (4) (ba) of the statutes is created to read:

20.855 (4) (ba) *Democracy trust fund payments.* A sum sufficient equal to two-thirds of the amounts determined under s. 71.10 (3) to be paid into the democracy trust fund annually on August 15.

**SECTION 26.** 20.855 (4) (bb) of the statutes is created to read:

20.855 (4) (bb) *Democracy trust fund transfer.* A sum sufficient equal to the difference between the unencumbered balance in the democracy trust fund and the amounts required to provide public financing benefits that candidates qualify to receive from the democracy

trust fund, to be transferred from the general fund to the democracy trust fund no later than the time required to make payments of grants under s. 11.51 (2) and (3).

**SECTION 27.** 25.17 (1) (cm) of the statutes is created to read:

25.17 (1) (cm) Democracy trust fund (s. 25.421);

**SECTION 28.** 25.421 of the statutes is created to read:

**25.421 Democracy trust fund.** All moneys appropriated under s. 20.855 (4) (ba) and (bb) and all moneys deposited in the state treasury under ss. 11.509, 11.51 (4), and 11.511 (5r) constitute the democracy trust fund, to be expended for the purposes of ss. 11.501 to 11.522.

**SECTION 29.** 71.10 (3) (a) of the statutes is amended to read:

71.10 (3) (a) Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate \$1 ~~\$2~~ \$3 for the Wisconsin election campaign

fund and the democracy trust fund for the use of eligible candidates under s. ss. 11.50 and 11.51. If the individuals filing a joint return have a tax liability or are entitled to a tax refund, each individual may make a designation of \$1 ~~\$2~~ \$3 under this subsection.

**SECTION 30. Initial applicability.**

(1) The treatment of section 71.10 (3) (a) of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

**SECTION 31. Effective date.**

(1) This act takes effect on December 1 following the date of publication.

# LEGISLATIVE STATUS REPORT

December 17, 2009 Meeting

## Assembly Bills

- **Current Assembly Bills with New Activity**

### Assembly Bill 65

This bill makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the Supreme Court.

**Introduced by:** Representatives Hintz, Hilgenberg, Smith, Garthwaite, Benedict, Roys, Hebl, Staskunas, Turner, Parisi, Cullen, Jorgensen, Richards, Zepnick, Pocan, Pope-Roberts, Clark, Shilling, Hubler, Black, Berceau, Grigsby, Molepske Jr. and Kessler. Cosponsored by Senators Kreitlow, Taylor, Lehman, Erpenbach, Miller, Risser, Lassa, Hansen, Wirch, Vinehout, Schultz and Sullivan.

**Status:** referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 5/27/09. Senator Ellis added as a cosponsor. Referred to Assembly Committee on Joint Finance. Assembly amendments 1, 2, 3, and 4 offered by committee on joint finance. Referred to Assembly Committee on Rules.

### Assembly Bill 104

Under current law, with certain exceptions, registrants under the campaign finance law are required to file regular reports with the appropriate filing officer or agency. This bill deletes the exception for registrants who or which do not maintain an office or street address within this state, so that these registrants are required to report the same information as other registrants.

**Introduced by:** Representatives Spanbauer, Ballweg, Bies, Gunderson, Kaufert, Kestell, Petersen, Ripp, Strachota, and Townsend. Cosponsored by Senators Harsdorf, Lehman, Cowles, Olsen, Kedzie, Leibham and Hopper.

**Status:** referred to Assembly Committee on Elections and Campaign Reform. Referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 11/17/09.

### Assembly Bill 330

Currently, an elector who casts an absentee ballot must make and subscribe to a certificate before one witness who must be an adult U.S. citizen. The certificate affirms

the elector's residency and voting eligibility and affirms that the ballot is voted in secret. This bill permits any elector who is a "military elector" or an "overseas elector" and who certifies to that fact to vote an absentee ballot without obtaining a witness.

**Introduced by:** Representatives Turner, Bies, Cullen, Hebl, Hilgenberg, Kessler, Milroy, Molepske Jr., Roys, Schneider, Vruwink, Young and Zepnick. Cosponsored by Senators Coggs, Erpenbach, Holperin, Lehman, Olsen, Taylor and Vinehout.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 9/15/09. Assembly amendment 1 offered by Representative Turner. Assembly amendment 2 offered by Representative Turner. Assembly amendment 2 adoption recommended by committee on Elections and Campaign Reform. Referred to Assembly Committee on Rules.

### **Assembly Bill 406**

Currently, any elector may challenge for cause the right of any other elector to vote at a polling place if the challenger knows or suspects that the challenged elector is not a qualified elector. This bill provides that only an elector who resides in the same ward or election district as the one in which a challenged elector resides may challenge the ballot of that elector.

**Introduced by:** Representatives Kessler, Berceau and Pasch. Cosponsored by Senators Coggs, Hansen and Kreitlow.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Assembly amendment 1 offered by Representative Kessler. Assembly amendment 1 adoption recommended by committee on Elections and Campaign Reform. Referred to Assembly Committee on Rules.

- **New Assembly Bills**

### **Assembly Bill 454**

Currently, independent candidates for partisan office may include on their nomination papers a statement of party or principle. This statement appears on the ballot under the names of the candidates. Most statutory references to the statement limit the length of the statement to five words or less. This bill standardizes all references so that in all cases the statement or party or principle, if any, is limited to five words or less.

**Introduced by:** Representatives Smith, Stone, Hilgenberg, A. Williams, Jorgensen and Vruwink. Cosponsored by Senators Taylor, Lehman and Kedzie.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Assembly amendment 1 offered by Representative Smith. Public hearing held on 11/17/09.

### **Assembly Bill 494**

Currently, each registrant under the campaign finance law for whom the Government Accountability Board (GAB) serves as filing officer and who or which accepts political contributions in a total amount or value of \$20,000 or more during a campaign period, as defined by law, must file reports in an electronic format.

This bill directs GAB to provide an Internet based system that registrants may use to file campaign finance reports in an electronic format. The bill also directs GAB to permit registrants to file campaign finance reports in electronic format either by using the Internet based system or by using software that produces a delimited file (such as Microsoft Office Excel software).

**Introduced by:** Representatives Mason, Vos, Sherman, Kestell, Roys, Gunderson, Berceau, LeMahieu, Pope-Roberts, A. Williams, Clark, Townsend, Nerison, Brooks, Jorgensen and Grigsby. Cosponsored by Senators Risser, Darling, Holperin and Taylor.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 11/17/09.

### **Assembly Bill 545**

This bill provides that an election official must be an elector of the county, or one of the counties, where the municipality where the official serves is located. Under the bill, a municipal clerk or deputy clerk who is an elector of this state may continue to serve as an election official in case of a temporary vacancy without regard to county residence. The bill permits a special voting deputy to be an elector of the county, or one of the counties, where the municipality in which the deputy serves is located. The bill also permits a pupil who is 16 or 17 years of age to serve as an election official at a polling place serving any municipality located wholly or partly within the county within which the pupil resides.

**Introduced by:** Representatives Smith, Hilgenberg, Pope-Roberts, Parisi, Berceau, Mason, Bies and Sinicki. Cosponsored by Senators Lehman, Taylor and Schultz.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 11/17/09.

### **AB 603 (12.03.09)**

## **Assembly Joint Resolutions**

- **Current Assembly Joint Resolutions with New Activity**

### **Assembly Joint Resolution 29**

This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, defines demographic and political standards for the drawing of legislative districts and establishes criteria for the drawing of legislative districts.

**Introduced by:** Representatives Kessler, Staskunas, Hilgenberg, Hintz and A. Williams.  
Cosponsored by Senator Lehman.

**Status:** Referred to Assembly Committee on Elections and Campaign Reform. Public hearing held on 11/17/09.

- **New Assembly Joint Resolutions**

### **Assembly Joint Resolution 96**

Under current law, Supreme Court justices are elected by the people. This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, requires the governor to appoint, with the advice and consent of three fifths of the senate, justices of the Supreme Court for ten-year terms. Once appointed, justices may be retained for additional ten-year terms by a vote of the people.

**Introduced by:** Representatives Gottlieb, Stone, Tauchen, Brooks, A. Ott and Ripp.  
Cosponsored by Senator Schultz.

**Status:** Referred to Assembly Committee on State Affairs and Homeland Security.

**AJR 96 (12.03.09)**

## Senate Bills

- **Current Senate Bills with New Activity**

### Senate Bill 40

This bill makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the Supreme Court.

**Introduced by:** Senators Kreitlow, Taylor, Sullivan, Miller, Risser, Erpenbach, Wirch, Lassa, Lehman, Hansen, Vinehout, and Schultz. Cosponsored by Representatives Hintz, Hilgenberg, Smith, Garthwaite, Benedict, Roys, Hebl, Staskunas, Turner, Parisi, Cullen, Jorgensen, Richards, Zepnick, Pocan, Pope-Roberts, Clark, Shilling, Hubler, Black, Berceau, Grigsby, Molepske Jr. and Kessler.

**Status:** Referred to Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Public hearing held on 5/27/09. Referred to Senate Joint Committee on Finance on 9/08/09 by committee on Senate Organization, pursuant to Senate Rule 41(1) (e). Senator Ellis added as a coauthor. Senator Carpenter added as a coauthor. Senate amendments 1, 2, 3, 4, and 5 adopted. Presented to the Governor on 11/30/09. Approved by the Governor with partial veto on 12/1/09. 2009 Wisconsin Act 89.

### Senate Bill 221

This bill makes numerous changes in the campaign financing law. The bill also makes changes to the income tax laws, the lobbying regulation law, and the staffing of the Government Accountability Board.

**Introduced by:** Senators Erpenbach, Ellis, Carpenter, Lehman, Holperin, Schultz, Risser, Harsdorf, Vinehout and Sullivan. Cosponsored by Representatives Pope-Roberts, Berceau, Black, Hixson and Hebl.

**Status:** Referred to Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Representative Bernard Schaber added as a cosponsor. Senate amendment 1 offered by Senator Ellis.

### Senate Bill 236

This bill permits any registrant for whom the board serves as filing officer to file either electronically or on paper at the registrant's option.

**Introduced by:** Senators Hansen, Ellis, A. Lasee, Vinehout, Risser, Kedzie, Carpenter, Schultz, Wirch, Erpenbach, Cowles and Kapanke. Cosponsored by Representatives

Ziegelbauer, Roth, Schneider, Kessler, Brooks, Berceau, Nass, Toles, Ballweg, Vos and Nerison.

**Status:** Referred to Senate Committee on Ethics Reform and Government Operations. Public hearing held on 10/21/09. Read a third time and passed. Assembly received from Senate and referred to committee on Elections and Campaign Reform.

- **New Senate Bills**

**Senate Bill 383**

This bill makes numerous changes regarding municipal court administration, judges, and procedures. With respect to elections the bill specifically requires municipal judges to be elected for four-year terms, rather than the two- to four-year terms as provided by ordinance under current law.

**Introduced by:** Senators Taylor, Risser, Erpenbach and Wirch. Cosponsored by Representatives Seidel, Parisi, Pope-Roberts, Turner, Tauchen, Pasch, Staskunas, Lothian, Berceau, Danou and Townsend.

**Status:** Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

**Senate Bill 417**

Currently, with limited exceptions, every group that makes or accepts contributions, incurs obligations, or makes disbursements (expenditures), and every individual that accepts contributions, incurs obligations, or makes disbursements exceeding a total of \$25 within a calendar year to influence the outcome of a state or local referendum must register with the appropriate filing officer or agency and, with certain exceptions, must file regular financial reports providing the information specified by law.

This bill increases the registration threshold to amounts exceeding a total of \$750 within a calendar year. The bill also adjusts the threshold for acceptance of contributions from a single source to potentially qualify for a reporting exemption to a total of \$750 within a calendar year.

**Introduced by:** Committee on Judiciary, Corrections, Campaign Finance Reform, and Housing.

**Status:** Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Public hearing scheduled for 12/10/09 at 10:01 am.

**SB 417 (12.03.09)**

## **Senate Joint Resolutions**

- **Current Senate Joint Resolutions with New Activity**

None

- **New Senate Joint Resolutions**

None

**SJR 54 (12.03.09)**

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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**DATE:** For the December 17, 2009 Board meeting

**TO:** Government Accountability Board

**FROM:** Jonathan Becker, Division Administrator, Ethics and Accountability Division

**SUBJECT:** Campaign Finance Information System -- Performance and Functionality

Work on improvements to the performance and functionality of the Campaign Finance Information System ("CFIS") continues in preparation for the January 2010 filing period. A new version of the system software was released and tested by staff in late November. Another system release is scheduled for December 21<sup>st</sup> and will finalize all of the changes previously communicated to the Board and CFIS users. These changes will be tested and made available to all users by the end of the year. Staff is also working to prepare a brief but informative set of filing instructions for all users to help facilitate filing campaign finance reports using CFIS.

At a committee hearing on an Assembly bill that would permit all filers required to file electronically to do so either using CFIS or some other comma delimited electronic format, staff communicated to legislators our plan to allow users to file their campaign finance information on an excel spreadsheet similar to the one used to file electronically before CFIS' implementation for the January 2010 filing. This allows users who are uncomfortable using CFIS another alternative method to file their information electronically with the G.A.B. In January, filers will have the option to file electronically in one of four ways:

- 1.) Using data entry screens in CFIS**
- 2.) Using vendor software to upload the information into CFIS**
- 3.) Using the excel templates currently provided in the system to upload the information**
- 4.) Entering information into an excel file that is similar to one used prior to CFIS and then e-mailing that file to staff to upload into CFIS.**

Staff has worked with the IT staff from the Department of Administration to create a computer program to convert data from the new excel spreadsheet into a format that can be uploaded into the CFIS application.

In order to advance our efforts to improve CFIS, staff prepared an online survey that was sent to all users via e-mail on November 20<sup>th</sup>. The survey consisted of ten questions asking users to provide feedback in a variety of categories ranging from how they file to how they feel about the performance of the system. The questions and results of the survey are attached. The survey was sent to 1852 users and as of Friday, December 4, 253 had responded (~13.7%).

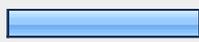
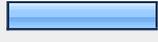


# **CAMPAIGN FINANCE INFORMATION SYSTEM**

Survey Results  
December 4, 2009

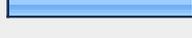


# Campaign Finance Information System Performance Survey

What is/are your committee type(s)?			Response Percent	Response Count
Candidate Committee			29.4%	74
<b>Political Action Committee (PAC)</b>			<b>35.7%</b>	<b>90</b>
Party			19.8%	50
Legislative Campaign Committee			3.2%	8
Conduit Committee			22.6%	57
Sponsoring Organization			2.4%	6
Referendum Committee			0.4%	1
Other (please specify)			2.8%	7
			<b>answered question</b>	<b>252</b>
			<b>skipped question</b>	<b>1</b>

Other (please specify)		
1	Vendor for PACs and Conduits	Nov 20, 2009 3:20 PM
2	candidate is retired from public service	Nov 20, 2009 5:32 PM
3	I work with both a PAC and a Conduit	Nov 20, 2009 5:41 PM
4	County Party	Nov 21, 2009 12:24 AM
5	Candidate Bookkeeper	Nov 23, 2009 4:45 AM
6	PAC & Conduit Committee	Nov 23, 2009 7:34 PM
7	independent	Nov 24, 2009 1:08 AM

# Campaign Finance Information System Performance Survey

What is your position/role with the committee?			Response Percent	Response Count
Candidate			13.1%	33
<b>Volunteer Treasurer</b>			<b>36.5%</b>	<b>92</b>
Paid Treasurer			2.8%	7
Volunteer Campaign Staff			2.8%	7
Paid Campaign Staff			3.6%	9
Administrator			28.6%	72
Other (please specify)			12.7%	32
			<b>answered question</b>	<b>252</b>
			<b>skipped question</b>	<b>1</b>

Other (please specify)		
1	Accounting ASsociate	Nov 20, 2009 2:49 PM
2	assist the administrator with state filings	Nov 20, 2009 2:49 PM
3	recordkeeper	Nov 20, 2009 2:57 PM
4	Bookkeeper	Nov 20, 2009 2:57 PM
5	Paid consultant	Nov 20, 2009 3:05 PM
6	Accountant for treasurer	Nov 20, 2009 3:07 PM
7	Liaison	Nov 20, 2009 3:11 PM
8	Third Party report prep and filing	Nov 20, 2009 3:15 PM
9	We file reports for the committees and/or provide them the tools to do so.	Nov 20, 2009 3:20 PM
10	No position with it, help with the paperwork	Nov 20, 2009 3:21 PM
11	Associate Staff Assistant	Nov 20, 2009 3:29 PM
12	Clerical	Nov 20, 2009 4:14 PM
13	staff assistant	Nov 20, 2009 4:21 PM
14	Clerical	Nov 20, 2009 4:24 PM
15	Assistant to Committee Treasurer	Nov 20, 2009 5:01 PM
16	Recordkeeping	Nov 20, 2009 5:17 PM
17	Secretary	Nov 20, 2009 5:19 PM
18	Deputy Treasurer	Nov 20, 2009 5:26 PM
19	Paid Staff Assistant	Nov 20, 2009 5:54 PM
20	Bookkeeper for PAC	Nov 20, 2009 6:51 PM
21	Chairperson	Nov 21, 2009 12:24 AM

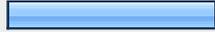
Other (please specify)		
22	Advisor to Treasurer	Nov 21, 2009 2:16 AM
23	retired legislator	Nov 22, 2009 10:15 PM
24	Office Manager	Nov 23, 2009 8:50 PM
25	accounting services	Nov 24, 2009 8:22 PM
26	volunteer officer	Nov 26, 2009 9:06 PM
27	I am the Administrator and because of my position the Treasurer and by title the Treasurer	Nov 30, 2009 10:47 PM
28	Bookkeeper	Dec 2, 2009 2:51 PM
29	Staff Assistant	Dec 2, 2009 3:11 PM
30	ADMINISTRATIVE ASSISTANT	Dec 2, 2009 3:33 PM
31	assistant to treasurer	Dec 2, 2009 9:20 PM
32	Volunteer Chairperson	Dec 4, 2009 4:43 AM

# Campaign Finance Information System Performance Survey

What method do you use to file your campaign finance report?			
		Response Percent	Response Count
Upload using vendor software		5.6%	14
Upload using the excel spreadsheet provided in CFIS		16.7%	42
<b>Data entry using the screens in CFIS</b>		<b>61.8%</b>	<b>155</b>
Paper only		11.2%	28
Other (please specify)		4.8%	12
		<b>answered question</b>	<b>251</b>
		<b>skipped question</b>	<b>2</b>

Other (please specify)		
1	haven't had to file report yet	Nov 20, 2009 3:03 PM
2	All of the above except 'Paper only'	Nov 20, 2009 3:05 PM
3	Upload using my excel & using screens in Cfis	Nov 20, 2009 3:28 PM
4	Uploading spreadsheet for PAC, manual data entry for conduit	Nov 20, 2009 5:59 PM
5	we use both data entry using the CFIS and upload using vendor software	Nov 20, 2009 9:19 PM
6	We used to do the excel spreadsheets until we were required to use the CFIS.	Nov 20, 2009 9:53 PM
7	have not had to file yet	Nov 21, 2009 6:40 PM
8	eMail Excel spreadsheet	Dec 2, 2009 2:55 PM
9	Tried to use your on-line system. What a mess.	Dec 2, 2009 6:21 PM
10	paper only until the last one	Dec 2, 2009 8:33 PM
11	Excell spread sheets	Dec 3, 2009 12:40 AM
12	I am still working this out, combination of my excel sheet uploading to CFIS	Dec 4, 2009 2:09 PM

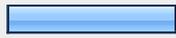
## Campaign Finance Information System Performance Survey

Overall, how do you rate the performance of the CFIS application?			
		Response Percent	Response Count
Excellent		6.1%	15
Good		31.7%	78
<b>Adequate</b>		<b>33.7%</b>	<b>83</b>
Poor		20.7%	51
Unacceptable		7.7%	19
		<i>answered question</i>	<b>246</b>
		<i>skipped question</i>	<b>7</b>

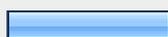
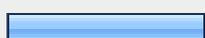
## Campaign Finance Information System Performance Survey

The CFIS application is...				
			Response Percent	Response Count
Very Easy to Use		6.1%	15	
Somewhat Easy to Use		30.5%	75	
Neither Easy nor Difficult to Use		18.3%	45	
<b>Somewhat Difficult to Use</b>		<b>33.3%</b>	<b>82</b>	
Very Difficult to Use		11.8%	29	
			<i>answered question</i>	<b>246</b>
			<i>skipped question</i>	<b>7</b>

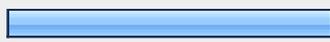
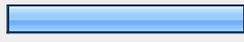
## Campaign Finance Information System Performance Survey

Rate your overall satisfaction with the CFIS application.			
		Response Percent	Response Count
Very Satisfied		5.3%	13
<b>Satisfied</b>		<b>32.5%</b>	<b>80</b>
Neither Satisfied nor Unsatisfied		27.2%	67
Unsatisfied		25.6%	63
Very Unsatisfied		9.3%	23
		<i>answered question</i>	<b>246</b>
		<i>skipped question</i>	<b>7</b>

# Campaign Finance Information System Performance Survey

Compared to previous years, has your experience filing campaign finance reports using CFIS been...			
		Response Percent	Response Count
Much Better		6.7%	15
Better		24.9%	56
<b>About the Same</b>		<b>30.2%</b>	<b>68</b>
Worse		27.6%	62
Much Worse		10.7%	24
		<i>answered question</i>	<b>225</b>
		<i>skipped question</i>	<b>28</b>

## Campaign Finance Information System Performance Survey

The service received from G.A.B. campaign finance staff has been...			Response Percent	Response Count
Excellent			50.2%	126
Good			36.3%	91
Okay			11.6%	29
Poor			2.0%	5
Awful			0.0%	0
		<b>answered question</b>		<b>251</b>
		<b>skipped question</b>		<b>2</b>

# Campaign Finance Information System Performance Survey

Describe any problems you have experienced when using CFIS.		
		Response Count
		155
		<b>answered question</b> 155
		<b>skipped question</b> 98

Response Text		
1	Slow drop down menus	Nov 17, 2009 5:34 PM
2	slowness	Nov 20, 2009 2:49 PM
3	The system is slow. The system times me out quite often in cases when I feel not warranted.	Nov 20, 2009 2:51 PM
4	The web entry was not intuitive.	Nov 20, 2009 2:53 PM
5	My position as treasurer is new so I've got a learning curve to deal with as well	Nov 20, 2009 2:54 PM
6	It is extremely slow and cumbersome to use. Very frustrating as I don't really have hours to devote for this!	Nov 20, 2009 2:57 PM
7	Uploading has been difficult. Can't upload with new committee not in system. Finding the problem with the spreadsheet difficult.	Nov 20, 2009 2:59 PM
8	I don't usually use Microsoft Explorer, but I have to use that for the system to work fully. Irritating, but I can work around that.	Nov 20, 2009 2:59 PM
9	Every bit of information has to be entered as brand new everytime. When you have several contributors whose info you have entered before, the system doesn't recall the info. You have to enter it new each time and it is such a time waster	Nov 20, 2009 3:01 PM
10	Its slow and I'm never sure if I am doing it correctly. The green flags help with that though.	Nov 20, 2009 3:01 PM
11	Next to impossible to operate, navigate or do much of anything else with	Nov 20, 2009 3:02 PM
12	Slow response time.	Nov 20, 2009 3:02 PM
13	The upload process is maddening and spotty - especially for large uploads, the data entry function is slow and cumbersome, year-to-date totals don't seem to aggregate correctly when there is an amendment made to a record, virtually impossible to match an individual with the same GABID each time to make for consistent aggregation, no ability to pull a list from CFIS in a format that can be altered and re-uploaded into the program (it is horrible trying to go through one entry at a time to figure out why it has a compliance flag when you have a lot of entries), very buggy...compliance flags for no reason (for example), something about the system changes with each reporting period that requires re-establishment of procedures for filing from the reporting end. CFIS has made it more difficult for me to comply with campaign finance reporting laws.	Nov 20, 2009 3:05 PM
14	The system is very slow when entering names - it takes too long for the fields to populate once you select a name.	Nov 20, 2009 3:07 PM
15	Once the bugs were worked out, it was just as efficient and easy to use as the spreadsheet. Either way of filing is fine with me.	Nov 20, 2009 3:11 PM
16	It is not User friendly as it could be so it takes time to figure out where to go when filing certain exceptions, ie No activity.	Nov 20, 2009 3:12 PM

Response Text		
17	Slow Multiple accounts for the same person. I always choose the top one. Don't know if that is right but it is easier. I have learned that I can not leave all my entry for the week or two prior to the report being due.	Nov 20, 2009 3:13 PM
18	I like the concept of electronic filing. My difficulties always revolve around the uploads of contribution files. I always have to call and ask for assistance because the system either takes too long to upload indicating a problem or I receive a 'error' message and I'm unable to view the error preventing me from correcting it. I find the GAB staff helpful, but difficult to reach during filing time. If the system was more user-friendly in assisting us with finding our own errors, we wouldn't need to contact GAB as often.	Nov 20, 2009 3:13 PM
19	The system is very user unfriendly. It has not been possible to review the files before filing as our firewall prevents us from opening XML files. Your auditing staff has been most helpful, however this went back and forth for about a week before we were able to get it right.	Nov 20, 2009 3:14 PM
20	The system has been slow and unresponsive to what actually happens when someone needs to file a report.	Nov 20, 2009 3:15 PM
21	Very slow. Conflicting names for campaigns and contributors--not sure who to choose. System is not very intuitive.	Nov 20, 2009 3:16 PM
22	I had difficulty trying to file "No Activity" because I didn't know which heading to look under.	Nov 20, 2009 3:17 PM
23	The problems experienced are not with the system, it is with the user. It takes time to adjust to a different format especially when the system is only used several times a year.	Nov 20, 2009 3:17 PM
24	Filing is easier now than it was at the beginning, but it can still be problematic. After uploading a file of transactions, it often takes a long time to get the error report. Also, if there are errors, the report does not always contain specific enough details to be able to fix the problems with the file. We have also had problems generating the PDF draft to view the report before officially submitting.	Nov 20, 2009 3:20 PM
25	It's too hard to figure out what reports are due when. With the old <a href="http://elections.state.wi.us">http://elections.state.wi.us</a> site you could go to Campaign Finance-Filing deadlines to see what needed filing.	Nov 20, 2009 3:21 PM
26	Screens too slow. Lots of trouble trying to upload xcel spread sheet. Problem guessing codes . Training video too small to see. Unable to get direct help from GAB before due dates,	Nov 20, 2009 3:28 PM
27	Initial lack of compatibility of software was a problem. The expectation of an electronic copy and a later a paper copy was puzzling when a it was said that a paper copy would no longer be needed.	Nov 20, 2009 3:33 PM
28	Maybe my problem is the we use if very infrequently, so it always seems like a struggle, could just be from infrequent use.	Nov 20, 2009 3:50 PM
29	I have not been treasurer long enough to have to file a report. So far I am able to use the system somewhat efficiently. We will see what happens when I file the January continuing report.	Nov 20, 2009 3:56 PM

Response Text		
30	<p>MANY PROBLEMS:  -- Uploaded items red flagged for no reason.  -- ID #s change - don't know why  -- Some middle initials missing  -- Last two uploads had major problem, NO employer info was downloaded - even though the info was in the uploaded file - AND NO red flags b/c of the missing info. Wouldn't even have known there was a problem, if I hadn't checked!!  -- When moving from screen to screen to correct this missing employer info problem system is VERY SLOW!!! Very Frustrating!!  -- Have had problems for months!! Tracey has been trying to get answers for me - but vendor has not responded!!! WHY is that? We have to meet filing deadlines!!!! I'm responsible to make sure Xcel Energy meets these deadlines, so we are NOT fined. But we get no response to our questions and problems. We've been having problems for MONTHS - and have yet to receive a response from the vendor. PLEASE HELP!!!! Please not - the GAB staff has been very responsive, but the problems we've had are with the program itself - and the vendor does not seem to be responding to the questions the GAB staff forwards!!!</p>	Nov 20, 2009 4:03 PM
31	In the past when I have had questions, it was difficult finding a campaign finance staffer available to help. I just now made some receipt entries and everything went ok. This is the first time, since the July Continuing report, that I have logged on.	Nov 20, 2009 4:14 PM
32	The system is totally different from the "old" electronic system and so just leaning the new system was a challenge but once I now that I've used it to file several reports it seems more user friendly.	Nov 20, 2009 4:18 PM
33	The problem is almost always related to your terminology. The choices are ambiguous, therefore it is not easy to make a determination.	Nov 20, 2009 4:24 PM
34	It generally takes forever to upload and the codes for occupations are horrific to figure out, especially when you have several hundred contributors.	Nov 20, 2009 4:33 PM
35	We had problems uploading the excel spread sheet. It was hard to find codes for some of the contributors that would work.	Nov 20, 2009 4:34 PM
36	I do not know how to use CFIS. I asked for training and was told I would get training, but has never happened. Thanks	Nov 20, 2009 4:51 PM
37	I began filing using CFIS in Jan 2009. For the Jan Continuing 2009, we did not use CFIS due to problems uploading. In July the system worked much better.	Nov 20, 2009 4:51 PM
38	I have not tried to use it since the last filing date and was not able to upload the information. I will try it again with this next filing deadline.	Nov 20, 2009 4:54 PM
39	<p>-too dependent on having a fast Internet connection.  -does not work with Mozilla Firefox.  -instructions/help screens are often inaccurate.  -difficult to check your data before submitting report.  These are just some of the highlights. I have previously sent the GAB a detailed list of problems I have encountered.</p>	Nov 20, 2009 4:58 PM
40	The whole process of determining whether or not our contributors are in the system and then using an ID number if they are is completely inefficient and annoying. While I understand the concept of what you're trying to do, the current procedures are way too time consuming and not user-friendly. Also, given all the variations of Cmte names, it can be rather tricky finding the proper recipients of our contributions.	Nov 20, 2009 5:01 PM
41	My data disappears when I try to file electronically.	Nov 20, 2009 5:06 PM
42	Total frustration. Pure confusion. Computer problems with your system. Two computer experts and a CPA and lawyers couldn,t get it to work. Cost me 50 hours of my time during the election period and afterwards.	Nov 20, 2009 5:08 PM
43	Steve Pickett has been just excellent to work with. He has save us from a lot of mistakes.	Nov 20, 2009 5:15 PM
44	It was slow, and somewhat confusing.	Nov 20, 2009 5:19 PM

Response Text		
45	It's hard to move around the website to find what I need. Very confusing. It's also difficult to correct errors.	Nov 20, 2009 5:26 PM
46	remembering how to use the computerize system	Nov 20, 2009 5:32 PM
47	The problems are well documented, and I have not tried to use the program since the last report. The programs simply didn't work, and when I had only dial up available, it was a nightmare.	Nov 20, 2009 5:33 PM
48	I'm having problems "remembering" how to use the Excel spreadsheet so that the software would easier to use.	Nov 20, 2009 5:41 PM
49	July's filing was my first attempt at using CFIS. GAB staff were very helpful in instructing me on how to set up my computer to accept CFIS program, but it was terribly problematic at first and very frustrating. Once the data entry procedure was done for several entries, it became easier, but I needed help from staff to determine the correct entry for specific contributors or expenses. Staff were knowledgeable, polite and helped me get the job done for last filing. They knew much more about computers than just the CFIS program, and we tried several changes to my computer settings until we were successful. I think I will have an easier time of it the next go round.	Nov 20, 2009 5:47 PM
50	It's more time consuming and I had trouble uploading the spreadsheets. However, the staff was phenomonal in helping me with that. Once they intervned and helped me upload it, it became much easier. Kudos to them because I know I probably wasn't the only one having problems, but they took the time to help me until it was done correctly.	Nov 20, 2009 5:59 PM
51	The system is very confusing, especially even going through the sign-in process. We file reports with other states, and it is much easier than Wisconsin.	Nov 20, 2009 6:04 PM
52	I am a new person. I tried your new training video it didn't work. I called a few time. I am still wondering if I fill out the report ok.	Nov 20, 2009 6:10 PM
53	system is slow. Lag time between screen updates.	Nov 20, 2009 6:14 PM
54	very confusing, time consuming, not user friendly	Nov 20, 2009 6:21 PM
55	very slow response time; tedious repetition	Nov 20, 2009 6:40 PM
56	Because our county party does not have much activity it would be nice to just file a paper copy, but on-line is ok too. My problem is if my computer goes down I have limited acess to an alternative source, would have to go to the library or something.	Nov 20, 2009 6:41 PM
57	No training, your manual was not at all helpful. If not for the help of you Staff, I would have been lost.	Nov 20, 2009 6:51 PM
58	It is very slow and time consuming. Very cumbersome.	Nov 20, 2009 7:02 PM
59	Far too many to mention here and they've been aired in several legislative hearings -- constant lock-outs, wrong names, system won't let me get past certain prompts to correct name, on and on.	Nov 20, 2009 7:07 PM
60	Too slow, deleted employers	Nov 20, 2009 7:23 PM
61	My problems have been little things that are frustrating because the system does not take them, like having addresses beginning with a letter have to be only in Address 1. I have my adress # in Address 1 and the streets in address 2 (my list is this way so lc an sort by street if necessary). Also, putting a 0 before a #, separating a first name and last name if it is not a business on disbursements, and other little things that can become frustrating. Tracy was outstanding at helping me and was very patient.	Nov 20, 2009 7:24 PM
62	It is very hard to use	Nov 20, 2009 7:32 PM
63	difficulty uploading transaction, and the resulting error file was in xml (not very useful) rather than csv; there was no practical way to use employer codes or contributor ids, though I've heard that those will no longer be used	Nov 20, 2009 7:54 PM

Response Text		
64	It doesnt tell you everything went okay after entering your information into the screens. It seems like it got lost or didnt go through so you do it again and the next thing you know you did 3 of the same reports...	Nov 20, 2009 8:19 PM
65	My problem is I use the system so seldom that I forget when I need to go back on and do filings.	Nov 20, 2009 8:37 PM
66	Very complicated	Nov 20, 2009 8:45 PM
67	Finding appropriate occupation codes.Frustration with the information given not being correctly tabulated. My acconts balance, are reported as balanced, and what appears on your site, is not correct.	Nov 20, 2009 8:49 PM
68	Constantly freezes up. Confusing/cumbersome for our small organization.	Nov 20, 2009 9:53 PM
69	Glitches during the upload, taking a while to upload, having to manually enter in-kinds etc. Not being able to reach staff to ask questions. I also didn't like having to submit a paper copy last time, thought we were trying to avoid that. Ugh!	Nov 20, 2009 10:19 PM
70	The program idea is good, but it keeps changing. First we did not need to file written reports, now we do. It was not more difficult perhaps because the last reports were not very complicated.	Nov 20, 2009 10:31 PM
71	I had problems entering data, confirming data, saving data, accessing reports, figuring out how to report loans that were being carried over. It was frustrating on every level. A very kind staff member from GAB actually came to my office and reconfigured my computer to enable CFIS to function. This should have been unnecessary as my computer is standard and can be applied to most software and other applications. There was also no "cover sheet" as in the past where I could check balances against my bank statements as time went on. As a volunteer treasurer, my time is limited and I expect that if I am performing my job well, the CFIS should support my work well. I spent untold hours in a continuous loop of frustration.	Nov 20, 2009 11:08 PM
72	I use a Mac. The program is not very compatible with Mac. For example, it will not allow me to enter zip codes.  Its also not very intuitive which is what you need given how many people who have no training and who will never have training are using the program.  Finally, the system went down right when we were required to file a report. I am personally someone who is a stickler for doing things right and I was so worried about what would happen if I didn't get the report in on time. Of course, no one else could get it in either so I wasn't alone.  Thankfully, your staff at GAB is great. I had a number of conversations with Richard Boringer and he was great at helping me out! If you are going to have a poorly designed system, then you have to have good staff!	Nov 20, 2009 11:14 PM
73	slow, when doing name searches it fills in names you need to type fast or start over.	Nov 20, 2009 11:19 PM
74	There have been times where there were not enough options to choose when identifying expense types, etc.	Nov 21, 2009 12:01 AM
75	It makes no sence to the book keeper and the accountant even when talking to the GAB staff. They have no idea why your doing things the way you do so its too hard to understand for people who have no experience.	Nov 21, 2009 12:24 AM
76	So many numbers of the same contributor, never sure which one to use	Nov 21, 2009 12:30 AM
77	Very difficult to work with. Stayed with paper	Nov 21, 2009 2:16 AM
78	taking the time to input every name and all the info needed	Nov 21, 2009 3:43 AM
79	It takes too long to enter information. It is difficult to determine an occupation category. It is sometimes difficult to determine an expense category. I have a hard time finding I.D. numbers for PACs and conduits.	Nov 21, 2009 3:49 AM
80	Filing and confirming approval for final report has always been a problem. f	Nov 21, 2009 4:09 AM

Response Text		
81	My main problem is that I am not very proficient using the computer. Thanks to Tracey Porter for all the help she gave me. I would prefer to do my report the old paper way but I guess that is not the way they want it done.. The July 2009 was the first time that I filed online. Doris Kelley Dunn Treas,	Nov 21, 2009 6:13 PM
82	Although I have not used the system to great extent, I do not have much information to pass on about the problems. I believe the system is a workable and efficient way of filing the reports but need more time and training with using the it.	Nov 21, 2009 7:25 PM
83	To this point I have no problems or complaints.	Nov 21, 2009 9:46 PM
84	It is slow and complicated. I must, though, that the staff are extremely prompt and helpful.	Nov 21, 2009 11:30 PM
85	Couldn't get the entries to work or the downloads and many times the calculations were incorrect.	Nov 22, 2009 3:30 AM
86	Haven't done enough on the system to make suggestions or rate certain aspects. Seems easy & straight forward. Staff have been helpful & interested in resolving potential issues.	Nov 22, 2009 3:58 PM
87	Timing out and losing data from the session.	Nov 22, 2009 5:58 PM
88	I'm still learning to use the system. My account is currently inactive now. One problem was that I was not notified that a report was due in June of this year and was submitted late.	Nov 22, 2009 6:18 PM
89	I often have no income or expenses to report.  It is extremely difficult for me to find the right way to file the appropriate reports.  Also, I use Mozilla Firefox, and the system has not been compatible with Firefox.  In the past, I could file these reports in under 5 minutes. Now, it is hours of frustration.	Nov 22, 2009 9:35 PM
90	Tried to use it twice but was unsuccessful	Nov 22, 2009 10:15 PM
91	None	Nov 22, 2009 10:22 PM
92	Unable to access.	Nov 23, 2009 3:19 AM
93	When I first used it, I spent a lot of time, only to find out that the system wasn't working properly. I thought that I was doing something wrong, and I was afraid that it wasn't going to get in on time.	Nov 23, 2009 3:37 AM
94	Lack of necessary candidate information (ID #s); problems with purchased software & compatibility w/GAB	Nov 23, 2009 4:44 AM
95	Experience problems when typing in a conduit name. It processes too fast - can't even get but a few letters typed before it deletes anything I typed	Nov 23, 2009 4:45 AM
96	Haven't had many problems. Just need to make appropriate changes and stick with that system. Change is stressful when it comes to filing activity with your office.	Nov 23, 2009 12:36 PM
97	The learning curve, for me, was steep. Some aspects were not intuitive or obvious.	Nov 23, 2009 1:47 PM
98	Slow, had uploading problems/errors.	Nov 23, 2009 2:28 PM
99	More than 1 # for the candidates & contributors. This causes confusion when you try to list contributors' information and then pull up and file the transmittal letter.	Nov 23, 2009 3:24 PM
100	The first time that I had to use the CFIS, I had a few questions, but they were answered and it is all good now!	Nov 23, 2009 3:30 PM
101	We are a very small conduit. I have not tried out the CFIS version 2.0. The previous version was very difficult to navigate, although we can see the tremendous benefits by switching from paper filing to using the CFIS.	Nov 23, 2009 5:52 PM
102	SLOW. Should have taken much less time to enter data.	Nov 23, 2009 7:11 PM

Response Text		
103	Some days the system works like a charm. There are other days, more often then not, that it will lock up so I have to go through and do everything again. Or, I can get it to do everything but process transmittal letters.	Nov 23, 2009 8:50 PM
104	I became Treasurer this year only, so it is the only system I know. However, I don't think I would have enjoyed filing by paper.	Nov 23, 2009 9:07 PM
105	It is difficult to remember how the system works - not on it often enough.	Nov 23, 2009 9:55 PM
106	i have not used it yet	Nov 24, 2009 1:08 AM
107	I haven't been able to upload anything yet from the software we use to house our conduit data.	Nov 24, 2009 2:51 AM
108	Access and response times are way, way too long.	Nov 24, 2009 3:41 AM
109	FINDING/accessing the CFIS is difficult. Knowing that reports have been submitted (officially) is nerve wracking.	Nov 24, 2009 5:32 AM
110	Slow response time after entering contributor name. Difficulty in finding report totals in dollars to compare to my grand total to arrive at under \$20 items.	Nov 24, 2009 5:14 PM
111	First time directions were not very clear. Uploading took extended amount of time. Not user friendly.	Nov 24, 2009 5:21 PM
112	The new system is more cumbersome than Excel. The employment codes are time consuming and do not cover every job.	Nov 24, 2009 5:56 PM
113	I sent a long memo (two pages) detailing problems to Richard. the main problem is the long, long wait inputting each piece of data.	Nov 24, 2009 8:15 PM
114	slow recording of contributions, prior year contribution totals did not match to what was submitted, time consuming waiting for the computer to search for matching contributor entries	Nov 24, 2009 8:22 PM
115	Not sure of the proper codes or terms to use for some of the entries.	Nov 25, 2009 5:56 PM
116	delays while loading, too many businesses with same name under vendors, too many different ways to enter same person, no way to view report as a whole before submitting, loan information not correct, will not take entries re: loans	Nov 25, 2009 8:33 PM
117	Application does not work well with the Safari Browser with the MacIntosh OS. Individual GAB staff have been very helpful, but the system is inadequate.	Nov 26, 2009 9:06 PM
118	The biggest complaint I have is that we are a small county party with generally the same donors and the same vendors to deal with on a monthly or annual basis. Why didn't the GAB initially load each counties' data from previous years and allow them to access that data online rather than having to search each of 72 counties' worth of infomation in order to find that one donor or vendor? The second most frustrating thing about the 'new' system is that there may be 5 different entries for the same person, all with minor differences, i.e. Chuck J Smith, Charles J Smith, Chuck Smith, etc. or perhaps First Street or 1st St.... What entry does one use? Another reason to allow each county to access only their data and not the whole state. This was a waste of taxpayer's money, and a complete waste of time for a volunteer to have to deal with.	Nov 28, 2009 1:46 AM
119	Slow reaction - too much wait time.	Nov 30, 2009 4:35 AM
120	Names and addresses of disbursements and contibutors all come up the same for different people. and you cannot change it	Nov 30, 2009 4:11 PM
121	Last filing report did online and was required to submit paper format. I thought the reason for going online was to elimatate the paper. Also, not certain what categories to put some info into and if not what the program wants will get an error message. Categories not broad enough or detailed enough for accurate picture of real world.	Nov 30, 2009 6:21 PM
122	Slow performance. Program locks up occasionally. Generating reports occasional problems.	Nov 30, 2009 9:24 PM

Response Text		
123	Not having the original sheets that were clear about what form I was filling out. A few of the steps still are a little clumsy, the tutorial isn't bad and is helpful. The worse is trying to match the legal names of Campaign committees. Not knowing the candidates or the committees id numbers or the name they filed it under is the absolute worse. thank god for the staff I couldn't get through a filing without them!	Nov 30, 2009 10:47 PM
124	saving and printing the reports	Nov 30, 2009 11:08 PM
125	I use it so infrequently that I have to reacquaint myself.	Dec 1, 2009 4:06 AM
126	For the first report due, I struggled with this system for days. Luckily since then, we have not had any changes in our report.	Dec 2, 2009 4:06 AM
127	The software program is not user-friendly.	Dec 2, 2009 2:51 PM
128	Just very time consuming, needs to be optimized for the data entry -- also, it's probably clear to GAB staff but not to the users	Dec 2, 2009 2:54 PM
129	I don't think I have used CFIS.	Dec 2, 2009 2:55 PM
130	Very Slow, and it keep timing out, so we had to submit the report in parts.	Dec 2, 2009 2:58 PM
131	Matching the format of the CFIS spreadsheet, it would really help if you could just accept any spreadsheet with the required fields. Also, the website is poorly designed and anything but intuitive. Candidates should only appear in a field once, not ten or fifteen times with different id numbers so you have no idea which one you used when you reported a contribution.	Dec 2, 2009 3:05 PM
132	It's not always clear how you should report some expense types.  I think our PAC is in the minority because we are an educators union. It seems that this software is geared more toward those other PACs. For example we get dues from each of our locals and we rebate some of those dues back to the individuals who request it. I remember at the training there really wasn't a category specific to this for reporting.	Dec 2, 2009 3:11 PM
133	the same problems as everyone else, this was the first year to use the new system, so it was hard.	Dec 2, 2009 3:27 PM
134	Instructions not complete and not clear for all transactions. There are several duplicates for contributors and legislators/campaigns when selecting. Should only have one for each.	Dec 2, 2009 3:28 PM
135	I am new treasurer and have only done 2 paper reports, so could not answer most of your questions or comparison. I do not have home computer, and do not care to do reports on work computer. Received some converted finance reports from last year and they had my name on as treasurer. I feel they should have had previous treasurer, as she completed them. Last time I completed report, had hard time getting hold of someone by phone, to answer my questions.	Dec 2, 2009 5:56 PM
136	none to date	Dec 2, 2009 8:33 PM
137	Keeping track of report balances.	Dec 2, 2009 8:51 PM
138	we uploaded and the entire system went down - lost all our data - had to redo the report. Very difficult to understand all the jargon. When entering a committee - unclear as how to find the committee -	Dec 2, 2009 8:54 PM
139	I need only to receive the schedule of when I am to file with you.	Dec 2, 2009 9:10 PM
140	names/addresses appear on list multiple times; list of occupations makes choosing correct occupation difficult;	Dec 2, 2009 9:20 PM
141	Searching for contributors, occupations, etc. arduous (too quick to populate fields and duplicates, etc.).	Dec 2, 2009 10:12 PM
142	Difficult to find the correct terminology/descriptives.	Dec 2, 2009 10:19 PM
143	My problem is I use it so infrequently it is hard to remember steps.	Dec 2, 2009 11:37 PM
144	Very difficult trying to figure out what categories to enter data in.	Dec 2, 2009 11:59 PM
145	I am not sure I am using this system	Dec 3, 2009 12:40 AM

Response Text		
146	The only issue I have is trying to get used to completing the data correctly, once I got familiar with the old system it was very easy to use. Now I'm trying to get used to the new system but there is so much time between reports that I need to re-train myself each time. Your staff has been EXCELLENT to work with & has always been extremely helpful in assisting me. I cannot say enough good things about Tracey & Dennis	Dec 3, 2009 3:50 PM
147	Uploading. Told to email	Dec 3, 2009 6:32 PM
148	Uploading the spreadsheet was difficult, though not impossible. It kept returning errors and even though I opened the error file, I could not easily figure out what the error was. Other times it simply would not allow me to upload. I did get a quick response from GAB staff when I asked for help but I am a volunteer and had to spend way too much time doing this.	Dec 3, 2009 6:58 PM
149	The search suggest dropdowns, now removed, were very bad. Database seems to have a ton of duplicates and runs fairly slow relative to other similar systems.	Dec 3, 2009 6:59 PM
150	Unless you have a degree in Computers, this program is absolutely impossible to understand and use. This takes a normal accounting procedure and makes it extremely difficult. What I handled by myself in a few hours, now takes 2 people to prepare and send to your office. Any entry that does not have a current year will not appear in this current format, which leaves the Report incomplete and incorrect.	Dec 3, 2009 9:02 PM
151	Have not had to file a major activity report under the new system. Not sure how easy or hard that may be.	Dec 3, 2009 11:53 PM
152	extremely slow, cumbersome search process, trouble with final submission	Dec 4, 2009 1:15 AM
153	Data entry is a little clumsy, but it is nice that it fills in data for frequently used sources	Dec 4, 2009 4:43 AM
154	Filling out fields in the excel spreadsheet.	Dec 4, 2009 1:06 PM
155	I had great difficulty accessing and using the program from my server Firefox. I believe there is an error on my last report from difficult processing on the CFIS system that I have not yet been able to correct	Dec 4, 2009 2:09 PM

# Campaign Finance Information System Performance Survey

Provide any suggestions for improvements the G.A.B. can make to CFIS.		
		Response Count
		135
<i>answered question</i>		<b>135</b>
<i>skipped question</i>		<b>118</b>

Response Text		
1	Delete duplicates, other than that, runs very well	Nov 17, 2009 5:34 PM
2	I would like to see "hash totals" before proceeding to the next step/report. Or, perhaps the report/transmittal letter could come up with a "report ok" prompt before proceeding with the final.	Nov 20, 2009 2:51 PM
3	The GAB staff has been extremely helpful.	Nov 20, 2009 2:53 PM
4	Comment: I think it is confusing in some of the terminology used because both candidates and Pacs/conduits use the same system.	Nov 20, 2009 2:54 PM
5	Make your navigation more user-friendly and much quicker and efficient.	Nov 20, 2009 2:57 PM
6	I would like to see it have the ability to remember previous contributors information from one report to the next by the submitting organization so that when you enter the name it has less information to search through to find the correct individual.	Nov 20, 2009 2:57 PM
7	--contributor id's by name rather than ID. Take long time to download & too many docs to search through. --I do think the system will get better. It seems to be set-up for those that type in their information rather than upload. With the large amount of data, uploading is much easier. Improving this section would be helpful.	Nov 20, 2009 2:59 PM
8	Why do we have to spend all this extra time filing reports online with a terrible system and still have to send in the paper copies.	Nov 20, 2009 3:01 PM
9	The GAB staff has been very patient and I thank you for that. We do 3/4 conduits on paper and one on the system. The system one takes the longest but the staff (richard and tracy) are always helpful.	Nov 20, 2009 3:01 PM
10	Looks like you are taking steps to make this more "user friendly"	Nov 20, 2009 3:02 PM
11	I would really really really like to see the GAB consider using an electronic filing system that looks more like FECfile, the FEC's filing software. It isn't fancy but gets the job done. Other than that, GAB staff has always been helpful (Richard in particular is great) and generally can fix a problem when it arises but it is frustrating to have to seek resolution of these issues during an already busy reporting time.	Nov 20, 2009 3:05 PM
12	Find a way to get the system running faster.	Nov 20, 2009 3:07 PM
13	simplification of the computer system	Nov 20, 2009 3:09 PM
14	Cannot think of any at this time.	Nov 20, 2009 3:11 PM
15	Please send periodic reminders of filing deadlines	Nov 20, 2009 3:11 PM
16	More Menu choices and/or sub Menu choices for different scenarios other than the norm.	Nov 20, 2009 3:12 PM

Response Text		
17	I have about 40 contributors that give on a monthly basis. It would be nice if there was some way I could clone the previous entry and just change the date. Tracy has been excellent to work with when I have problems. Give that girl a raise! :)	Nov 20, 2009 3:13 PM
18	Provide more direction or capability within the software to help us troubleshoot and find our own errors so we can finish our reporting in one sitting. I filed electronically before CFIS and I like this concept. What I appreciated about the old filing system is there was a valid check-point in place to ensure our reports were balanced. The new system doesn't allow for this immediate verification. I submit the report wondering if it is balanced or if my receipts were accepted and accurate. An example of this is I received a message stating my reports were received last week. Since I hadn't submitted a filing in months, I was concerned that a reporting error occurred preventing my files from uploading on time or that I missed a filing. The old system allowed me to be confident about my filing and the accuracy of the information submitted.	Nov 20, 2009 3:13 PM
19	Allow users to open spreadsheets in Excel [without the XML] so that the contents can be checked and corrected, if necessary, before final uploading.	Nov 20, 2009 3:14 PM
20	Instead of having to download filed reports in pdf they should be able to be downloaded in excel.	Nov 20, 2009 3:15 PM
21	I saw the changes that will be made regarding speed and am glad to hear it. However, I am concerned that we will no longer be able to choose contributor. Even though it is confusing as to which person to choose, it is very nice to not have to type the address, etc.	Nov 20, 2009 3:16 PM
22	Perhaps to make it more intuitive.	Nov 20, 2009 3:17 PM
23	When all information is input and ready for filing, it would be nice to be able to see the printed format prior to sending (or maybe I just haven't found the way to do it yet).	Nov 20, 2009 3:17 PM
24	Clarify the error report.	Nov 20, 2009 3:20 PM
25	Make the site more userfriendly incorporating the above.	Nov 20, 2009 3:21 PM
26	Make uploading spread sheets more friendly. Make route to entering information on screens quicker. Speed up search time on screen. It takes too long accessing screens and waiting for search. Replace screen information with spread sheet.	Nov 20, 2009 3:28 PM
27	Make your expectations clear. If an electronic copy is all that is needed, you should not change your expectation later. Simplify your data expectations. Permit Excel and QuattroPro spreadsheet filings.	Nov 20, 2009 3:33 PM
28	I haven't had a report due since I registered, so I can't provide useful feedback yet.	Nov 20, 2009 3:38 PM
29	It seems like alot of the instructions do not follow what Conduits do, maybe have separate step by step instructions for Conduits.	Nov 20, 2009 3:50 PM
30	I believe the former treasurer of this organization has sent recommendations to G.A.B. I know that Assemblyman Gary Sherman has supplied detailed recommendations to you in recent months.	Nov 20, 2009 3:56 PM
31	NEED IMMEDIATE REPONSE WHEN QUESTIONS/PROBLEMS ARISE. I find the CFIS easy enough to operate within - when it is working - other than it is very slow working within the program - moving from one screen to the next.	Nov 20, 2009 4:03 PM
32	You should use the "old" paper report forms a a model. If not, perhaps some sort of dictionary to provide examples or explanations for choice terminology.	Nov 20, 2009 4:24 PM
33	The old excel spreadsheet was the best, and before that, the idea of being able to submit in word was great a well.	Nov 20, 2009 4:33 PM
34	Training, Training, Training.	Nov 20, 2009 4:51 PM
35	Filling out the old paper reports was straightforward and relatively simple. It would be a lot easier if I could just fill out the "paper" forms on the computer screen and transmit them when all is entered and everything balances.	Nov 20, 2009 4:52 PM

Response Text		
36	See above.	Nov 20, 2009 4:58 PM
37	Eliminating the contributor's ID or creating a more user-friendly search method to find what's already in the system. Also, stepping back and appreciating everyone's viewpoints as to how things are labeled or represented. Not everyone speaks the same gov. language or on an everyday basis. Simple, yet efficient and thorough.	Nov 20, 2009 5:01 PM
38	Scrape the system and go back to paper. Never had any problems with paper. As usual, Madison ideas don't work.	Nov 20, 2009 5:08 PM
39	Please offer regional (not satellite) training for the CFIS.	Nov 20, 2009 5:18 PM
40	That all candidates are in the system.	Nov 20, 2009 5:19 PM
41	Here's my "pipe dream" - wouldn't it be nice if all agencies (Feds and state, etc.) used the same software?	Nov 20, 2009 5:26 PM
42	None at this time	Nov 20, 2009 5:32 PM
43	It would be easier to make corrections, and it should be easier to view the work in a spreadsheet type format.	Nov 20, 2009 5:33 PM
44	Could you hold training sessions again? I would like to attend again.	Nov 20, 2009 5:41 PM
45	1) Have several people who have a limited knowledge of computers sit down at the computer and try to enter the data and send report. You'll see where the problems are and the questions that are asked. Many of us are volunteers who do reports and have limited computer knowledge. Committee treasurers can change rather frequently. 2) Design program so first time users can comply. Instruction clouds could pop up as you go through the process, to lead you to the next step or take you back if you do not fill something in correctly.	Nov 20, 2009 5:47 PM
46	There's definitely a learning curve on the software. Having staff available to answer questions and help is the best thing to do. It would be nice if there was a way that we could watch the staff virtually do something with our documents, so we are watching them step by step so next time we could do it ourselves. Just a thought, don't know if the technology is possible.	Nov 20, 2009 5:59 PM
47	My only suggestion would be to let those of us who prefer to use paper forms continue to do so.	Nov 20, 2009 5:59 PM
48	Your system does not even support a conduit fund which, as you know, has complicated tracking and reporting requirements. Thus, your online system is useless to us.	Nov 20, 2009 6:04 PM
49	Fix the video. Offer times and who one can call for support. Application show load faster. I got this new volunteer position because the person before was pretty frustrated with the system.	Nov 20, 2009 6:10 PM
50	Have the system accept and show errors/problems quickly. You shouldn't have to check back in to find your report did not go through.	Nov 20, 2009 6:14 PM
51	you're on the right track with the recent changes. Keep up the great job in facing a daunting task!! The staff are terrific!!!!!!!!!!	Nov 20, 2009 6:40 PM
52	A Manual that clearly walks you through each field as it pertains to the individual PAC's application.	Nov 20, 2009 6:51 PM
53	get rid of it. Go back to Excel version of report	Nov 20, 2009 7:07 PM
54	get rid of occupation codes more expense codes/no expense codes, just type them in	Nov 20, 2009 7:23 PM
55	I liked sending it by e-mail in excel form preferably not even pasting it on your form, but just sending it by excel.	Nov 20, 2009 7:24 PM
56	using your excel sheet is much easier	Nov 20, 2009 7:32 PM

Response Text		
57	either make the transmittal letter creation process easier (even automatic, if possible), or else make it optional. we produce our own transmittal notifications, but then have to do it again when we file our reports. at the very least add a "select all" button when creating a transmittal letter.	Nov 20, 2009 7:54 PM
58	Have seperate files for PAC's Candidates to easily enter information and have it show accepted after you enter it. you shouldn't have to wait for a e-mail from you guys to show it went through.	Nov 20, 2009 8:19 PM
59	go back to the old system of emailing excel files since the CFIS doesn't work.	Nov 20, 2009 8:29 PM
60	Maybe a site for helpful hints or a tutorial section to help those of us who forget from month to month how the sysem works.	Nov 20, 2009 8:37 PM
61	Occupation category, I believe you are addressing. The prior spreadsheet accounts balanced,appropriately..would be useful if your updates corrected the current program.	Nov 20, 2009 8:49 PM
62	The old excel spreadsheet method worked better for our small organization.	Nov 20, 2009 9:53 PM
63	Don't abandon the principal of the idea...campaigns will get used to it and quit complaining. At report time, increase your support staff. Need to refine/broaden your occupation list, it's rather limited.	Nov 20, 2009 10:19 PM
64	Please decide the way to file and stay with it. I could go back to the old way with the excell spreadsheets.	Nov 20, 2009 10:31 PM
65	I was relieved to know that the GAB will accept paper for the next deadline.	Nov 20, 2009 11:08 PM
66	Make it Mac friendly. More and more people are getting Macs, particularly because Windows has gotten dodgier and PCs are subject to so many viruses.  Improve the system to be intuitive. Think about who is using it. Most of us are nice people who are helping out our friends who are running for office. We are not professionals at this campaign stuff. Of course those who run for Governor or Atty General are at a level where they hire someone to do this. But the majority of campaigns are for smaller offices, with tiny budgets. We are regular Joe's, off the street, and we don't get all of the complexity of this program.	Nov 20, 2009 11:14 PM
67	start over	Nov 20, 2009 11:19 PM
68	It might be helpful to have instructions.....	Nov 21, 2009 12:01 AM
69	Just ask how much we got from people, how much we sent to campaigns or spent on campaigns. If we do fund raisers just what we earned not what people pretended it was worth. This is just out of control.	Nov 21, 2009 12:24 AM
70	Try to de-dup the contributors so not so many to choose from	Nov 21, 2009 12:30 AM
71	I like the excel part of it, easier to do, fill out the report and send in	Nov 21, 2009 3:43 AM
72	Make it easier to identify PACs. Going back to the Excel spread sheets would make income and expense entries much easeir. Reporting occupation information without having to use a category would be easier.	Nov 21, 2009 3:49 AM
73	Update information and provide training and general information to users by email. Check with users to see if anyone needs additional training and more guidance.	Nov 21, 2009 7:25 PM
74	Keep being open and helpful (as well as patient)!	Nov 21, 2009 9:46 PM
75	Let us do this by Excel Spreadsheet somehow and upload everything at once.	Nov 21, 2009 11:30 PM
76	Eliminate paper copy for reports of revenue and expenses totaling less than \$2500.	Nov 22, 2009 5:58 PM
77	Being able to talk to someone outside of 9-5 would be helpful. I usually do the reports at night when the kids are in bed and if I have a question, I have to wait and call the next day.	Nov 22, 2009 6:18 PM

Response Text		
78	<p>The staff has been super, and once they understand my question, they have been able to point me to the proper place to file. But, each reporting period, I forget what I learned last time and the process is a nightmare.</p> <p>So, if GAB would let us small PACs know how to do this, life would be so much easier.</p> <p>(This has just given me a suggestion, that I should write a note to myself how to do this, rather than wait for GAB to include this information. )</p>	Nov 22, 2009 9:35 PM
79	None	Nov 22, 2009 10:22 PM
80	Make user friendly.	Nov 23, 2009 3:19 AM
81	It worked fine the next time. Thanks for making it easier.	Nov 23, 2009 3:37 AM
82	Site maneuvering can be improved. Access to complete candidate committe IDs would be helpful.	Nov 23, 2009 4:44 AM
83	Make sure you have a quick file method for "No Activity."	Nov 23, 2009 12:36 PM
84	Thank you for the email reminders.	Nov 23, 2009 1:47 PM
85	Better instructions, maybe step by step manual to follow along with.	Nov 23, 2009 2:28 PM
86	More frequent updating of contributor & candidate information.	Nov 23, 2009 3:24 PM
87	I agree with the proposed change to eliminate the occupation code, but I strong disagree with the change that would make us type in contributors every time instead of the system search. This is eliminating a MAJOR advantage of this system in my opinion.	Nov 23, 2009 3:40 PM
88	I anticipate we will be fully switched over to the CFIS the first part of next year. Our conduit is very inactive until the latter half of even numbered years. Thank you for the survey and for working on the system.	Nov 23, 2009 5:52 PM
89	Reduce response time.	Nov 23, 2009 7:11 PM
90	Clearer deadline dates and more general communication with the person submitting the form.	Nov 23, 2009 9:07 PM
91	Post report dates on the home page - I cannot find them anywhere.	Nov 23, 2009 9:55 PM
92	Having took over our funds administration in July, I have not prior experience with which to compare this year to previous years. Although time consuming to data enter all the info through the website, I haven't had any problems. I would appreciate training on both the system and campaing finance in general to help me better understand and manage my administrative responsibilities.	Nov 23, 2009 10:09 PM
93	i have not used the system yet so i am sorry for not filling out the complete survey.	Nov 24, 2009 1:08 AM
94	My only concern was timing for access and response. My other issues relate to change, but we can adapt to a new system.	Nov 24, 2009 3:41 AM
95	Look at other states and what they are using for reporting purposes.	Nov 24, 2009 5:21 PM
96	Returning to an Excel based system, as you have indicated your are going to do will make the entry and retrieval of data much easier.	Nov 24, 2009 5:56 PM
97	get rid of it allow the previous style of electronic reporting	Nov 24, 2009 8:15 PM

Response Text		
98	<p>Conduit - would like to see the actual date of the contribution appear on the conduit letter &amp; report instead of the date of entry. Very confusing to the viewer and to the Administrator.</p> <p>Conduit - would like to see a running total on the screen when entering multiple entries for one conduit check. You have no idea what your total entry is for the conduit check and if it is correct.</p> <p>PAC &amp; Conduit - Would like to see PAC or Conduit ID# somewhere on the entry screen so the Administrator knows they are in the correct account. With multiple accounts it can be confusing to know if you are in the right place.</p> <p>Conduit - Why do the transmittal letters not show the contributors Company or Occupation?</p> <p>Thanks for asking for my opinion.</p>	Nov 25, 2009 5:56 PM
99	Fix issues listed in 9	Nov 25, 2009 8:33 PM
100	The program should support the Safari browser and the Mac OS since we are required to use the internet based sytem.	Nov 26, 2009 9:06 PM
101	Many contributors and vendors are repeats - should not have to re-enter their info.	Nov 30, 2009 4:35 AM
102	Have the form in its normal format so we can enter the info see the final result before submitting	Nov 30, 2009 4:11 PM
103	Being able to go back and forth on pages and having some better references on the committee names or at least where to find them.	Nov 30, 2009 10:47 PM
104	it is somewhat rigid and needs more flexibility for the new commers.	Nov 30, 2009 11:08 PM
105	Eliminate the need to submit a paper copy when submitting by way of CFIS.	Dec 2, 2009 1:30 AM
106	was unable to attend training due to my job and because I am doing this as a volunteer so a different training format or time would help	Dec 2, 2009 4:06 AM
107	Please make it easier to go from page to page without having to reenter information. Also, one page should lead to the next. Make site more understandable, the help button does not provide helpful information.	Dec 2, 2009 2:49 PM
108	Just give us an electronic version of Form EB-2 to complete and submit online.	Dec 2, 2009 2:51 PM
109	sorry I don't have much input as I have only done one report but your staff support has been excellent, my next report should prove more valuable on experience. Hope it goes smoothly and quickly as I will try to upload through a spreadsheet.	Dec 2, 2009 2:52 PM
110	I would be open to sitting down with someone to review the system and provide input -- Joe Deklotz, Candidate for the 33rd Assembly District, 262-370-1802	Dec 2, 2009 2:54 PM
111	I prefer to do the Excel spreadsheet, and eMail the report.	Dec 2, 2009 2:55 PM
112	To be able to submit the report in whole, and it be a faster system.	Dec 2, 2009 2:58 PM
113	Make feedback available on the website so that we can make comments as we are reporting. The staff at the GAB has been very helpful, it would just be nice to get through a transaction without having to call them two or three times every time I try to use the website.	Dec 2, 2009 3:05 PM
114	Maybe you could offer an online refresher training to spend more time going over the correct categories to use when filling out the expense portion. When we had the spreadsheets it seemed more clear cut which category different expenses were to be filed in.	Dec 2, 2009 3:11 PM
115	Perview the completed report before fiilng. Get rid of the statewide vendor list and contribuion list. Have the system create the lists for each committee if possible.	Dec 2, 2009 3:15 PM
116	See #9	Dec 2, 2009 3:28 PM
117	Go back to the election board as a separate organization. We were not well served when the election board disapeared.	Dec 2, 2009 6:21 PM
118	very smalll amount of usage (inactive fund), so no pertinent suggestions	Dec 2, 2009 8:33 PM
119	Would like to see the balances for previous reports brought forward to new report.	Dec 2, 2009 8:51 PM

Response Text		
120	Training - this process is not a jump in and get it done process. Because of the lack of frequency for filings - ways to manuver the software are often forgotten by the next filing period. What would be REALLY helpful is if there were a instant chat with a GAB representative ALSO if once you input a contribution/expendure/ it would automatically populate where on the report it is applied.	Dec 2, 2009 8:54 PM
121	would be nice not to have to put married couples in as two separate entries. Halving the \$25.. family membership dues.	Dec 2, 2009 9:10 PM
122	provide better documentation for system/program including expense types; eliminate listing of occupations; eliminate and prevent multiple entries for single contributor;	Dec 2, 2009 9:20 PM
123	Remove duplicates from searches. Make it easier to choose the correct item from a search.	Dec 2, 2009 10:12 PM
124	Drop-down menu with help categories for each section.	Dec 2, 2009 10:19 PM
125	As user friendly as possible, with as much help text (hover help) that can be inserted. Keep it simple	Dec 2, 2009 11:37 PM
126	I'm not familiar enough with it to tell you how to improve it. I'll work with whatever you put together. Thanks, I think asking for input by the user groups is a great idea	Dec 3, 2009 3:50 PM
127	Get it to upload properly and make it easier to edit/amend the report once uploaded.	Dec 3, 2009 6:32 PM
128	Better explanation of possible upload errors, better FAQ section. There is a set of instructions but they do not tell you what to do if there is a mistake somewhere. A troubleshooting document is badly needed. I much prefer uploading the spreadsheet to manually entering the data, which is time-consuming to have to move from field to field. Either make the uploading much easier or make the data-entry quicker and do not make us have to work with fields.	Dec 3, 2009 6:58 PM
129	Set up a program similar to the one we used for years which listed income, expenditures and provided totals that could be checked against the checkbook for verification. DUMP the codes!! They are time consuming, confusing, incomplete and in many cases not applicable to the expenses of a campaign.	Dec 3, 2009 9:02 PM
130	n/a	Dec 3, 2009 11:53 PM
131	Many of the necessary improvements were referred to in the recent letter that I received from GAB	Dec 4, 2009 1:15 AM
132	Navigation has always seemed a little confusing and could possibly be simplified.	Dec 4, 2009 4:43 AM
133	Overall, I feel the Campaign Finance Filing procedure is headed in the right direction. After working out some kinks, the system should be in fine shape!	Dec 4, 2009 1:06 PM
134	Not sure	Dec 4, 2009 2:09 PM
135	make it easy to go to a specific place and find out when reports are due	Dec 4, 2009 3:32 PM

# State of Wisconsin\Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the December 17, 2009, Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board

Prepared and Presented by:  
Nathaniel E. Robinson  
Elections Division Administrator

**SUBJECT:** Elections Division Activities

### Election Administration Update

#### Introduction

Since the Government Accountability Board's November 9, 2009, meeting, the Elections Division has focused on the following tasks:

#### Noteworthy Election Administration Activities

##### 1. Spring Election

Preparation for the 2010 spring election has begun. There are three Court of Appeals Districts up for election, as well as 44 Circuit Court positions. As of December 3, 46 candidates had registered for the election. As of December 3, if all other ballot access documents are sufficient and received timely, the Board can expect primaries in the offices of Court of Appeals, District 4, Oconto County Circuit Court Judge, Branch 2, and Winnebago County Circuit Court Judge, Branch 5.

Candidates have been sending nomination paper mock-ups for staff preview before circulation. Staff has approved nomination paper formats for approximately 24 candidates. As of December 3, no circulated papers have been submitted.

Incumbent candidates who do not intend to run for the position they currently hold must file a Notification of Noncandidacy by the 2<sup>nd</sup> Friday before the deadline for ballot access

documents in order to avoid a 72 hour extension of the filing deadline. This year, the Notification of Noncandidacy deadline is Friday, December 25. Since G.A.B. offices will be closed for the holiday, the deadline is Monday, December 28. On December 2, reminder letters were sent to all incumbents to timely file a Notification if they do not intend to run again for their current position.

## 2. Cost of Elections

In this tight economy, many questions have been raised recently with respect to the cost of various election components and what level of government is required to pay for what services. Most of the confusion comes when a school or special district is the only level of government holding an election (usually a primary or referendum) on one of the four regularly-scheduled election days. Staff Counsel Mike Haas and Lead Elections Specialist Diane Lowe are studying this issue.

## 3. Voting Equipment

At the November 9, 2009, meeting, the Board observed demonstrations of Election Systems and Software Voting System Components-Election Management System, AutoMark Accessible Ballot Marker, DS-200 Polling Pace Tabulator, M650 Central Count Tabulator. Due to perceived inadequacies of the equipment regarding notification of the effect of overvoting an office, the Board chose to defer approval of any of the equipment for use in Wisconsin, pending additional information. The Board requested additional information on the effect of overvotes and undervotes on the outcome of elections. Election Specialist Ross Hein has studied the Florida S.O.S. over/undervote report from the 2008 Presidential Election, in addition to the Florida Fair Elections Center reports, and will address concerns noted by the Board as a separate Board Agenda item.

## 3. Training

Since the advent of training requirements for municipal clerks, chief election inspectors and other types of election officials, training issues, objections and concerns have been regularly reported. Concerns range from confusion about what training is required and when, training terms and when and how to document attendance at training. Other criticisms include lack of training locally and a desire for more on-line, telephonic or electronic training.

In order to address these issues, an ad-hoc committee of municipal and county clerks was formed. The committee met on October 14 to identify improvements for the Board's training program. During the weeks of November 9 and November 16, Board staff conducted Listening Sessions in seven venues throughout the State. 143 clerks and inspectors attended and provided valuable feedback with respect to training issues. Suggestions and comments gleaned from the Listening Sessions were presented to the ad-hoc Training Committee on December 2. The committee recommended the Board's Training Program be guided by the following principles:

- The Government Accountability Board (Board) believes that ongoing local election officials' education, training and technical assistance is an integral and necessary

core component for ensuring elections are conducted in a consistent, open, fair and transparent manner.

- The Board has the responsibility to ensure required education, training and technical assistance is provided to every local election official, including school district clerks.
- The Board is committed to making available necessary education, training and technical assistance materials and tools to local election officials, and in a variety of formats, modalities and platforms.
- The Board supports the concept of education, training and technical assistance being delivered timely, and as close to the home-base of local election officials, by local election officials and to local election officials, to the maximum extent practical and in the most cost effective manner possible. The Board is dedicated to developing this initiative as soon as possible.
- The Board is committed to seeking legislative changes that will synchronize appointment terms for Municipal Clerks and Chief Inspectors, and clarify the respective training requirements.
- The Board is committed to ensuring that new clerks receive orientation by Board staff within ninety days of when new clerks report for duty.

Additionally, the committee recommended the following training improvements and opportunities which will be addressed beginning in 2010:

- Reinststate the “Train-the-Trainer” program which will enable local and county clerks to conduct training locally;
- Provide access to web-based, online training products and deliver training in a variety of other formats and platforms;
- Seek legislative changes that will synchronize appointment terms for Municipal Clerks and Chief Inspectors;
- Provide new clerks with an orientation packet; and,
- Develop training processes for school district clerks and boards of canvassers.

Staff conducted two Conducting Local Elections WisLine presentations: “Getting Candidates on the Spring Ballot” on November 18 and “Caucus Procedures for Towns and Villages” on December 2. Both of these WisLines count toward recertification hours for municipal clerks.

On November 18, staff participated in a School District Clerk Training sponsored by the Rock County Clerk.

### **Other Noteworthy Initiatives:**

#### 1. Voter Data Interface

Clerks continue to use SVRS to run HAVA Checks to validate against Department of Transportation (DOT) and Social Security Administration (SSA) records, and confirm

matches with Department of Corrections (DOC) felon information and Department of Health Services (DHS) death data, as part of on-going HAVA compliance.

Clerks process HAVA Checks and confirm matches on an ongoing basis during the course of their daily election administration tasks, having done so since the Interfaces became functional in SVRS on August 6, 2008. The number of HAVA Checks done by clerks on an on-going basis reported below should not be confused with the Retroactive HAVA Check process. Retroactive HAVA Check information is in addition to the HAVA Checks performed by our Clerks.

Since the Board's last meeting on November 9, 2009, Clerks processed approximately 1,391 HAVA Checks with DOT/SSA on voter applications in SVRS.

2. Retroactive HAVA Checks Status

An Interim Report on the Retroactive HAVA Check process is attached to this Elections Division Update.

3. Voter Registration Statistics

As of Monday, November 30, 2009, there were a total of 4,553,077 voter records stored in SVRS. Of this number, 3,445,362 were active voters; 912,005 were inactive; and, 195,710 were cancelled voters.

NOTE: An Active Voter is one whose name will appear on the poll list. An Inactive voter is one who may become active again, e.g. convicted felon. A Cancelled Voter is one who will not become active again, e.g. deceased person.

4. Efforts to Improve the Statewide Voter Registration System's Performance

As previously reported, an ad-hoc SVRS Study Team was formed to evaluate the SVRS and plan for the future of the application.

After review of the RFI responses and the ideas presented by vendors, the Study Team opted to also perform an internal review of the SVRS application. Herb Thompson, Study Team member and Director of Applications Development for the Department of Administration, is leading this effort. The result of the review will be a technology roadmap for the SVRS, including timelines and the resources. The plan includes upgrading the SVRS with current technologies, increasing performance of the system, and enhancing various functionalities to meet the needs of SVRS users (Wisconsin's County and Municipal Clerks), while reducing the overall operational expenses of the system.

The review is being performed by Herb Thompson; David Grassl, supervisor of development under Mr. Thompson; and Ben Cameron, Study Team member and SVRS Lead Architect.

5. Online Voter Registration Initiative

The team for developing online registration continues to gather data on best practices and has scheduled meetings in December with interested members of the public. Further meetings with DOT to discuss the HAVA verification process are planned. The team will be meeting in December to review the project plan.

6. Improving the Canvass Process

The team to improve the canvas process and retire the Board's current election administration software, SWEBIS II, continued to meet. DET acquired development staff for this project. G.A.B. staff provided a demonstration of the current application and development work has begun. DET presented a walkthrough of proposed changes. Based upon the presentation, final changes will be determined and the timeline for implementation will be set.

7. G.A.B. Help Desk

The G.A.B. Help Desk is now supporting over 1,700 active SVRS users. 36 new SVRS user accounts were added to the directory in November. The Help Desk staff continues to assist with processing Retroactive HAVA Letter calls. Help Desk staff is continuing to improve and maintain the two new training environments that are being utilized in the field.

Incoming call volume at the Help Desk for November was 445, not including Retroactive HAVA Letter calls. The majority of calls were from SVRS users requesting assistance with the upgraded Citrix Client and/or help setting up new computers to run SVRS. There were 37 anonymous calls asking to verify a voter's status.

8. Voter/Felon Comparison Audit

After all information relating to voter registration and participation was completed in SVRS for the November 2008 Presidential and General Election, SVRS staff compared the list of voters with a list of felons still under supervision on Election Day, as provided by DOC.

- 213 voters were matched and the list was sent to DOC for confirmation that the felons on the list were indeed still under supervision on Election Day.
- Once the verification by DOC staff was completed, a list of 195 remaining voters was sent to affected Clerks to review for accuracy. The 78 affected Clerks had until September 21 to respond.
- After review of Clerk responses and clarification by DOC on some records, 124 individuals were referred to the appropriate 37 District Attorneys on November 17.
- Staff Counsel has received 16 telephone contacts from District Attorneys regarding the referrals requesting further information and providing comments.

- 8 of the 16 District Attorneys subsequently filed their required 40-day status reports. One District Attorney filed a partial report.

Meanwhile, since all voter information relating to voter registration and participation for the February 17, 2009, Spring Primary and April 7, 2009, Spring Election is completed, the Board staff began the voter comparison for these election events.

- 3 potential matches were found for the February Primary and 16 potential matches were found for the April Election.
- After verification by DOC staff that the felons on the list were indeed still under supervision on Election Day, 3 names remained for the February Primary and the number was reduced to 12 names for the April Election.
- On December 4, lists of the 15 remaining voters were sent to the 5 affected Clerks for their review.
- Once review of the Clerk's responses is complete, the appropriate District Attorneys will be notified before the end of the year.

## 9. SVRS Core Activities

### A. Software Upgrade(s)

- DET developers completed work on a new version of the "middleware" that supports the SVRS Interfaces with the Department of Transportation (DOT), Department of Health Services (DHS) and Department of Corrections (DOC). The new software includes more efficient file handling, as well as better reporting. A reporting issue was discovered in testing. DET staff corrected the issue and the new middleware will be installed in early December and used for processing the December DOC and DHS files.
- SVRS 6.6 Patch 5 was installed on November 12, 2009. This patch contains long awaited enhancements to the death matching in SVRS.
- A new version of the SVRS application, version 6.7 is also being tested. This new version includes long awaited enhancements to the duplicate matching function in SVRS. Version 6.7 is scheduled to be promoted to the final of testing the week of December 7, 2009, and be deployed by the week beginning December 21, 2009.

### B. System Outages

Beginning in mid-November, SVRS users experienced intermittent difficulty logging in and locking problems while using the application. DET and Board staff are investigating the root causes and putting mitigation strategies in place. Most recently, standard reboot protocols failed at DET and caused a problem for users. Board staff is now receiving alerts related to server utilization. DET and Board staff are jointly reviewing logs to determine the proper settings and determining protocols to avoid these problems in the future.

### C. DET Support

As previously reported, Department of Administration/Division of Enterprise Technology Administrator Oskar Anderson, has appointed a senior-level staff person to manage IT issues between DET and the Board. An introductory meeting between the Board's management staff and the new DET Account Manager is being arranged for mid-December.

### **30-Day Forecast**

1. The Spring Primary and Election will be the Board staff's focus for December 2009 thru February 2010. Ballot access documents are due at 5:00 p.m. on Tuesday, January 5, 2010. Challenges to nomination papers may be filed up until close of business on Friday, January 8. Candidates must be certified to the county clerks no later than Tuesday, January 12.
2. The spring primary will be held on Tuesday, February 16, 2010. Canvassing of the primary will begin Monday, February 22 and will be completed no later than Tuesday, March 2. The Spring Election will be held on Tuesday, April 6, 2010.
3. In January and February 2010, staff will also be conducting Chief Inspector Baseline Training and Municipal Clerk Core Curriculum Training in approximately 40 locations.
4. Progress continues toward an automatic canvass process within the SVRS so that the aging and fragile election information system known as SWEBIS II may be retired. It is anticipated that the SVRS canvass system and SWEBIS II will run contemporaneously for the April election as a trial run. Complete roll out of the system is slated for the September Partisan Primary.

### **Action Items**

This is an informational update. No action is required of the Board at this time.

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JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## **Interim Report**

(Presented to the Government Accountability Board at the December 17, 2009, Meeting)

Prepared by Sarah Whitt  
SVRS Functional Team Lead

### **Status of Retroactive HAVA Checks** (January 1, 2006 – August 5, 2008)

#### **Background**

The Federal Help America Vote Act of 2002 (HAVA) required Wisconsin to compare voter registration information with information on file with the Department of Transportation, Division of Motor Vehicles (DMV) or the Social Security Administration (SSA). These “HAVA Checks” became available in the Statewide Voter Registration System (SVRS) in August 2008.

In January 2009, the Government Accountability Board (Board) approved a protocol to perform “Retroactive HAVA Checks” on all voters who registered on or after January 1, 2006, but before August 6, 2008 when the checks became available in SVRS. In accordance with the protocol, the Retroactive HAVA Checks were performed in May and June of 2009:

- 777,561 Retroactive HAVA Checks were performed in SVRS
- Approximately 120,000 of the checks initially resulted in a non-match.

The protocol provided that Board staff would send letters to all voters whose Retroactive HAVA Check resulted in a non-match, requesting that they contact the Board to verify or correct information in order to achieve a successful match. Municipal clerks were given two options related to the letters:

1. Send letters their voters immediately (the first wave of letters).
2. Delay sending the letters until the fall of 2009, giving clerks time to attempt to resolve their non-matches before having their letters sent (the second wave of letters).

The protocol also called for Board staff to present a final report on the Retroactive HAVA Check project at the December 2009 Board Meeting. However, Board staff opted to extend the timeline on the project to allow time to revisit the process used for the letters that were sent to the voters with a non-match. Many important lessons were learned with the first wave of letters, and Board staff felt it was critical to apply that learning to the second wave of letters. Unfortunately, revising the process delayed the mailing of the second wave of letters from September (as planned) to late November. Therefore, Board staff is not able to present a final report at the December meeting. This interim report is being presented at the December meeting, and the final report will be presented at the March 2010 meeting.

### First Wave of DMV Ping Letters

The first wave of DMV Ping Letters was mailed in July 2009 for those municipalities that opted to have their letters sent immediately (approximately 87,000 letters were mailed on July 31, 2009). The DMV Ping letters informed voters that some of their voter information did not match the information on file at DMV or SSA and instructed the voters to contact the Board's Help Desk within ten (10) days to verify their voter information.

### Voter Response to First Wave of Letters

Voter response to the letters was greater than anticipated and overwhelmed Board staff and facilities. Many voters were unable to get through to the Help Desk at all, or were forced to leave multiple messages. Many voters responded via e-mail, fax, or wrote letters. Board staff brought on temporary workers via a State contract to assist in handling the high call volume.

The first wave of letters resulted in the following responses, with some voters taking multiple actions:

- Approximately 17,000 of the letters were returned by the post office as undeliverable.
- Tens of thousands of voters reached the Help Desk by telephone.
- Approximately 5,500 voters had to leave messages and were subsequently contacted by Board staff to have their information verified.
- Approximately 9,000 voters sent e-mails.
- Approximately 560 voters sent letters or faxes.
- Approximately 25,000 total voters were able to reach the Help Desk in some form and have their information verified.

### Second Wave of Letters

In response to comments and feedback regarding the approach used for the first wave of letters, Board staff revisited the process for the letters that would be sent to voters in those municipalities that opted to have their letters delayed until the fall. Board staff prepared recommendations for the second wave of letters, and solicited feedback from municipal and county clerks to ensure a more sound process. Some notable improvements in the revised approach included:

1. The letter to voters specified which data element did not match (name, date of birth, driver license number, or social security number) to reduce voter confusion and any perception that the letters were a scam.
2. The letters were staggered in batches of 5,000 to better manage the volume of responses.

3. The letters asked the voter to fill out a form to verify their information and return it in a postage-paid business reply envelope. Contacting the Help Desk phone number was encouraged only if voters had questions regarding the letter.

While the new protocol greatly improved the process, development of the protocol delayed the mailing of the second wave. Originally targeted to be mailed in September, the second wave of letters was actually mailed out in late November and early December:

- The first 5,000 letters were mailed on November 25, 2009.
- The second 5,000 letters were mailed on November 30, 2009.
- The last batch of 4,918 letters was mailed on December 4, 2009.

The following chart provides the breakdown of the number of letters that were mailed out, based on which piece of information did not match:

<b>Letter</b>	<b>Count</b>
Name Does Not Match	9,527
Driver License Does Not Match	3,882
Date of Birth Does Not Match	643
SSN Non Match	866
<b>Total:</b>	<b>14,918</b>

### Current Activities

In November, Board staff hired limited-term employees (LTEs) to assist in correcting the voter registration records for the voters who responded to the letters, and to handle phone calls from voters related to the second wave of letters.

Below are some relevant current statistics as of December 1, 2009:

- Board staff has corrected over 10,000 of the 25,000 voters who contacted the Help Desk to have their information verified and corrected.
- The current match rate for the Retroactive HAVA Checks is 89% (88,118 current non-matches). This is significantly higher than it was when the Retroactive HAVA Checks were first run. The initial match rate right after the checks were first completed was only 84% (120,973 initial non-matches).

The remaining non-matches represent a variety of circumstances, including (but not limited to): voters whose letter was returned undeliverable; voters who responded but whose data has not yet been corrected; voters who were included in the second wave of letters and have not yet responded; voters who could not get through to the Help Desk; voters who have correct information in SVRS but incorrect information at DOT and therefore remain a non-match; or voters who simply did not respond to the letter. Board staff is considering different options to address the remaining non-matches. The number of non-matches is expected to continue to decrease as voters respond to the second wave of letters, and as Board staff continues to make corrections.

Next Steps

A final report will be presented to the Board at the March 2010 meeting. The final report will include updated statistics on the number of non-matches remaining, including the reasons for the non-match, as well as additional relevant information regarding the overall results of the Retroactive HAVA Check project, and the lessons learned from this initiative.

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy, Legal Counsel  
Wisconsin Government Accountability Board

Prepared by: Jonathan Becker, Administrator  
Ethics and Accountability Division

**SUBJECT:** Ethics and Accountability Division Program Activity

### Campaign Finance Program

Richard Bohringer, Tracey Porter and Dennis Morvak, Campaign Finance Auditors

Government Accountability Board campaign finance auditors continue to work on updating committee registrations and work to help new committees register with the state using the Campaign Finance Information System. In preparation for the 2010 January Continuing campaign finance report filing, staff is reviewing and revising the filing notices, instruction manuals and paper forms to conform to the changes being made in the Campaign Finance Information System (CFIS). Data quality assurance reviews of information filed in CFIS are also being conducted by staff on a continuous basis.

In preparation for the upcoming filing, staff prepared and mailed two pieces of correspondence to active, state registered committees. The first letter informed registrants that state law requires a campaign committee to provide its G.A.B. identification number and name as it appears on the committee's GAB-1 registration statement when making a contribution to another campaign committee. This clarification was communicated to committees to help receiving committees obtain the necessary information to file an accurate campaign finance report. The second piece of correspondence sent to all active committees was directed to conduits. This letter encouraged and informed candidates on how to generate a transmittal letter using CFIS. By using CFIS, the conduit will generate a pass code on the transmittal letter that the receiving committee can use to upload contribution information into their campaign finance report without having to enter it into the system.

### Lobbying Update

Tommy Winkler, Ethics Specialist

Government Accountability Board staff continues to process 2009-2010 lobbying registrations, licenses and authorizations. Processing performance and revenue statistics related to this session's registration is provided in the table below. Staff continues to process lobbying interests reported by

principal organizations and provide advice related to Chapter 13, *Wisconsin Statutes*, on a daily basis. In mid November, staff met with IT personnel from the Department of Administration to review and discuss a project proposal, timeline and costs associated with a new lobbying database application. Staff is currently finalizing the proposal and will begin the project in January, 2010.

<b>2009-2010 Legislative Session: Lobbying Registration by the Numbers</b> (Data Current as of December 3, 2009)			
	<b>Number</b>	<b>Cost</b>	<b>Revenue Generated</b>
<b>Organizations Registered</b>	728	\$375	\$273,000
<b>Lobbyists Licenses Issued (Single)</b>	612	\$250	\$153,000
<b>Lobbyists Licenses Issued (Multiple)</b>	133	\$400	\$ 53,200
<b>Lobbyists Authorizations Issued</b>	1608	\$125	\$201,000

**Financial Disclosure Update**

Tommy Winkler, Ethics Specialist; Cindy Kreckow, Ethics Support Specialist

Government Accountability Board staff is preparing for the 2010 Statement of Economic Interests filing period. Database records, forms, instructions and reports have all been updated to reflect the upcoming filing year. Staff has been in contact with all state agencies to review the list of officials required to file statements in order to ensure its accuracy before the 2010 pre-printed statements are mailed. Staff also identified 91 active 2010 reserve judges and prepared pre-printed copies of their Statement of Economic Interests. These Statements will be mailed to reserve judges in early January, 2010. Reserve judges are required to file a Statement of Economic Interests with the G.A.B. within 21 days of taking a case.

Both state court and municipal judge candidates are required under Chapter 19.43(4), *Wisconsin Statutes*, to file a Statement of Economic Interests with the Government Accountability Board in order to have their name appear on the ballot for the spring election. As of December 3, 2009, 180 statements of economic interests forms have been mailed out to incumbent judges and challengers seeking a judicial position in the spring 2010 election. Staff will continue to process candidates' statements throughout the month of December. In order to have his or her name appear on the ballot for the spring election, a candidate must have his or her statement filed with the Government Accountability Board no later than 4:30 p.m. on Friday, January 8, 2010.

Staff is also preparing Quarterly Transaction reports for State of Wisconsin Investment Board members and staff required to file quarterly reports. 37 officials are required to file and the 4<sup>th</sup> quarter statements are to be completed and returned to the G.A.B. no later than February 1, 2010. These reports are reviewed by the Legislative Audit Bureau.

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KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the December 17, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy, Director and General Counsel  
Wisconsin Government Accountability Board

Prepared by: Kevin J. Kennedy, Director and General Counsel  
Sharrie Hauge, Chief Administrative Officer  
Reid Magney, Public Information Officer

**SUBJECT:** Administrative Activities

### Agency Operations

#### Introduction

The primary administrative focus for this reporting period has been on preparing for the agency's federal compliance audit, staff recruitments, communicating with agency customers and presentations.

#### Noteworthy Activities

##### **1. Federal Compliance Audit Preparations**

On December 16 & 17, Dr. Mark Abbott from the U.S. Elections Assistance Commission (EAC) and two pre-audit contractors will be meeting with staff to conduct a pre-audit of Wisconsin's administration of Help America Vote Act Funds in preparation for the agency's general audit in January 2010.

In preparation for the pre-audit, staff has been compiling expenditure information for all HAVA years, compiling interest earned data, updating the financial internal control procedures, documenting all capital assets and developing step by step descriptions of the voting equipment grant/sub grant program.

##### **2. Staffing**

Currently, we are interviewing for a vacant Office Operations Associate position and seeking approval from the Centralized Position Review Committee to fill three federally

funded vacant positions, which include a Training Officer, Elections Specialist and an IS position.

### **3. Communications Report**

Since the November 9, 2009 Board meeting, the Public Information Officer has responded to numerous media inquiries and planned communications strategy to further the Board's mission.

Significant time was spent leading development of a new web site for the Board. The web site team had previously concentrated on improving the site's organizational structure, and most recently we have focused on deploying and refining a development site, which uses free, open-source software. Senior management has reviewed and preliminarily approved the site's structure and design, and the web site team will be working with agency staff to move content from the two current web sites to the new site during the month of December. We anticipate the site being ready for public deployment in January.

I accompanied the Director to meetings with members of our Assembly and Senate oversight committees, as well as the Joint Committee on Finance, regarding the federal Military and Overseas Voter Empowerment Act and the Board's Early Voting study. I also assisted with the preparation of the Early Voting report and assembling the public comments on the report. Finally, I have begun working on a project to improve the assembly and presentation of Board materials.

### **4. Meetings and Presentations**

The Director and General Counsel had several informal meetings and contacts with key agency stakeholders related to agency information technology issues, proposed legislation, the agency budget, and the Campaign Finance Information System (CFIS). I monitored several meetings organized by the Elections Division related to the early voting, 2010 census planning, SVRS enhancements, election official training and clerk communications. I also monitored Ethics and Accountability Division presentations on lobbying and CFIS planning. I also was involved in discussions on the development of the lobbying web site update that we will begin next month.

Jonathan Becker and I attended a hearing on campaign finance reform held by the Assembly Committee on Elections and Campaign Reform on November 17, 2009. I responded to a series of questions on various election bills that were also on the Committee agenda. I have been meeting individually with members of the Legislative Joint Committee on Finance, the Assembly Committee on Elections and Campaign Reform and the Senate Committee on Labor, Elections and Urban Affairs to discuss the implementation of the Military and Overseas Voters empowerment (MOVE) Act. I also briefed legislators on our Early Voting recommendations and the request by municipal clerks to move the deadline for in-person absentee voting from the day before the election to a day in the week preceding the election.

David Buerger, Shane Falk and I met with state Department of Justice attorneys and U.S. Department of Justice attorneys to discuss the impact of the acquisition of Premier Election Systems by Election Systems and Software (ES&S). This consolidation of voting

equipment vendors has raised concerns among our local election officials as well as election administrators around the country. One of the remaining vendors, Hart Intercivic, which does not do business in Wisconsin has filed suit to block the acquisition. Ross Hein has been coordinating our response to inquiries on this issue.

Nat Robinson, Jonathan Becker and I met with Oskar Anderson, the state's chief information technology officer, to address technical service support issues and explore means of managing our application development. Although we are a small agency, our information technology activity is huge and is an essential element of our program operations. We are discussing ways to ensure we have the technical professional support to ensure better implementation of information technology projects along with support for existing applications.

The Pew Charitable Trusts Center on the States has included me along with several other state and local election officials on its Voter Registration Modernization Design Working Group. The goal of the working group is to identify practices and policies that will enhance the efficiency, accuracy and integrity of voter registration records and achieve significant cost savings through the use of technology. The most recent set of meetings which I have participated in was held on November 19 and 20, 2009. PEW will release a report in late January 2010 drawing on much of feedback the working group provided. I have already received some inquiries from legislators interested in pursuing means of using technology to improve voter registration rolls.

Jonathan Becker and I participated on several panels for the 31<sup>st</sup> annual conference of the Council on Governmental Ethics Laws (COGEL). Jon was a participant on a panel on *What Defines Influence: Do Lobbying Registration and Reporting Requirements Really Get At It?* I organized and moderated a panel on the organizational structure of election agencies: *Models of Election Administration: Professional Staff or Legislative Oversight* – which included panel members from the United Kingdom, Saskatchewan, Canada; and Wyoming. I also put together and moderated a program on tracking campaign related communications, *Independent Expenditure and 527 Trends*, that focused on the implications of the *Citizens United* decision. The panel consisted of attorneys in private practice, a representative of the IRS, a member of the Federal Election Commission and an attorney for a campaign watchdog group. This panel has been a staple at prior COGEL Conferences. I also participated on a panel on *Making Voting More Accessible*. Dotti Milner was instrumental in organizing material for this presentation.

## **5. Next meeting**

The Government Accountability Board will meet by teleconference on Thursday, January 14, 2010. A time for the meeting has not been established. Since some members will be out of state, the timing needs to be coordinated. Please be prepared to set a time at the December 17, 2009 meeting. The January 14, 2010 meeting will be scheduled for 2 hours. We anticipate having only a few items on the agenda. The first is selection of a new Chairperson and other officers. The second is delegation of specific authority to the Director and General Counsel as provided in §5.05 (6), Wis Stats. We anticipate there may be ballot access issues to resolve based on the January 5, 2010 filing deadline and possibly a closed session action.

## Looking Ahead

The staff will continue to prepare for the federal audit of HAVA funds, to work with the Legislature on legislative initiatives, to carryout a number of organization functions related to ongoing investigations, administrative rule promulgation, informational manual revisions, preparing for the 2010 election cycle and rolling out the revised agency web site.

Action Items

1. Set time for the January 14, 2010 teleconference meeting.