

Meeting of the Board

Monday, January 28, 2008

9:30 A.M.

State Capitol, GAR Room, 413 North

Madison, Wisconsin

Agenda

Open Session

Page #

A. Call to order.

Judge Cane

B. Director's report of appropriate notice of meeting.**C. Approval of minutes.** Approve minutes of previous meeting.

See attached minutes

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D. Selection of chair.

See attached materials

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E. Public comment.*Break***F. Demonstration of web sites.**

1. Eye on Lobbying - Barton Jacque, Ethics Specialist
2. Eye on Financial Relationships - Tommy Winkler, Ethics Specialist
3. Contract Sunshine - Tommy Winkler

G. Overview of lobbying law and ethics code.

Staff: Jonathan Becker, Administrator, Division of Ethics and Accountability

H. Overview of investigation procedures.

Staff: Jonathan Becker

See attached materials

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I. Process for review of opinions, guidelines and rules of Elections and Ethics Boards.

Staff: Kevin Kennedy, Legal Counsel

See attached materials

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J. Administrative rules. Emergency rule to amend Chapter EIBd 10 and repeal Chapter Eth 3. Authorization to proceed with promulgation of EIBd chapters 5, 12, and 13 as GAB rules.

Staff: George Dunst, Staff Attorney

See attached materials

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**If the room at the Capitol is not available, the meeting will be held in the
Risser Justice Center, 120 Martin Luther King Jr. Blvd., Room 150.**

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.

K. Director's report.

Elections division report.

Ethics and accountability division report – campaign finance, state official financial disclosure, lobbying registration and reporting, contract sunshine.

Agency administration and legal issues – general administration and orders.

See attached materials

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L. 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 pursuant to the following statutes:

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],

Following the meeting the Government Accountability Board members will have an informal get-together to meet agency staff.

The Government Accountability Board has scheduled its next meeting for Monday, February 25, 2008 at a location to be determined

**If the room at the Capitol is not available, the meeting will be held in the
Risser Justice Center, 120 Martin Luther King Jr. Blvd., Room 150.**

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.

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD
Legislative Council Conference Room
Fourth Floor, 1 East Main Street
Madison, Wisconsin
December 10, 2007
9:00 a.m.

DRAFT:
Minutes not yet approved by the Board

Meeting Minutes

<u>Summary of Significant Actions Taken</u>	page
A. Delegate Authority to GAB Legal Counsel	2
B. Allow staff to pursue campaign finance software development	2
C. Designate GAB Legal Counsel as Chief Election Official	3
D. Approve hiring of Ethics and Accountability Division Administrator	3
E. Approve hiring of Elections Division Administrator	3
F. Approve GAB 2008 meeting calendar	4

Present: Judge Michael Brennan, Judge Thomas Cane, Judge David Deininger, Judge William Eich, Judge James Mohr, Judge Gerald Nichol

Absent: None

Staff present: Kevin Kennedy **Elections Board staff present:** George Dunst, Barbara Hansen, Sharrie Hauge, Nathan Judnic, Molly Koranda, Diane Lowe, Reid Pederson, Kyle Richmond **Ethics Board staff present:** Jonathan Becker, Helena Huddleston, Bart Jacque, Roth Judd, Tommy Winkler

9:03 a.m. Chairman Cane called the meeting to order.

I. Introduction of Selected Agency Staff

Kennedy asked staff members of the Elections and Ethics Boards to introduce themselves to the Board members.

Judge Brennan requested a staff organization chart and list of Web addresses for the current agencies.

II. Personal Appearances and Public Comment

There were no personal appearances or comments from the public.

III. Delegation of Certain Authority to Legal Counsel

MOTION: Delegate the following authority to its Legal Counsel: 1) to intervene in actions under the provisions of section 5.05(9), Wis. Stats.; 2) to issue compliance review orders under the provisions of section 5.06, Wis. Stats.; 3) to exempt municipalities from polling place accessibility requirements pursuant to the provisions of section 5.25(4)(a), stats.; 4) to exempt municipalities from the requirements for the use of voting machines or electronic voting systems pursuant to the provisions of section 5.40(5m), Wis. Stats.; and 5) to authorize the non-appointment of an individual who is nominated to serve as an election official under the provisions of section 7.30(4)(e), Wis. Stats. The Legal Counsel shall consult with the Board Chair to determine whether board members should be polled or a special meeting conducted before action is taken. Legal Counsel does not need to consult with the board chair with respect to decisions to permit a municipality to use paper ballots instead of electronic voting equipment, to exempt municipalities from polling place accessibility requirements or to authorize the non-appointment of an individual who is nominated to serve as an election official. The Legal Counsel shall also report, at the board meeting immediately following action on the delegated authority, the specifics of the action taken, the basis for taking the action and the outcome of that action. Moved by Nichol, seconded by Eich. Motion carried.

IV. Report on Campaign Finance Software Application

MOTION: Allow staff to move forward with campaign finance software application and sign contract with vendor (PPC). Moved by Nichol, seconded by Eich. Motion carried.

V. Demonstration of Statewide Voter Registration System (SVRS)

The demonstration was tabled until after item X. The report was received for information purposes only. The Board took no action.

VI. Report on Agency Actions to Respond to Legislative Audit Bureau Report on Election Law Compliance (Oral Report)

The report was received for information purposes only. The Board took no action.

VII. Legislation (distributed at the meeting)

The report was received for information purposes only. The Board took no action.

10:47 a.m. The chair called a recess.

10:58 a.m. The chair reconvened the meeting.

VIII. Appointment of Chief Election Official

MOTION: Designate its Legal Counsel, Kevin J. Kennedy, as the chief election officer for the State of Wisconsin pursuant to section 5.05 (3g), Wis. Stats. Moved by Deininger, seconded by Nichol. Motion carried.

IX. Proposed 2008 Meeting Dates

The discussion about 2008 meeting dates was tabled until after item X.

11:03 a.m.

X. Closed Session Pursuant to Sections 19.85 (c) and (g), Wis. Stats., to Consider Employment of Public Employees over which the Board Exercises Responsibility (Election Division Administrator and Ethics/Accountability Division Administrator) and to Confer with Legal Counsel Concerning Strategy with Respect to Litigation in which the Board is, or is Likely to Become, Involved.

MOTION: Enter into closed session. Moved by Eich, seconded by Nichol.

Roll call:	Brennan:	Aye	Cane:	Aye
	Deininger:	Aye	Eich:	Aye
	Mohr:	Aye	Nichol:	Aye

Motion carried, 6-0.

The Board went into closed session with the Legal Counsel.

1:20 p.m. The Board reconvened in open session

MOTION: Approve the recommendation of the Legal Counsel to hire Jonathan Becker as the Administrator for the Ethics and Accountability Division at a starting salary of \$110,000. Moved by Nichol, seconded by Eich.

Roll call:	Brennan:	Aye	Cane:	Aye
	Deininger:	Aye	Eich:	Aye
	Mohr:	Aye	Nichol:	Aye

Motion carried, 6-0.

MOTION: Approve the recommendation of the Legal Counsel to hire Nathaniel E. Robinson as the Administrator for the Elections Division at a starting salary of \$100,000. Moved by Mohr, seconded by Deininger.

Roll call:	Brennan:	Aye	Cane:	Aye
	Deiningner:	Aye	Eich:	Aye
	Mohr:	Aye	Nichol:	Aye

Motion carried, 6-0.

The chair returned to item V. and the SVRS demonstration proceeded.

XI. Discussion of Agency Administration Issues

MOTION: Set the 2008 GAB meeting schedule as follows: January 28, February 25, March 26, May 5, June 9, July 16, August 28, October 6, November 10 and December 17, all at 9:30 a.m. Moved by Cane, seconded by Eich. Motion carried.

Judge Nichol suggested that the GAB schedule a meeting at the State Capitol at some point and invite governmental leaders to comment at the beginning of the meeting about the charge and course of the new board, or schedule a public hearing for the same reason.

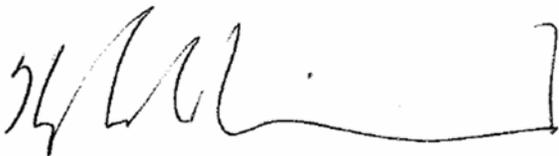
MOTION: Adjourn the meeting. Moved by Nichol, seconded by Eich. Motion carried.

3:25 p.m. The meeting was adjourned.

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The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday, January 28, 2008, in the GAR Room, 417 South, the State Capitol building, Madison, Wisconsin.

GAB minutes were prepared by:



Kyle R. Richmond, Public Information Officer

January 9, 2008

Date

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Legal Counsel

MEMORANDUM

TO: Government Accountability Board Members

FROM: Kevin J. Kennedy, Legal Counsel

DATE: January 28, 2008 Meeting

SUBJECT: Selection of Board Chair

Each state agency administered by a board must elect a chairperson, vice-chairperson and secretary at its first meeting of every year. S.15.07(2), Stats. The Government Accountability Board is required to select its Chairperson by lot drawn by the current chairperson at the first meeting of the Board in January of each year. Section 15.07(2)(b), Stats. There is no restriction on an individual being selected more than once during the member's term.

Some Board members have expressed a desire to not serve as Board Chair. There is no requirement the person selected has to serve. The staff believes that a member selected by lot may decline to serve. In that case, the Chair would select another name.

Although it may appear practical for an individual member who does not want to serve to request his name not be included in the drawing, staff believes this frustrates the spirit of the requirement to select the Chair by lot.

Each Board is required to select a chairperson, vice-chairperson and secretary. The selection process for the chairperson of the Government Accountability Board is set by statute. The selection of the other officers is not.

The staff believes the Board should select a vice-chairperson and a secretary as required by statute. This establishes a temporary line of succession if the chair or vice chair is unable to act. The Board may draw the name of each officer or elect the officer. A list of proposed motions accompanies this memorandum to implement the selection of the vice-chairperson and secretary.

Motion: The Government Accountability Board select its vice-chairperson and secretary by drawing names by the chairperson.

Motion: The Government Accountability Board select its vice-chairperson and secretary by election of the members in attendance.

Motion: I nominate _____, to serve as vice-chairperson of the Government Accountability Board.

Motion: I nominate _____, to serve as secretary of the Government Accountability Board.

If there are no other nominations, the Board Chair may declare nominations closed and the nominee elected without any further action by Board members.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Legal Counsel

Memorandum

To: Government Accountability Board
From: Jonathan Becker, Ethics and Accountability Division Administrator
Date: January 18, 2008
Subject: Investigation procedures concerning possible violations of the Ethics Code, lobbying law, and campaign finance law

Initiating an investigation

Provisions governing investigations by the Government Accountability Board (“GAB”) are found in §5.05, *Wisconsin Statutes*. Section 5.05 (2m) (a) provides that “[t]he board shall investigate violations of laws administered by the board and may prosecute alleged civil violations of those laws.” The statute also provides that “[a]ny person may file a complaint with the board alleging a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19.”¹ §5.05 (2m) (c) 2. a.

Initiating an investigation. If the board believes that there is reasonable suspicion that a violation of law has occurred or is occurring, the board may by resolution authorize the commencement of an investigation. A resolution requires at least 4 votes. §5.05 (1) and (2m) (c) 3. The board may also broaden the scope of an investigation if the investigation produces evidence of additional violations. §5.05 (2m) (c) 13.

Any person to whom the Ethics Code or lobbying law may have application may request the board to make an investigation of his or her own conduct. §5.05 (2m) (c) 3.

Is a complaint necessary? No. Under prior law, both the Election and Ethics Boards had authority to investigate possible violations of law with or without the receipt of a complaint. Former statutes provided that the Elections Board “shall upon complaint by any person or on its own motion investigate violations of the elections law.” Former statutes provided that the Ethics Board, “[f]ollowing the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis for the belief that a violation of [the Ethics Code or lobbying law] has been committed or that an investigation of a possible violation is warranted,” may investigate.

The new statute does not expressly state whether or not the GAB may investigate a matter if it has not received a complaint. However, the Legislative Reference Bureau analysis of the bill enacted into law does not note any change in this authority and simply states that “[u]nder the substitute amendment, the board may investigate any alleged

¹ A complaint alleging a violation of §19.45 (13), *Wisconsin Statutes*, by a candidate (the pay-to-play statute) may not be filed 120 days before an election or after a special election has been ordered. §5.05 (2m) (c) 2. b. Any person subject to the Ethics Code or lobbying law may also request the GAB to investigate his or her own conduct. §5.05 (2m) (c) 3.

violation of the elections, ethics, or lobbying regulation laws and may prosecute alleged civil violations.” This analysis comports with the plain language of §5.05 that the GAB “shall investigate violations of law” it administers.²

What happens if a complaint is filed? If the GAB receives a complaint, it may act in one of three ways. §5.05 (2m) (c) 4.

First, if the GAB finds by a preponderance of the evidence that a complaint is frivolous, the GAB may order the complainant to forfeit up to the greater of \$500 or the costs of the investigation. The statute does not provide any procedures for how the GAB should make a determination that a complaint is frivolous or address whether the GAB should hold a hearing before issuing a forfeiture order. However, I believe a complainant would be entitled to a hearing upon request under §227.42, *Wisconsin Statutes*.

Second, if the GAB “reviews a complaint and fails to find that there is a reasonable suspicion that a violation [of law] has occurred or is occurring, the board shall dismiss the complaint.”

Third, if the GAB “believes that there is reasonable suspicion that a violation [of law] has occurred or is occurring, the board may by resolution authorize the commencement of an investigation.” The resolution must set forth the matters to be investigated.

The board may want to adopt a guide for the public on the manner for filing complaints.

What if there is no complaint? The GAB may investigate a matter if it believes that there is reasonable suspicion that a violation of law has occurred or is occurring.

Authorizing settlements without an investigation

The board may, by rule, prescribe categories of civil offenses which the board will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The board may authorize the administrator of the ethics and accountability division to compromise and settle such alleged offenses in the name of the board if the alleged offenses by an offender, in the aggregate, do not involve payment of more than \$1,000. §5.05 (2m) (c) 12.

Conducting an investigation

Pre-investigation activity. Although the GAB may not use its investigative powers to subpoena or depose absent an investigation (which the board must authorize by resolution), there is certainly no prohibition on the GAB’s staff inquiring into a matter to determine if there is a basis for a reasonable suspicion that a violation of law has occurred and that an investigation is warranted.

I recommend that the GAB adopt a policy authorizing staff, when appropriate, to make preliminary inquiries about a matter through interviews and requests for documents in order to advise the GAB whether to initiate an investigation.

² If the GAB believes the better practice would be to initiate an investigation only upon the receipt of a complaint, then a GAB staff member or special investigator may always file a complaint, similar to a law enforcement officer filing a complaint in consultation with a District Attorney.

Hiring special investigators. The GAB may retain special investigators to assist in investigations. The procedures for doing this will be discussed in the next section.

Investigation powers. The GAB has the following investigative powers:

1. The GAB may subpoena persons and documents. Issuance of a subpoena requires the action of the full board at a meeting. The board must provide notice of a subpoena to a party who is the subject of an investigation. §5.05 (1) (b), *Wisconsin Statutes*.

The requirement that the issuance of a subpoena requires action of the board is identical to the language governing procedures of the Ethics Board. The Ethics Board's general practice was to authorize the issuance of subpoenas, in a resolution authorizing an investigation, to named individuals as well as "to such other persons as the board's agents deem appropriate." This avoided the necessity of continually meeting with the board as an investigation progressed.

2. The GAB may take depositions. §5.05 (1) (b) and §5.05 (2m) (f) 2., *Wisconsin Statutes*.
3. The GAB may issue written interrogatories. §5.05 (2m) (f) 1., *Wisconsin Statutes*.
4. The GAB may obtain tax returns from the state department of revenue. §5.05 (2m) (f) 5., *Wisconsin Statutes*.
5. The GAB may ask a court to permit the copying of bank records to obtain evidence of a violation of the campaign finance law. §5.05 (1) (b).
6. The GAB may ask authorize a special investigator to ask a court for a search warrant. §5.05 (2m) (c) 5.

Statute of limitations. No action may be taken on any complaint filed later than 3 years after a violation of law is alleged to have occurred. §5.05 (2m) (g), *Wisconsin Statutes*. I understand this to mean either a complaint filed with the GAB or, if no complaint has been filed, a complaint filed in a civil action brought by the GAB or a district attorney.

Special Investigators

Hiring

The board may retain one or more special investigators to assist in investigations. The administrator of the division of ethics and accountability shall provide the names of 3 individuals for each investigation. An individual may not make a campaign contribution to any candidate for a state or local office while so retained. In addition, an individual may not have made in the prior 12 months a campaign contribution to a candidate for a *partisan* state or local office. The investigators must be retained by contract. §5.05 (2m) (c) 4. and 5.05 (2m) (e).

Notice to district attorney

If the board hires a special investigator it must provide a copy of a complaint to the district attorney in the county in which the person who is the subject of the complaint

resides. The GAB may want to do this even in investigations in which a complaint has not been filed.

Periodic reports

A special investigator must provide periodic reports to the board at 30 day intervals and the board must review the progress of, and vote to continue, an investigation every 90 days. §5.05 (2m) (c) 5. The board may not spend more than \$10,000 on an investigation before receiving a progress report and recommendation to commit additional resources. §5.05 (2m) (c) 5.

Final report to board

At the conclusion of an investigation, the special investigator (or staff) will prepare a written fact report for the board. The report will also recommend a course of action. §5.05 (2m) (c) 5.

Concluding an investigation

Preliminary findings of fact and conclusions

At the conclusion of an investigation, the board may, in preliminary written findings and conclusions, make a determination whether or not probable cause exists to believe that a violation of law has occurred or is occurring. §5.05 (2m) (c) 6. and 9.

The board may terminate an investigation due to insufficient evidence. §5.05 (2m) (c) 5. c. In my view, the board may also decide to take no further action in the sound exercise of its discretion. The board may refer evidence of violations of law not within its jurisdiction to a district attorney. §5.05 (2m) (c) 14.

Whenever the board dismisses a complaint it must send written notice to the accused and to the complainant. §5.05 (2m) (c) 9.

If there is probable cause

If the board finds probable cause to believe the law has been violated it may either authorize the filing of a civil complaint or refer the matter to the appropriate district attorney for civil or criminal prosecution. §5.05 (2m) (c) 6. and 11. The board may also attempt to settle a matter before filing a complaint. The board must inform the accused of any exculpatory evidence in its possession. §5.05 (2m) (c) 10.

Prosecuting a matter

The board may retain an individual as special counsel to assist in the prosecution of a civil complaint. The administrator of the division of ethics and accountability shall provide the names of 3 individuals. §5.05 (2m) (c) 6. The individuals may not make, or have made in the prior 12 months a campaign contribution to a candidate for a partisan state or local office. The investigators must be retained by contract. §5.05 (2m) (e).

Referral

A referral must be made to the district attorney of the county in which the alleged violator resides. §5.05 (2m) (c) 11. The board may not refer civil complaints concerning a judge, district attorney, or candidate for either office. §5.05 (2m) (h). A criminal action against

a judge, district attorney, or candidate for either office must be referred to the attorney general. §5.05 (2m) (i).

If a district attorney declines to prosecute or does not commence an action within 60 days of referral, the board may refer a matter to a district attorney of a contiguous county chosen by lot by the GAB's chair. §5.05 (2m) (c) 15. If that district attorney declines to prosecute or does not commence an action within 60 days of referral, the board may refer the matter to the attorney general. §5.05 (2m) (c) 16.

Any prosecutor must report to the board every 30 days concerning the status of the prosecution. §5.05 (2m) (c) 18.

Settlement

The board may settle any civil action or potential action for any sum as long as it deprives the alleged violator of any benefit of wrongdoing. The board should treat comparable situations comparably and assure that any settlement bears a reasonable relationship to the severity of the offense. Settlement agreements shall be reduced to writing, with a statement of the board's findings and reasons for entering the agreement. §5.05 (1) (c).

Confidentiality

Records obtained or prepared by the board in connection with an investigation, including a complaint, are not open to public inspection except as they are made public in open session, or during the course of a prosecution, or as authorized by the subject of an investigation if the records are available by law to that person. §5.05 (5s). Any record of the board's action authorizing the filing of a complaint, referring the matter to a district attorney or other prosecutor, finding that a complaint does not raise a reasonable suspicion that a violation of law has occurred, or finding no probable cause. §5.05 (5s) (e). Settlement agreements are also open to inspection. §5.05 (1) (c).

No member or employee of the board, and no investigator, prosecutor, or employee thereof, may disclose information related to an investigation or prosecution except: (1) in the normal course of an investigation or prosecution; (2) communications with local, state, or federal law enforcement or prosecutors; and (3) communications to a person under investigation or such person's attorney. §12.13 (5). Whoever violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. §12.60 (1) (bm).

Civil Penalties

Campaign finance (§11.60)

- Campaign finance law violations (generally) -- \$500
- Improper contributions – treble the amount of the contribution or the illegal portion thereof
- Improper use of campaign contribution information filed with GAB -- \$1,000
- Late payment of filing fees -- \$500 plus treble the filing fee
- Corporations – double all penalties (§11.38 (4))

Ethics Code (§19.579)

- Violation of substantive provisions -- \$5,000 and forfeiture of improper economic gain
- Violation of “pay to play” -- \$5,000 and amount or value of any contribution or political service received or, if nothing of value received, amount of maximum contribution permitted for office
- Failure to file timely and complete statement of economic interests -- \$500

Lobbying law(\$13.69)

- Violation by a principal -- \$5,000
- Violation by a lobbyist -- \$1,000 and revocation of license not to exceed 3 years
- Violation by an official or candidate -- \$1,000
- Principal failure to timely notify board of subjects of lobbying -- \$25 first offense, \$100 subsequent offenses
- Lobbyist obtaining license by fraud-- \$1,000 and ineligibility for a license for 3 years

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Legal Counsel

MEMORANDUM

DATE: For January 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Review of Guidelines, Orders, Opinions, Certain Operating Procedures and Rules of the State Elections Board and the State Ethics Board

The Government Accountability Board (GAB) is required to hold one or more public hearings on the question of reaffirmation of each administrative rule, formal opinion, guideline, and each order promulgated, issued or developed by the State Elections Board and the State Ethics Board that is presently in effect. 2007 Wisconsin Act 1, Section 209 (2), (3). The Government Accountability Board (GAB) is also required to review certain internal operating procedures of the former boards.

The administrative rules, formal opinions, guidelines and orders of the former agencies expire one year from the initiation date of 2007 Wisconsin Act 1, subject to a limited extension by the GAB. The initiation date has been established as January 10, 2008. The review of administrative rules, formal opinions, guidelines, certain operating procedures and orders of the former agencies should be completed by January 10, 2009. The Board may extend its review by up to three months and renew the extension for an additional three months.

The staff is developing a schedule for the balance of this year to complete the review process. A list of the administrative rules, formal opinions, guidelines, operating procedures and orders is being compiled. The staff will organize the rules, opinions, guidelines, procedures and orders by subject matter and establish a timetable for review.

The staff will provide notice of the matters subject to review as part of the agenda for each meeting. The Board will receive comment from the public and make its determination to reaffirm, repeal or amend the items in open session.

In most cases there will be a link to the relevant materials on the agency website. There are captions that summarize the formal opinions and guidelines which will serve as the reference for their review in the meeting materials. The full text will be available on the website.

Certain matters will be prioritized based on staff evaluation, direction from Board members and feed back from the public. A brief description of the scope of the review by category is set out below.

Administrative Rules

The Government Accountability Board is required to hold a public hearing on the question of reaffirmation of every administrative rule issued by the former boards that is currently in effect. 2007 Wisconsin Act 1, Section 209 (2)(e), (3)(e).

The State Elections Board has promulgated 11 separate administrative rule chapters. The State Ethics Board has promulgated 4 separate administrative rule chapters. As part of its recent actions, the State Elections Board authorized the amendment of one administrative rule chapter relating to ballot and voting equipment security and the promulgation of two additional administrative rule chapters relating to election official training. The staff has asked the Government Accountability Board to reauthorize this action along with changes to certain rules relating to filing and processing complaints in a separate report.

The staff plans to present rules on ballot access and election petition review along with proposed rules establishing a forfeiture settlement schedule at the next meeting.

A list of the current administrative rule chapters and the number of rules in each chapter is set out below:

Elections Board Rules

ElBd Chapter 1 Campaign Financing

This chapter consists of 38 separate rules promulgated since the inception of the State Elections Board. GAB review of these rules will be linked to review of corresponding formal opinions that relate to the same subject matter.

ElBd Chapter 2 Nominations

This chapter consists of 4 separate rules that establish the procedures for reviewing and challenging nomination papers and election-related petitions. These rules will be presented for reaffirmation, repeal or amendment at the next meeting.

ElBd Chapter 3 Voter Registration

This chapter currently consists of 1 separate rule. Effective February 1, 2008, this rule will be repealed and replaced with 8 new rules that set out definitions related to voter registration, treatment of registration forms, voter registration deputies and voter registration drives. Additional rules describing the responsibilities of local election officials with respect to processing voter registration forms and using the Statewide Voter Registration System are being developed by staff.

ElBd Chapter 4 Election Observers

This chapter currently consists of 1 separate rule describing appointment of election observers. This rule needs to be repealed and recreated to reflect statutory changes and an opinion issued by the State Elections Board in 2007.

ElBd Chapter 5 Ballot Security

This chapter currently consists of 1 separate rule describing procedures for securing ballots. The rule was amended and 5 new rules drafted to set out security procedures for electronic voting equipment. The State Elections Board directed its staff to incorporate feedback from local election officials and complete the promulgation. The Government Accountability Board has been asked to reauthorize this action at this meeting.

ElBd Chapter 6 Procedure

This chapter currently consists of 4 separate rules that address administrative procedures for treating filings with the State Elections Board. This chapter needs to be revised to incorporate procedures from Eth 3 of the State Ethics Board.

ElBd Chapter 7 Approval of Electronic Voting Equipment

This chapter currently consists of 3 separate rules that address procedures for approval of electronic voting equipment. This chapter should be reviewed soon to address public concerns about voting equipment that have been the focus of discussion in the press and alternative media.

ElBd Chapter 8 Forms

This chapter currently consists of 2 separate rules that describe the forms of the State Elections Board. This chapter needs to be revised to reflect current agency forms and incorporate forms from Eth 5 of the State Ethics Board.

ElBd Chapter 9 Challenges at a Polling Place

This chapter currently consists of 6 separate rules that describe the procedures for challenging the qualifications of an individual to vote at the polling place.

ElBd Chapter 10 Complaint Procedures

This chapter currently consists of 10 separate rules that describe the procedures for filing and processing complaints with the State Elections Board. The Government Accountability Board has been asked to amend this rule to reflect new statutory procedures for processing agency complaints at this meeting.

ElBd Chapter 11 Training and Certification of Chief Election Inspectors

This chapter currently consists of 5 separate rules that describe the training and certification procedures for the individuals in charge of the polling place on Election Day.

ElBd Chapter 12 Training and Certification of Municipal Clerks

Promulgation of this chapter which consists of 6 separate rules that describe the training and certification procedures for municipal clerks was recently approved by the State Elections Board. The Government Accountability Board has been asked to reauthorize this action at this meeting.

ElBd Chapter 13

Training of Election Officials

Promulgation of this chapter which consists of 5 separate rules that describe the training requirements for poll workers and special voting deputies was recently approved by the State Elections Board. The Government Accountability Board has been asked to reauthorize this action at this meeting

Ethics Board Rules

Eth Chapter 1

Definition, Lobbying Communication

This chapter currently consists of 3 separate rules that interpret provisions related to lobbying

Eth Chapter 2

Statement of Economic Interests

This chapter currently consists of 4 separate rules that interpret provisions related to statements of economic interests.

Eth Chapter 3

Practice and Procedures

This chapter currently consists of 3 separate rules that describe the procedures for filing and processing complaints with the State Ethic Board. The Government Accountability Board has been asked to amend this rule to reflect new statutory procedures for processing agency complaints at this meeting.

Eth Chapter 5

Forms

This chapter currently consists of 1 separate rule that describes the forms of the State Ethics Board. This chapter needs to be revised to reflect current agency forms and incorporate forms from ElBd 8 of the State Elections Board.

Formal Opinions

The Government Accountability Board is required to hold a public hearing on the question of reaffirmation of every formal opinion issued by the former boards unless the opinion has been withdrawn or modified. 2007 Wisconsin Act 1, Section 209 (2)(f), (3)(f). Several opinions have been superseded by statutory changes and will not require review.

Formal Opinions of the Elections Board

The State Elections Board has issued 104 formal opinions between 1974 and 2007. These opinions cover the following general topics:

- Absentee Voting (1)
- Ballots (9)
- Conduits (4)
- Contribution Limits (10)
- Corporations (13)

- Counting Votes (1)
- Disclaimers (2)
- Earmarking (2)
- Election Costs (1)
- Electioneering (4)
- Federal Campaigns (4)
- Non-Resident Committees (2)
- Petitions (5)
- Recordkeeping and Reporting (17)
- Recall (2)
- Recount (1)
- Scope of Regulation (18)
- Solicitation (1)
- Spending (1)
- State Employee Activity (3)
- Treasurer (2)
- Vacancy (3)
- Voter Registration (2)
- Wisconsin Election Campaign Fund (5)

Formal Opinions of the Ethics Board

The State Ethics Board has issued 201 formal opinions since 1973. These opinions cover the following general topics:

Lobbying Law

- Registration and reporting (15)
- Accepting meals, gifts, employment, etc. (51)
- Campaign activity and contributions (16)

Ethics Code

- Soliciting and accepting items and services of substantial value (46)
- Conflicts of interest (17)
- Acceptance of fees and honoraria (5)
- Improper use of state resources (3)
- Accepting meals and travel (22)
- Statements of Economic Interests (2)

Local Officials

- Conflicts of interest (33)
- Acceptance of items (3)
- Other (2)

Guidelines

The Government Accountability Board is required to hold a public hearing on the question of reaffirmation of every guideline issued by the State Ethics Board unless the guideline has been withdrawn or modified. The review shall address the extent to which the guidelines are consistent with relevant law. 2007 Wisconsin Act 1, Section 209 (3)(g). The Board may reaffirm, withdraw or revise any guideline.

The State Ethics Board has issued 48+ guidelines since 1973. These guidelines fall into the following general categories:

- Substantive guidelines (39)
- Lobbying guidelines (4)
- Financial disclosure guidelines (5)
- Other guidelines containing general information

Internal Operating Procedures

The Government Accountability Board is required to review all internal operating procedures of the former boards that affect the manner in which the Board interrelates with persons who are not employees of the Board. The review shall specifically address the degree to which employees are authorized to perform their functions without direct supervision of or approval of the board. 2007 Wisconsin Act 1, Section 209 (2)(g), (3)(h).

The Board is only required to hold a public hearing if it makes a change to an internal operating procedure. This review process is not subject to the two three month extensions applicable for the review of administrative rules, formal opinions and guidelines.

The former agencies have developed a number of internal operating procedures that affect the manner in which the agency interrelates with persons who are not agency employees. The internal operating procedures provide guidance for staff on the degree to which employees are authorized to perform their functions without direct supervision or approval of the former boards.

These procedures are reflected in detailed instructions for staff to process and audit disclosure reports; resolve discrepancies and violations; process and review nomination papers and other election-related petitions; canvass election results; review recount petitions and order election recounts; conduct post-election voting system audits; and evaluate requests for approval of electronic voting equipment. These procedures are routinely reviewed before key deadlines and modified to reflect changes in the law, technology or available agency resources.

The staff needs to identify these procedures before they can be presented for Board review. The internal operating procedures extending settlement offers for certain violations will be presented at the next Board meeting along with a proposed rule establishing a new settlement offer schedule as provided in Section 5.05 (2m)(c)12., Wis. Stats.

Orders

The Government Accountability Board is required to hold a public hearing on the question of reaffirmation of every order issued by the former boards that is currently in effect. 2007 Wisconsin Act 1, Section 209 (2)(e), (3)(e).

The former boards disposed of complaints filed with the agency by issuing an order. The SEB through its Executive Director also issued orders directing the recount of elections for state and national office. These orders are issued after the SEB staff has determined the sufficiency of a recount petition.

Complaints may be filed with the agency pursuant to Section 5.05 (3), Wis. Stats. (2005); Sections 5.06, 5.061, 11.61 (5), 11.66 (2007); and EIBd 2.07, 2.11 Wis. Admin. Code. The disposition of these complaints is based on the application of law to a specific fact situation. The disposition of the complaint may be reviewed in court. If the former board extended a settlement offer for violation of the law, the former board had the onus to enforce its position through an enforcement action.

If the Elections Board issued an order directing a local election official to conform their conduct to law pursuant to Sections 5.06, Wis. Stats., the Board's order may be reviewed in circuit court. Similarly, the Elections Board's disposition of a complaint filed under the Help America Vote Act of 2002 (HAVA) pursuant to Section 5.061, Wis. Stats., is subject to judicial review under Chapter 227, Wis. Stats.

I do not believe that there are any orders of the former boards subject to review by the Government Accountability Board. Since the orders disposed of complaints on a specific set of facts, the issues have been resolved. The order disposing of a complaint does not have any ongoing effect. To the extent the disposition of the complaint establishes a precedent for future action, the GAB is not bound by a decision of the former boards. The guiding policies for the former boards are set out in the statutes along with the administrative rules and formal opinions adopted by the former boards and subject to reaffirmation, repeal or amendment by the GAB.

Action Required

The staff will proceed with developing the review schedule as described in this report. The staff may adjust the review schedule in response to direction from the Board or issues raised by the public during the comment period at the beginning of Board meetings.

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KEVIN J. KENNEDY
Legal Counsel

Memorandum

From: George A. Dunst, Staff Counsel

Meeting Date: January 28, 2008

Subject: Consolidation of the Rules of the Former Elections and Ethics Boards, and Promulgation of Pending Rules: EIBd Chapters 5, 12 and 13; Repeal of Eth 3.01; and Amendment to EIBd Chapter 10

Both the former Ethics Board and the former Elections Board have promulgated administrative rules whose titles or names now need to be changed to the Rules of the Government Accountability Board. Although the Board is required by 2007 Wisconsin Act 1 to review the rules of both agencies, and take action to preserve those rules that will not be repealed, the Board's staff believes that the rules should be re-titled and merged during the Government Accountability Board's rule review process, rather than awaiting the completion of the review of all the former agencies' rules. The Board's staff has had discussions with the Legislative Council's staff, and they have agreed that a logical first step would be to re-name the rules of the Elections Board the rules of the Government Accountability Board. After re-naming or re-titling the Elections Board's rules, the staff can propose the merging of those of the former Ethics Board's rules that the Government Accountability Board wishes to preserve. Where those Ethics Board rules will fit within the Elections Board's rules is one of the decisions that the Board's staff will recommend to the Board.

Complicating the whole process of merging the two agencies' rules is the pending promulgation of several rules that the Elections Board had adopted and whose promulgation the Elections Board directed its staff to continue. Two of those rules, Chapter EIBd 12, Election Training of Municipal Clerks, and Chapter EIBd 13, Election Training of Local Election Officials, are ready to be submitted to the office of the Legislative Council for review and comment. The other rule, Chapter EIBd 5, Ballot Security Procedures, only requires additional internal review and revision before being submitted to the Office of the Legislative Council. Discussion with Legislative Council staff led to the conclusion that the Government Accountability Board may need to ratify the Elections Board's decision to promulgate these rules before the staff proceeds with them. The present draft of those rules is appended to this memorandum. Also appended to this memorandum is Legal Counsel, Kevin Kennedy's memoranda, (to the Elections Board), regarding these rules.

Because the Government Accountability Board is required by Section 209(2)(e) of 2007 Wisconsin Act 1 to review all the rules of the Elections Board and the Ethics Board, the staff recommends that the Board conduct that review with respect to Chapters EIBd 5, 12 and 13 in making its decision whether to continue promulgation. The Board's Legal Counsel recommends promulgation. The staff needs a motion voted by the Board to adopt each rule and to continue promulgation, if that is the Board's decision.

The Board's staff is also recommending that the Board authorize the repeal of Ethics Board Rules, Eth 3.01 and 3.04, and the amendment of Elections Board Rule Section EIBd 10.01, Procedures for Complaints Applicability. Those rules read as follows:

Eth 3.01 Communications and documents addressed to board.

(1) All written communications and documents intended for the board should be addressed to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703-2800 and not to individual members of the board or its staff. All communications and documents delivered at the board's office are officially received.

Eth 3.04 Transcripts.

(1) If the board, on its own behalf, causes a typed transcript of a proceeding to be prepared, the board shall furnish anyone with a copy of the typed transcript upon the payment of the actual cost of copying the transcript. Otherwise, the board, on behalf of another, shall cause a typed transcript of a proceeding to be prepared and furnished to the requestor upon the payment of the cost of transcription.

(2) The board will waive the fees established in [sub. \(1\)](#) for a party to a proceeding who establishes by affidavit or other means that the party is impecunious.

EIBd 10.01 Applicability. *This chapter applies to complaints filed with the state elections board pursuant to ss.5.05(3), 5.06, 11.60(5) and 11.66, Stats., requesting the elections board to enforce the election and campaign finance laws. This chapter does not apply to complaints to challenge nomination papers or petitions which are filed under s.2.05 or 2.11.*

Rules Eth 3.01 and 3.04 prescribe procedure related to processing complaints with the State Ethics Board. That procedure no longer applies to complaints filed with the Government Accountability Board under 2007 Wisconsin Act 1. In fact, the previous complaint procedure is inconsistent with the new law and may confuse persons who seek to file a complaint. Therefore, those rules need to be repealed. The procedure for filing and processing ethics and campaign finance complaints with the Government Accountability Board is now statutorily provided and will be the subject of a memorandum provided by the Ethics and Accountability Division Administrator, Jonathan Becker.

The Elections Board's rule, Section EIBd 10.01 provides that Chapter EIBd 10 "applies to complaints filed with the State Elections Board pursuant to ss.5.05(3), 5.06, 11.60(5) and 11.66, Stats." That is no longer the case with respect to complaints filed under ss.5.05(3), 11.60(5) or 11.66, Stats., but that provision is still accurate with respect to complaints filed under s.5.06 or under new s.5.061, Stats., (compliance with the Help America Vote Act). Therefore the rule needs to be amended, not repealed, to eliminate the reference to ss.5.05(3), 11.60(5) or 11.66, Stats., and to add a reference to s.5.061, Stats

Language should also be added to the rule to provide for status reports to the complainants on the disposition of the complaint. The staff would provide an initial 45-day status report and subsequent 30-day reports consistent with the requirements imposed on district attorneys to report on matters referred by the Government Accountability Board. Section 5.05 (2m)(c)18. Wis. Stats. This addresses one of the recommendations from the Legislative Audit Bureau that the agency develop a policy for informing complainants about the status and disposition of pending election-related complaints.

Action Required:

1. The Board authorize the staff to proceed with the consolidation of the rules of the State Elections Board and State Ethics Board into the rules of the Government Accountability Board.
2. The Board authorize the promulgation of EIBd Chapter 5 (Ballot and Electronic Voting Equipment Security), Chapter 12 (Training and Certification of Municipal Clerks) and Chapter 13 (Training of Election Officials) as rules of the Government Accountability Board.
3. The Board direct the staff to proceed with the amendment of EIBd Chapter 10 to apply to election-related complaints and add provisions for informing the complainant with status and disposition reports.
4. The Board direct staff to proceed with the repeal of Eth 3.01 and 3.04.

Proposed Rules and Original Memoranda, Chapters EIBd 5, 12 and 13

MEMORANDUM

TO: Members of the State Elections Board

FROM: Kevin J. Kennedy, Executive Director

DATE: For November 28, 2007 State Elections Board Meeting

SUBJECT: Proposed Administrative Rules Relating to Electronic
Voting Equipment Security

At the September 12, 2007 meeting, the State Elections Board directed staff to continue to work on administrative rules relating to security of electronic voting equipment incorporating Mr. Malischke and Mr. Spindell's suggestions and consult with local election officials. A copy of the revised proposed rules accompanies this memorandum.

These rules are incorporated into EIBd Chapter 5 which provides for ballot security. The revised rules also include recommendations for ballot security. The Chapter is renamed to reflect the security provisions apply to electronic voting systems.

The issue of electronic voting system security is the focus of attention as we head into the presidential election cycle. There are controversial legislative proposals that have been garnering attention in Congress. In addition recent action by the chief election officials in California and Florida have raised concerns about the security of voting systems that have been in use for the most recent election cycle.

The procedures adopted by Wisconsin have been echoed in the requirements imposed in California. It is appropriate for the Board to act to add our current requirements to the administrative code.

Recommendation:

The State Elections Board staff recommends the Board adopt the following motion to begin promulgation of the proposed administrative rules:

The State Elections Board staff proceed with promulgation of the proposed administrative rules establishing procedures to ensure the security of electronic voting systems.

EIBd Chapter 5. Ballot and Electronic Voting System Security

EIBd 5.01 Ballot Security.

(1) Within the requirements of s. 7.51 (3), Stats., the terms “secure” and “seal” shall be interpreted together to mean that the ballots, within the container in which they are held, must be bound together in such a manner that no ballot may be removed, nor any ballot added, to the bound ballots without a visibly discernible and indelible record of or evidence of interference with or damage to that binding.

(2) Within the requirements of s. 7.51 (3) (a), Stats., a ballot container shall be considered “sealed” or “locked,” only if no ballot may be removed from the container or deposited into the container, and no other form of access to the bound ballots inside may be gained, without leaving visibly discernible and indelible evidence of, or record of, that entry or access into the container.

Ballot bags shall be sealed with a tamper-resistant, serialized numbered seal. The serial number shall be recorded on the signed ballot container certification (EB-101) attached to the bag. Serial numbers of the seals shall be recorded on the Inspectors’ Statement (EB-104). Ballot boxes or containers shall have all potential openings covered by an attached and signed ballot container certification (EB-101).

(3) A ballot container shall not be considered “secured” unless it is stored in a room or other facility access to which is limited only to the clerk of the election district or to other persons known to the clerk, and access to which is not available to any other person.

(4) Whenever the custodian of the ballots is required to open the ballot container and unseal the ballots as part of an audit, recount, an appeal of a recount, or as part of a public records request under s. 19.35, Stats., before opening the ballot container the custodian shall make a record of whether the container is sealed and shall record the serialized number of the seal. The custodian shall make a record of the entry and of the ballot review. Upon completion of the review of the ballots, the custodian shall re-secure them in the manner provided in s. 7.51, Stats., unless destruction is authorized under s. 7.23, Stats.

(5) Security of the ballots and the ballot container shall be maintained as provided under s. 7.51, Stats., until destruction of the ballots is conducted under s. 7.23, Stats. Destruction of the ballots under s. 7.23, Stats., requires shredding, incineration, or some other form of obliteration of the ballots.

(6) After each election the municipal or county board of canvassers shall verify the ballot containers were properly sealed. The serial numbers on the seals of the ballot container shall be compared with the serial numbers written on the signed ballot container certification (EB-101). The municipal board of canvassers shall compare five containers or 10% of the total containers, whichever is greater. The county board of canvassers shall compare ten containers. All containers shall be compared in a recount. The ward numbers and the results shall be recorded in the minutes of the board of canvassers meeting.

(7) The municipal clerk shall maintain a chain of custody for all ballots from the time of receipt from the printer or county clerk through delivery to the polling place. Any unused ballots shall be recorded in the chain of custody document.

EIBd 5.02 General Electronic Voting System Security Procedures

- (1) These procedures apply to all electronic voting equipment and electronic ballot marking memory devices, including, but not limited to, prom packs, memory cards or any other removable memory devices that can be programmed or function to store and transfer ballot images or tabulation data.
- (2) Throughout the life of the electronic voting system, the municipal clerk shall maintain control of all memory cards.
- (3) The municipal clerk shall keep a separate, perpetual, written chain-of-custody record for each memory card used with an electronic voting system.
- (4) Memory cards shall be stored securely at all times and each access and transfer shall be logged in the written chain-of-custody record.
- (5) With the agreement of the municipal clerk, the county clerk may store memory cards in a secure location. Both clerks shall maintain separate, perpetual, written chain-of-custody records for each memory card used with an electronic voting system.
- (6) An additional written log shall record everyone who accesses the electronic voting system. This log shall include the name of the individual, the date and time the access begins, the purpose of the access, and the time the access ends.
- (7) Each memory card shall have or be assigned a unique and permanent serial number. If the memory card does not have a permanent and fixed serial number affixed by the manufacturer, a clerk shall, if possible, affix a label to the cards which contains the clerk's original signature and a serial number.
- (8) The municipality shall use controlled, serialized seals that are tamper-resistant and resistant to inadvertent breakage along with a written log of all seals and associated serial numbers.
- (9) The municipal clerk shall maintain a written log that records which memory cards and serialized tamper-evident seals are assigned to particular voting stations or units.
- (10) The municipal clerk shall maintain a written inventory of all keys that are used to gain access to electronic voting systems. The municipal clerk shall keep a perpetual, written chain-of-custody record for all such keys.

EIBd 5.03 Pre-election procedures

- (1) The municipal clerk shall check the locks and security seals and compare with the logs to verify who accessed the electronic voting systems or memory cards since the previous election.
- (2) Memory cards shall be programmed to print a list of the software and firmware versions of the electronic voting system on each beginning-of-election-day zero report and end-

of-day zero report. This information shall also be printed on any reports generated during the pre-election testing, including the public test before Election Day and at a recount proceeding.

For electronic voting systems that cannot accommodate this requirement, this information shall be recorded from the system start-up screen, either by municipal or county staff during the pre-election testing or by election inspectors during Election Day.

(3) The records for the pre-election test, pre-recount test and Election Day reports must be maintained by the municipal clerk.

(4) Except when necessary to program, test, or operate the system, each system must be closed and locked with a tamper-resistant seal which can be tracked using a unique and permanent serial number.

(a) Each input slot or access port, including USB, serial or modem ports, must be closed and locked using a tamper resistant seal which can be recorded using a unique and permanent serial number.

(b) Alternately, these slots or ports may be disabled, with written documentation of the dates and times maintained by the municipal clerk.

(5) Any door by which access can be gained to the system controls must be closed and locked using a tamper-resistant seal which can be tracked using a unique and permanent serial number. The municipal clerk shall maintain a written record of such serial numbers.

(6) Once a memory card is programmed for the election, it shall be immediately inserted into its assigned unit and sealed against unauthorized access with a serialized, tamper-evident seal which can be tracked using a unique and permanent serial number. The voting station shall not be set into election mode until after the memory card is sealed inside.

Alternately, memory cards may be locked in a secure location with controlled access; written documentation of access to programmed memory cards must be maintained.

(7) The municipality or county shall obtain a signed "Certificate of Performance Compliance: Memory Card Security" from each vendor that provides voting systems, equipment, programming services, or memory cards to the municipality.

(8) The municipality shall take and document reasonable precautions to assure the security of the equipment between the time it leaves the possession of the clerk to be delivered to the polling place, and the time the chief inspector assumes possession at the polling place on Election Day.

EIBd 5.04 Election day procedures

(1) Before any ballots are cast on any unit, the integrity of the tamper-evident seals shall be verified by the chief election inspector before accessing compartments containing the memory card and unit power switch. The chief election inspector shall record this information on the Inspectors' Statement (EB-104) and chain-of-custody document for the memory card.

- (2) Once the polls have opened, ballot removal from an optical scan machine or paper roll removal or replacement on a Direct Recording Electronic (DRE) machine shall be conducted with at least two election inspectors (or other sworn election team members appointed by the municipal clerk) present. The removal process, names of the election inspectors or sworn election team members, and time shall be recorded on the Inspectors' Statement (EB-104).
- (3) In post-election mode, election officials shall print the results report before breaking any seal on the equipment and before the removal of the memory card from the voting stations or units. If additional reports other than the results reports are available, these reports shall also be printed before breaking any seal on the equipment and before the removal of the memory card.
- (4) The chief election inspector shall record the serial numbers of all security seals on the Inspectors' Statement (EB-104) or on the copy of the results tape secured and transmitted to the municipal clerk.
- (5) One copy of the results report and the memory cards shall be secured in a separate, sealed container or envelope by the chief election inspector. The chief election inspector and two additional election inspectors shall sign their names across the seal of the secured envelope or container. The memory cards shall be promptly returned to the municipal clerk.
- (6) If results are transmitted by modem, the municipal clerk may access the memory card for transmission, but shall reseal and sign his or her name across the seal of the secured envelope or container. Before transmitting the results via modem, the clerk shall print an additional results report from the system and record the transmission time on the Inspectors' Statement (EB-104).
- (7) As an alternate procedure, the memory cards may remain sealed in the voting stations or units. The serial numbers of the security seals shall be recorded on the Inspectors' Statement (EB-104).

EIBd 5.05 Post election procedures

- (1) After each election, the clerk responsible for storing the voting system shall conduct an inspection to ensure that each system is locked and secured. Written documentation shall note the date and time of the inspection and any applicable security seal numbers.
- (2) Before the next election or recount, the municipal clerk shall inspect the security seals to ensure that each seal number matches the initial ending documentation from the previous election. This inspection shall be documented in the written chain of custody record with time and date.
- (3) At each post-election meeting of the municipal or county board of canvassers, the members shall cross-check the log with the official results report or Inspectors' Statement (EB-104) by comparing the serial numbers of the seals. The serial numbers on the results report or Inspectors' Statement (EB-104) shall be compared with the serial numbers of the seals recorded in the log during pre-election testing.
- (4) The municipal clerk; board of canvassers shall compare five devices or 10% of the total devices, whichever is greater. The county board of canvassers shall compare ten devices. All

devices shall be compared in a recount. The ward numbers and the results shall be recorded in the minutes of the board of canvassers meeting.

EIBd 5.15 Alternate Security Procedures

- (1) The board recognizes the need for flexibility when implementing these procedures, and acknowledges that alternative means may be used to achieve and ensure an acceptable level of electronic voting equipment security.
- (2) The board will consider requests from municipalities and counties to implement alternative security procedures.
 - (a) The municipal clerk or county clerk shall submit a written request to implement alternative security procedures to the elections division administrator.
 - (b) The request shall describe the proposed security procedures in detail and include any documentation such as logs, flow charts and certification forms.
 - (c) The elections division administrator may approve the use of alternative security procedures for one election cycle.
 - (d) The board shall review all the approval of any alternative security procedures and may authorize continued use of the alternative security procedures.

MEMORANDUM

TO: Members of the State Elections Board

FROM: Kevin J. Kennedy, Executive Director

DATE: For September 12, 2007 State Elections Board Meeting

SUBJECT: Proposed Administrative Rules Relating to Municipal Clerk Training

At the July 18, 2007 meeting, the State Elections Board directed staff to proceed with drafting administrative rules for the training of municipal clerks. Staff had provided an initial draft for consideration by the Board and was in the process of receiving feedback from municipal clerks. A copy of the final version of the proposed rules accompanies this memorandum.

These rules provide that all clerks must attend an initial training session sponsored by the Board. The rules also provide that in order to continue to meet the statutory training requirement a municipal clerk must attend at least 6 hours of approved training in subsequent two-year periods.

The approved training course must include content described in the rule. In order to provide flexibility for municipal clerks and to recognize the training opportunities available to municipal clerks, the rule permits the Board to approve existing training opportunities offered by the Wisconsin Municipal Clerks Association, the Municipal Clerks Institute and other organizations serving election officials.

The proposed rules set the minimum amount of training at 6 hours over a two-year period. This is essentially one hour for each election scheduled during that period. It is significantly less than the amount of training required in other states that also mandate a training requirement for local election officials.

Our goal is to ensure all municipal clerks receive a minimum amount of training that enables them to effectively carry out their election administration responsibilities. We also want to leverage the excellent training opportunities that already exist or may be developed by municipal clerks through their professional associations.

A copy of the comments from municipal clerks accompanies the Board materials mailed to you. The bulk of the comments focus on the availability of the training opportunities and ask the Board to take into consideration time, distance and budget constraints. We have incorporated a reference to on-line and video training provided by the Board. Some comments suggest the training requirements are too onerous while others suggest more should be expected of local election officials entrusted with the administration of elections.

The staff is working hard to ensure several opportunities to attend the initial training session.

One issue the staff did not believe we could rectify involves permitting a municipal clerk to designate someone else on their staff to take the training in their stead. There are several municipal clerks who delegate all election administration responsibilities to a staff member. The statute requires municipal clerks to attend the training. Although a municipal clerk can

delegate their election administration responsibilities to a staff member, the clerk cannot delegate their accountability for the proper administration of elections. Training is an essential element to ensure accountability of local election officials.

Recommendation:

The State Elections Board staff recommends the Board adopt the following motion to begin promulgation of the proposed administrative rules:

The State Elections Board staff proceed with promulgation of the proposed administrative rules establishing training requirements for municipal clerks.

EIBd Chapter 12. Certification and Training of Municipal Clerks

EIBd 12.01 Municipal Clerk Training (1) Definitions: As used in this chapter:

- (a) “Board” means the government accountability board.
- (b) “Election cycle” begins on January 1 of an odd-numbered year and continues through December 31 of an even-numbered year.
- (c) “Municipal clerk” includes the executive director and deputy director of the Milwaukee City Board of Election Commissioners.
- (d) “Municipal election official” means municipal clerk, deputy clerk or any municipal employee charged with duties related to the administration of elections.
- (e) “Statewide Voter Registration System” or “SVRS” is the election administration software application provided by the board to enable local election officials to register voters, track absentee voting and administer elections.

EIBd 12.02 Certification.

- (1) Only municipal clerks who meet the training standards established in this chapter shall be certified by the board.
- (2) Any other municipal election official who meets the standards established in this chapter may be certified by the board.
- (3) The standards for the initial and the renewal certifications of municipal clerks are those set forth in this chapter.
- (4) A record of the municipal clerks who meet the training requirements established by this chapter shall be maintained by the board.
- (5) To qualify for certification, a municipal clerk shall provide the board with documentation of attendance at any approved training that has not been conducted by board staff.
- (6) The records concerning the training qualifications of municipal clerks are public records and shall be provided by the board upon request.
- (7) The governing body of any municipality whose municipal clerk fails to meet the training standards set out in this chapter shall be notified of that fact by the board.

EIBd. 12.03 Qualification.

- (1) Only individuals who have been elected or appointed to the office of municipal clerk, or who serve as a municipal election official, shall be certified by the board.
- (2) Individuals shall attend or view a core curriculum training course conducted under the direction of the board staff to qualify for initial certification.

- (3) Training opportunities shall be conducted by the board in several locations throughout the state, and shall be made available on-line and in video or audio format, to enable interested individuals to participate.
- (4) Each municipal clerk who attends a training course conducted under the direction of the board's staff shall register with the board.
- (5) The expiration date for training certification shall coincide with the end of the election cycle immediately following attendance at the initial training.

EIBd. 12.04 Training Content

- (1) The content of the training curriculum is prescribed by the board.
- (2) The training curriculum shall include the following elements:
 - (a) A core curriculum session that provides an overview of the election-related duties of a municipal clerk.
 - (b) Instructions on the proper completion of election-related forms and notices, including a requirement that the information on election-related forms be legible.
 - (c) Review of the applicable statutory deadlines for publishing notices, submitting petitions and ballot access documents.
 - (d) Directions for the review and completion of election-related forms and petitions, including affixing the signature and certification required by law.
 - (e) Treatment of confidential voter information and proof of residence documents received from a voter.
 - (f) Review of the deadlines and procedures for delivering completed election-related documents to the board of canvassers.
 - (g) A description of the calendar of election events and critical election-related timelines.
 - (h) Duties of the municipal clerk with respect to candidates for municipal office.
 - (i) Requirements for ballot design and preparation, including write-in ballots for military and overseas electors.
 - (j) Duties of the municipal clerk with respect to voters including, absentee, military, overseas and confidential electors and accessibility to the electoral process.
 - (k) Requirements for recruitment, appointment and training of election inspectors, special voting deputies, special registration deputies and other election officials.
 - (L) Requirements for acquisition, testing, security and audit of voting equipment.

- (m) Requirements for establishing, equipping, supplying, securing, and preparing polling places for elections, including emergency preparedness.
- (n) Election-day responsibilities of the municipal clerk.
- (o) Post-election responsibilities of the municipal clerk, including conducting the municipal canvass, issuing certificates of election and conducting a recount.
- (p) Requirements for recall and direct legislation.
- (q) The consequences for failing to follow prescribed procedures.
- (r) Any other information prescribed by the board.

EIBd. 12.05 Certification renewal.

- (1) After attending the initial training, individuals seeking to maintain their training certification must attend, in the election cycle, an additional three (3) hours of training approved by the legal counsel of the board.
- (2) To renew their certification for the next election cycle, individuals must attend six (6) hours of training approved by the legal counsel of the board.
- (3) Individuals may not carry over training hours to qualify for renewal of their certification in subsequent election cycles.
- (4) The approved training may consist of attendance at any combination of the following training opportunities if that training opportunity covers all or part of the training content described in this chapter:
 - (a) A certification-training course for municipal clerks or chief election inspectors conducted under the direction of the board staff.
 - (b) Training on the use of the Statewide Voter Registration System presented under the direction of the board staff. This includes on-line training developed for the board and made available to local election officials.
 - (c) A workshop conducted by the board staff at a state or district meeting of the Wisconsin County Clerks Association, Wisconsin Municipal Clerks Association, Wisconsin Towns Association or League of Wisconsin Municipalities.
 - (d) An information presentation conducted by the board staff and sponsored by the University of Wisconsin Extension Local Government Center.
 - (e) Training conducted by a municipal or county clerk for election inspectors pursuant to ss. 7.10 (9), 7.15 (1) (e) and (11) Wis. Stats.

- (f) Attendance at a state, regional or national conference, or a seminar of a professional organization, that serves election officials.
- (5) The board shall maintain a record of the approved training event, including the date and location of the approved training.
- (6) When the individual has completed the renewal requirements, the individual's certification shall be extended for the duration of the next election cycle.

EIBd.12.06 Certification waiver.

- (1) In the event of an emergency, the municipal clerk may make a written request to the board for a waiver of the training requirement for a municipal clerk.
- (2) The request shall be communicated to the legal counsel of the board in an expeditious manner.
- (3) The request shall describe the facts that establish the basis for the emergency request and the steps that have been taken by the municipal clerk to obtain the required training.
- (4) The legal counsel of the board may grant a waiver of the required training for one election cycle.

MEMORANDUM

TO: Members of the State Elections Board

FROM: Kevin J. Kennedy, Executive Director

DATE: For November 28, 2007 State Elections Board Meeting

SUBJECT: Proposed Administrative Rules Relating to Election Official Training

State law requires the Elections Board to prescribe the contents of training municipal clerks provide to election inspectors, special voting deputies and special registration deputies. Section 7.315 (1)(a), Wis. Stats. The Board established the content for training special registration deputies last year. EIBd. 3.12, Wis. Adm. Code. The Legislature just completed its review of those rules last week.

The Board has a comprehensive program for training chief election inspectors that has been in place since late summer of 2004. EIBd. Ch. 11, Wis. Adm. Code. This program forms the basis for the proposed rules for training other election inspectors by municipal clerks. Staff has made the training materials available through the agency website to municipal clerks so the materials can be utilized to train all poll workers.

These proposed rules draw on existing materials to establish the content for training election inspectors. The rules cover the basic responsibilities described in our chief inspector training. The rules also incorporate the suggestions presented at the Board's meeting in September in response to the complaint filed by John Washburn. The proposed rules set the minimum amount of training at 1 hour before each election event or two hours in an election cycle. This ensures poll workers are current on any new Election Day procedures.

Special voting deputies conduct voting in nursing homes, retirement homes and community-based residential facilities. The staff has developed a manual that has been used for several years to provide municipal clerks with information on meeting the requirements for voting in nursing homes, retirement homes and community-based residential facilities. The manual was updated earlier this year.

These proposed rules draw on existing materials to establish the content for training special voting deputies. The rules cover the basic responsibilities of special voting deputies. The proposed rules set the minimum amount of training at 1 hour before each election event or two hours in an election cycle. This ensures special voting deputies are current on any new absentee voting procedures.

Our goal is to ensure all municipal clerks provide the minimum amount of training that enables election officials to effectively carry out their election administration responsibilities. We also want to leverage the excellent training materials that already exist or have been developed by staff and other local election officials.

Recommendation:

The State Elections Board staff recommends the Board adopt the following motion to begin promulgation of the proposed administrative rules:

The State Elections Board staff proceed with promulgation of the proposed administrative rules establishing training requirements for election inspectors and special voting deputies.

EIBd Chapter 13. Training of Election Officials

EIBd 13.01 Election Official Training. (1) Definitions: As used in this chapter:

- (a) “Board” means the government accountability board.
- (b) “Election cycle” begins on January 1 of an even-numbered year and continues through December 31 of an odd-numbered year.
- (c) “Election event” means a primary or election.
- (d) “Municipal clerk” includes the executive director and deputy director of the Milwaukee city board of election commissioners.
- (e) “Municipal election official” means municipal clerk, deputy clerk or any municipal employee charged with duties related to the administration of elections.

EIBd 13.02 Municipal clerk training responsibilities

- (1) The municipal clerk is responsible for providing training opportunities for chief inspectors under EIBd Ch. 11, Wis. Admin. Code, election inspectors, special registration deputies under EIBd 3.12, Wis. Admin. Code, and special voting deputies.
- (2) The municipal clerk may utilize the board or another election official to provide training.
- (3) The municipal clerk shall maintain records that document the attendance at training sessions by chief inspectors, election inspectors, special registration deputies and special voting deputies. The training records, which are open to public inspection, shall include the date, location and duration of the training event.

EIBd 13.05 Election inspector training.

- (1) The content and curriculum of the training required of election inspectors shall be prescribed by the board.
- (2) The training shall include the following elements:
 - (a) Instructions on polling place preparation, including detailed instruction on the set up, operation and use of voting equipment.
 - (b) Information on determining elector residence and qualifications to vote.
 - (c) Instructions on registering electors at the polling place, including directions on the proper completion of the voter registration application form.
 - (d) Direction on recording elector information on the poll list, including special notations for absentee, challenged, and provisional voters and voters who have been convicted of a felony.
 - (e) Direction on maintaining ballot security and issuing ballots to voters.

- (f) Instructions on provisional voting procedures.
- (g) Instructions on assisting electors.
- (h) Instructions on processing absentee ballots.
- (i) Instructions on procedures for challenging electors.
- (j) Instructions on maintaining order at the polling place, including instruction on dispute resolution.
- (k) Information on the rights and responsibilities of election observers.
- (L) Instructions on the procedures for closing the polling place, including instruction on disaster preparedness.
- (m) Instructions on the procedures for reconciling voter lists.
- (n) Instructions on the procedures for counting ballots.
- (o) Instructions on determining voter intent.
- (p) Instructions on the proper use and completion of the Inspectors' Statement (Form EB- 104).
- (q) Instructions on the proper completion of forms used at the polling place, including direction on the requirement that the information on forms be legible.
- (r) Instructions on the procedures for securing and delivering completed election materials.
- (s) Instruction on the consequences for failing to follow prescribed procedures.
- (t) Any other information prescribed by the board.

EIBd 13.10 Special voting deputy training.

- (1) The content and curriculum of the training required of special voting deputies shall be prescribed by the board.
- (2) The training shall include the following elements:
 - (a) Information on the absentee voting process for residents of nursing homes, retirement homes and community-based residential facilities.
 - (b) Information on determining elector residence and qualifications to vote.
 - (c) Instructions on registering electors, including directions on the proper completion of the voter registration application form.

- (d) Direction on completing the absentee ballot certificate envelope.
- (e) Direction on maintaining ballot security and issuing ballots to voters.
- (f) Instructions on assisting electors to vote.
- (g) Instructions on the procedures for challenging electors.
- (h) Instructions on maintaining order at the voting location, including instruction on dispute resolution.
- (i) Information on the rights and responsibilities of election observers.
- (j) Instructions on the procedures for securing and delivering completed election materials.
- (k) Instruction on the consequences for failing to follow prescribed procedures.
- (L) Any other information prescribed by the board.

EIBd 13.15 Election official training requirements

- (1) Election inspectors and special voting deputies shall attend at least one training session every election cycle.
- (2) Municipal clerks shall arrange, for election inspectors and special voting deputies, at least one hour of training before each election event, or at least two hours of training in an election cycle.
- (3) Election inspectors and special voting deputies may not serve as an election official until completing the training required by this rule.

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KEVIN J. KENNEDY
Legal Counsel

MEMORANDUM

DATE: January 18, 2008

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Nathaniel E. Robinson, Administrator
Elections Division

SUBJECT: Elections Division Activities

Elections Administration Update

Introduction

This update on elections administration summarizes several noteworthy activities since your December 10, 2007, meeting. January has been a busy month as expected. We provided services and technical assistance to candidates filing for office; we certified candidates' filing papers and determined ballot order of candidates for the February 19 Democratic and Republican Party Presidential Preference; and, we reviewed and ensured that primary ballots met state standards. Additionally, we provided training to Municipal Clerks and Chief Inspectors.

A significant amount of time has been devoted to addressing issues raised in the Legislative Audit Bureau's November 2007 Report of the SEB/GAB's compliance with election laws. Priority attention is being paid to the Polling Place Accessibility issue. We have been informed of new federal funding opportunities for augmenting our Help American Vote Act (HAVA) program and for enhancing and strengthening our services to the state's disability community. A limited amount of competitive Federal Funds are also available for a core number of states (5) to develop a pilot or model voter data collection, management and informational systems. We are seeking the GAB's authorization to apply for these dollars.

Key Metrics

1. February 19 Primary: Presidential Preference and other Primaries
 - A. Candidates Filed for Office:

60 (not including the Presidential Preference Candidates -- each party selected 8).
The deadline for candidates to file ballot access documents for placement on the April 1, 2008, Spring ballot was 5:00 p.m. on Wednesday, January 2, 2008.

B. Candidates on the February 19 Primary Ballot:

14 (plus the 16 Presidential Preference Candidates)

A Reedsburg Municipal Judge who is an eligible candidate for the Spring 2008 election, failed to file a Statement of Economic Interest with the Wisconsin Government Accountability Board as required by section 19.43 (4), of the Wisconsin Statutes. Please refer to the attached report and to the "Action Items" section for a recommendation.

C. Referenda:

The ballots reviewed indicated quite a few school district referenda. There are no statewide referenda for the February 19 primary.

D. Post February 19 Primary Election Task:

Statute requires each county to send a canvass of the votes cast in the county for the offices of President no later than February 26th. Five counties are conducting primaries for the office of Circuit Court Judge in addition to the Presidential Preference Vote and will include the votes cast for those offices in their canvasses. GAB staff will review each county's canvass for completeness and accuracy, enter the votes cast into a database, print reports for each office, and proof each printed report against the original county canvass. Upon completion of the State Canvass, the Chair of the GAB or designee, will certify the results of the primary by signing a Statement of Canvass prepared by GAB staff.

2. Training

A. Municipal Clerks and Chief Election Inspectors Training

As of January 18, 2008, 23 Chief Election Inspector Training sessions were conducted, and 165 Chief Inspectors trained. There were 5 Municipal Clerk Training sessions conducted, and 57 Clerks trained.

B. Special Registration Deputy Training

Initial "shake-out" class with SEB staff will be held on the February 4. A Milwaukee Pilot Class will be conducted during the week of February 11. Other classes will be scheduled and held as requested/as necessary. A two-day class for Special Registration Deputies will be conducted at the Wisconsin League of Women Voters' Statewide Convention on June 6 and 7, 2008.

C. WisLine Program Training

Two WisLine training sessions were held, one on January 15, 2008, regarding the Spring Elections and Clerk Duties. Over 200 clerks and/or their representatives participated. The second WisLine training will be held on January 29, 2008, for Municipal Clerks on "How to Train your Pollworkers."

D. SVRS Training

Please refer to the “Statewide Voter Registration System Update” section of this report, under “Training.”

Noteworthy Activities

1. Addressing the Legislative Audit Bureau’s Report

Focusing on the Legislative Audit Bureau’s November 2007, “An Evaluation: Compliance with Election Laws,” Report has been a priority. GAB’s Legal Counsel provided testimony to the Legislature’s Committee on Audit on January 8, 2008. Additionally, Elections Division’s staff have been addressing the Audit Report findings on Polling Place Accessibility issues.

Staff:

- A. Has contacted the 36 municipalities listed in the Audit Report and requested information on what is being done to correct deficiencies noted by the Audit Bureau. Responses are due prior to the February 19 Presidential Preference Primary.
- B. Is updating and completing the Wisconsin Polling Place Accessibility Survey in time for clerks to use it during the February 19 Primary and April 1 Spring Election.
- C. Is in the process of recruiting a Limited Term Employee (LTE) whose priority will be to address our short and long terms accessibility objectives.
- D. Has scheduled a meeting with our Disability Advisors for Thursday, January 31, 2008.
- E. Is developing an aggressive action plan that includes a staff presence on February 19 and/or April 1, 2008 at all 36 polling places cited in the Audit Bureau’s Report.

30-day Forecast

- 1. For the February 19 Presidential Preference Primary, prepare to have a staff presence at all 36 polling places cited in the Audit Bureau’s Report.
- 2. Continue to address the other findings in the Audit Report as we prepare to report back to the Legislature’s Joint Committee on Audit, on/or before March 31, 2008.
- 3. Convene a meeting with our Disability Advisors and Election Administration Council.
- 4. Apply for available grant funds (please refer to the “Action Items” section below).

Action Items

Permission is being requested from the Government Accountability Board for staff to:

- 1. Apply for additional Help America Vote Act (HAVA), under Section 251, Requirements Payments, funds that are made available to states to meet HAVA requirements including upgrading voting machines and voter registration databases.

- \$115 million is available nationwide. A 5% spending match is required.
 - Wisconsin's share is **\$2,11,219**, with a 5% match of \$111,117.
 - Application deadline: Application due date open.
2. Apply for HAVA Section 261 funds specifically to assure access for individuals with disabilities.
- \$12,154,000 million is available nationwide, including four U. S. Territories.
 - Wisconsin's share is **\$201,727**. No match is required.
 - Application deadline: February 15, 2008
3. Apply for \$2 million to develop a pilot program to improve the collection, analysis and distributions of election data for Federal office. Such data will also be provided to the Election Assistance Commission.
- \$10 million available nation-wide; funds are competitive.
 - \$2 million will be award to only five (5) states. No match required.
 - Application deadline: The Election Assistance Commission is required to establish the election data collection grant program no later than March 30, 2008. A grant due date is likely to be announced between now and March 30.
4. Regarding the Reedsburg Municipal Judge matter, staff recommends that the Board, through its staff, contact the Reedsburg Municipal Clerk to advise that the candidate is ineligible to appear on the April 1st spring election ballot.
5. Designate Nat Robinson as Wisconsin's representative to the Federal Election Assistance Commission Standards Board. Section 5.055 of the Wisconsin Statutes states in part, "The administrator of the election division of the board shall, in consultation with the board, appoint an individual to represent this state as a member of the federal election assistance board." The GAB Legal Counsel wishes to designate Nat Robinson to this position.

Statewide Voter Registration System Update

Barbara A. Hansen, SVRS Project Director

Introduction

Within the Statewide Voter Registration System (SVRS) Project, there are several different team activities. There are activities surrounding the support of municipal and county clerks throughout the state as they administer the elections using SVRS and there are activities surrounding the technical aspects of supporting a statewide voter registration system.

This section describes the SVRS Team activities with respect to clerk support including topics regarding Application and Business Process Training, Communications, Clerk Election Support and Staffing. It also describes those SVRS Team activities with respect to the functional technical support of the application including topics regarding Data Quality, Help Desk, Accenture Application, HAVA Interfaces and Technical Staffing.

Key Metrics

1. Settlement with Accenture LLP

On December 26, 2007, Accenture LLP and the State Elections Board reached an agreement ending Accenture's involvement with Wisconsin's Statewide Voter Registration System (SVRS). As part of the settlement, Accenture agreed to complete a list of repairs to ensure that SVRS complies with federal law; provide the software source code and documentation to the state; waive \$1.95 million in retainage payments held by the Elections Board; and, pay the Elections Board/GAB \$4 million to resolve potential litigation. The \$4 million dollar payment was received by the GAB on Tuesday, January 22, 2008.

2. Preparation for the 2008 Presidential Preference and Spring Primary

Information about the state contests and candidates certified for the upcoming February 19, 2008, Presidential Preference and Spring Primary was entered into SVRS. There are several new Circuit Court branches that required intervention by the SVRS functional team. Milestone 3 in the SVRS was set by the state so that county and municipal clerks could finalize their election administration activities. A checklist of tasks was sent to clerks on January 14, 2008.

All SVRS Training Officers are busy training the municipal and county clerks, either in classroom settings or over the telephone, as they prepare for the February election. The Training Coordinator is managing all logistics for the SVRS classes as well as the new Municipal Clerk Training and Chief Inspector Training. One Training Officer is dedicated to developing instructional materials for the new Web Based Election Training System (WBETS), and providing subject matter expertise to the SVRS User Acceptance Testing effort and past Accenture contract compliance analyses

The SVRS Election Specialists support the county and municipal clerks and their staffs as they prepare for the February election. This includes ensuring that they receive the necessary training to operate the SVRS, and training on the Business Processes of running an election. They counsel the county and municipal clerks to ensure data quality in the SVRS, which will result in producing a correct poll book for every polling place in Wisconsin. They are conducting regional workshops for Absentee Ballot processing in SVRS. They are working with the clerks' offices to ensure their computers are certified to run the SVRS, and that their Dymo label printers are functioning according to the unique specifications of the SVRS and the DET host environment.

3. SVRS Version 6.4 Installed in Testing Environment

SVRS Version 6.4 was installed into the testing environment by staff of Division of Enterprise Technology (DET) within the Department of Administration on January 4, 2008. This installation occurred after 2 months of delay once Accenture made repairs to the installation script. Fixes in this code version included an upgrade of the system infrastructure. User Acceptance Testing is now underway with primary focus of testing to identify any issues that impair critical system functionality while still under the Accenture settlement timeline.

The Election Specialists assist in performing User Acceptance Testing of the latest release of the SVRS.

4. GAB Help Desk

Since August 1, 2008, the GAB Help Desk supports over 1,390 active users in 1,851 municipalities and 72 counties statewide for all levels of SVRS needs. Problem ticket volume for issues escalated since December 1, with calls focused on preparations for the February Presidential Primary, election procedures and voter list maintenance. There has been a noticeable increase in calls from the public regarding registration, absentee and the primary ballot questions. Calls have also been focused on setting up local contests, candidate filing questions and poll worker/chief inspector training questions. Questions not readily answered at the Help Desk involve the support of the Elections Specialist and Functional Team members.

Noteworthy Activities

1. Training

The following is a breakdown of the training completed by SVRS staff since the last Board meeting.

Class Type	12/10/07 – 1/28/08
Basic Application Training	4 classes: 35 trained
Advanced Application Training	9 classes: 112 trained
Entry of Voter Registration Training	Specialists training locally on “as needed” basis; Milwaukee staff continually trained on site
Business Process Workshops	3 classes
Absentee Workshops	3 classes

2. Help Desk

The following is a breakdown of the calls received by the GAB Help Desk for the months of November and December 2007, demonstrating the increase of call volume.

November 2007

- Total Tickets Open: 222
- Total November Tickets Remaining Open on 11/30: 35
- Tickets Closed 11/1/07 to 11/30/07: 293
- November Call Volume: 328

December 2007

- Total Tickets Open: 246
- Total December Tickets Remaining Open on 12/31: 33
- Tickets Closed 12/1/07 to 12/31/07: 328
- October Call Volume: 361

3. Data

The data quality staff produces information from the SVRS which identify some factors of election readiness or data requiring the attention of the clerks. The Election Specialists follow up with clerks, offering assistance when necessary. One of the ongoing initiatives is working with the clerks to clean up the number of default dates of birth in the system. Default dates of birth were given to voters where the dates of birth were missing from the municipal data at the time of conversion into SVRS. Before the November 2006 Election almost 500,000 records in the system used default dates of birth. Since then the number has decreased to approximately 151,000 records due to the diligence of the clerks and staff.

As of January 15, 2008:

- Total Voter History Records in SVRS: 22,861,888.
- Total February 19, 2008: 57 Counties with "Election Active" Set.
- February 19, 2008: 999 Municipalities with "Election Active" Set.

- April 3, 2007 Voter Participation Entered into SVRS: 868,424 voters from 1,890 municipalities;
- April 3, 2007 Election Day Registrations Entered into SVRS: 32,003 from 1,678 municipalities;
- February 20, 2007 Voter Participation Entered into SVRS: 308,965 voters from 1,882 municipalities;
- February 20, 2007 Election Day Registrations Entered into SVRS: 6,129 from 726 municipalities;
- November 7, 2006 Voter Participation Entered into SVRS: 2,166,728 voters from 1,894 municipalities; and,
- November 7, 2006 Election Day Registrations Entered into SVRS: 415,503 from 1,895 municipalities.

- Total Voters Records: 4,185,614 (Active = 3,336,448 Inactive = 762,235 Cancelled = 86,925).
- Total Address Ranges in SVRS: 347,306.
- Absentee Applications in SVRS: 88,878.

30-day Forecast

1. Training

The following training sessions are scheduled:

Class Type	1/29/08 – 3/10/08
Basic Application Training	2 classes
Advanced Application Training	4 – 8 classes: 52 + trained
Entry of Voter Registration Training	May schedule traditional classes as needed; continue with localized training by specialists
Business Process Workshops	Specialists training locally on “as needed” basis and as time allows
Absentee Workshops	May schedule traditional classes as needed
Special Registration Deputy Training	To be initiated in February with pilot
WBETS	Limited use will be piloted before April election.

(Web Based Election Training System)	
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2. Settlement with Accenture

During February, Accenture will be providing the final source code and documentation, Interface fixes and will be transitioning control of SVRS to the state.

3. SVRS HAVA Interfaces

The SVRS Team has made Implementation of the HAVA required interfaces its top priority. GAB staff is working with Accenture and DET to make the interfaces functional. Accenture will be providing fixes to the code to address application issues, and DET will be installing an update to the interface infrastructure, create a plan for moving the DOT interface into Production, and is developing workarounds for the functionality that is not yet provided in the system. GAB staff is also developing the training and roll-out plan for this interface.

Defects were still encountered with the Department of Corrections and Department of Health and Family Services interfaces. These interfaces also still lack the full functionality required by the GAB. Further work will need to be done before these interfaces will be usable by the clerks.

4. Help Desk

GAB Help Desk continues to audit and update clerk information within SVRS, updating email addresses and contact information submitted by new clerks.

The Help Desk will have extended hours the day before, during Election Day and the day after in order to field all calls coming into the Elections Division of GAB.

5. Clerk Support

The Elections Specialists will be very busy over the next 30 days managing the election management activities in the SVRS, and conducting and supporting the statewide training efforts of the Elections Division. They will participate in the Election Day Command Central, where telephone support is available to the public and the elections officials from 7 am until at least 10 pm. They will conduct polling place inspections on and prior to Election Day to ensure accessibility standards are met.

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Legal Counsel

Memorandum

To: Members of the Government Accountability Board
From: Tommy Winkler
Date: January 17, 2008
Subject: Reedsburg Municipal Judge Fails to File a Statement of Economic Interests

Statutory background: Section 19.43 (4), *Wisconsin Statutes*, provides:

A candidate for state public office shall file with the board a statement of economic interests meeting each of the requirements of s. 19.44 (1) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers for the office which the candidate seeks, or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers or a declaration of candidacy under s. 8.05 (1) (j), 8.10 (2) (a), 8.15 (1), or 8.20 (8) (a), no later than 4:30 p.m. on the 5th day after notification of nomination is mailed or personally delivered to the candidate by the municipal clerk in the case of a candidate who is nominated at a caucus, or no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the candidate by the appropriate official or agency in the case of a write-in candidate or candidate who is appointed to fill a vacancy in nomination under s. 8.35 (2) (a).

In addition, §8.10 (5), *Wisconsin Statutes*, provides:

8.10 (5) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office or municipal judge shall also file a statement of economic interests with the ethics board under s. 19.43(4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (2)(a), or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers under sub. (2)(a).

Finally, §8.30 (3), *Wisconsin Statutes*, provides:

The official or agency with whom declarations of candidacy are required to be filed may not place a candidate's name on the ballot if the official or agency is prohibited from doing so under s. 19.43 (4) or an ordinance adopted under s. 19.59 (3) (b).

Issue: Wisconsin Government Accountability Board staff was notified by an employee from the State of Wisconsin Office of Judicial Education that a municipal judge in Reedsburg up

for election in the spring of 2008 failed to file a statement of economic interests with the Wisconsin Government Accountability Board by the deadline contained in Section 19.43 (4), *Wisconsin Statutes*.

- Facts:**
- 1.) On January 14, 2008, at 9:04 a.m. an e-mail was sent from Carol Koschel, an employee at the State of Wisconsin Office of Judicial Education, to Tommy Winkler, an employee at the Wisconsin Government Accountability Board. The e-mail indicated that the City of Reedsburg created a new municipal court in the spring of 2007 and that Carol confirmed with the municipal clerk that incumbent judge Rebecca Richards-Bria is up for election in the spring of 2008; however, Carol did not see Judge Richards-Bria on the Government Accountability Board's list of candidates who had filed statements of economic interests for 2008.
 - 2.) Wisconsin Government Accountability Board responded to Carol's inquiry by checking both electronic and hard copy records regarding municipal judges who filed statements of economic interests. Staff discovered that the Government Accountability Board did not even know a municipal judge position existed in the City of Reedsburg. As a result, no correspondence was sent to either Judge Richards-Bria nor the City of Reedsburg municipal clerk indicating that Judge Richards-Bria and any other candidates running for municipal judge are required to file a statement of economic interests with the Wisconsin Ethics Board by January 7, 2008 in order to be placed on the ballot for the spring 2008 election.
 - 3.) A phone call was made to Carol Koschel at the Office of Judicial Education at approximately 9:20 a.m. on January 14, 2008 to discuss the matter. Government Accountability Board staff communicated to Carol that they could find no correspondence from the Office of Judicial Education nor the City of Reedsburg municipal clerk indicating that a municipal judge position was created and that Rebecca Richards-Bria was an appointed judge serving in such a position. Carol communicated that she was going to check her records to see if notification was given to the Wisconsin Ethics Board that such a position existed as well as send the packet of information that is given to municipal judges when they begin serving their term. In this packet, Carol indicated that a notification is given to municipal judges that they must file a statement of economic interests with the Wisconsin Ethics Board (now Government Accountability Board).
 - 4.) At 10:33 a.m. on January 14, 2008 an e-mail was sent by Carol Koschel to Tommy Winkler indicating that the Office of Judicial Education failed to notify the Wisconsin Ethics Board (now Government Accountability Board) that a municipal judge position now existed in the City of Reedsburg. She also indicated that she personally handed a letter and packet of materials to Judge Richards-Bria on March 8, 2007 that instructs her of her responsibility to file a statement of economic interests with the Wisconsin Government Accountability Board.
 - 5.) A follow up call was made by Carol Koschel to Tommy Winkler at approximately 10:40 a.m. on January 14, 2008 in which she indicated that Judge Richards-Bria failed to appear on a list of municipal judge positions up for election in the spring of

2008 that was sent to the Ethics Board via e-mail on October 8, 2007 due to a clerical error.

Recommendation:

The Board, through its staff, contact the Reedsburg Municipal Clerk to advise that the candidate is ineligible to appear on the April 1st spring election ballot.

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KEVIN J. KENNEDY
Legal Counsel

MEMORANDUM

DATE: January 18, 2008

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 Activities

Campaign Finance Update

Sharrie Hauge, Special Assistant to the Legal Counsel

Introduction

Under Chapter 11 of the Wisconsin State Statutes, the Campaign Finance Section administers the campaign finance reporting system, which includes:

- Auditing Campaign Finance reports for compliance;
- Notifying registrants of filing requirements;
- Administering the Wisconsin Election Campaign Fund Program; and,
- Creating a Campaign Finance Database to ensure public disclosure.

Key Metrics

1. **Audits**

Staff completed 121 audits this reporting period. Six committees were terminated and 11 committees were put on "R" status. The committees on "R" status are no longer required to file campaign finance reports, however, they are required to be available to answer questions and resolve any violations prior to termination being granted.

2. **January 2008 Continuing Report and Filing Fee Notices**

Staff sent approximately **1250** filing notices to all registrants (Candidates, PACs, Parties, Referendum Committees, Conduits and Corporations) for the January 2008 continuing report, which is due in the GAB office on January 31, 2008. This report covers activity from July 1, 2007, through December 31, 2007.

Also included in the mailing was a filing fee notice to all PACs, conduits, corporations and political party committees notifying them of the \$100 filing fee requirement for committees whose spending

exceed a total of \$2,500 in any year. Filing fees are due on January 31, 2008 with the January 2008 continuing report.

Staff received 71-January 2008 Continuing Reports and 14-\$100 filing fees to date.

Noteworthy Activities

1. **Wisconsin Election Campaign Fund (WECF)**

The Wisconsin Election Campaign Fund receives its money from a \$1 voluntary check off by Wisconsin taxpayers on individual tax returns. The fund provides grants for candidates for statewide and legislative office. Interested candidates must apply for the grants and meet certain qualifications.

The deadline date to apply for a WECF grant was January 2, 2008. Neither of the two candidates on the ballot for Justice of the Supreme Court applied for a grant.

2. **Campaign Finance Information System**

At its last meeting, the GAB approved the intent to award a contract to PCC Technology Group, LLC (a Connecticut company). The system will capture all campaign finance information from registrants who are required to file this information with the GAB. The system will perform various audit functions on the data as well as provide robust access to the data by the public.

The project is set up into eight phases with key deliverables identified and payments tied to the acceptance of those deliverables.

Deliv ID	Component	Deliverable Type	Projected Deliverable Date	Total Cost	% Billable	Invoice Amount	Payment Amount	\$ Retained	
1	Base Software	Commercial off-the-shelf software	14-Jan-08	\$ 540,400	33.33%	\$ 180,133	\$ 144,107	\$ 36,027	
1	Base Software	Commercial off-the-shelf software	21-Apr-08		33.33%	180,133	144,107	36,027	
1	Base Software	Commercial off-the-shelf software	1-Sep-08		33.33%	180,133	144,107	36,027	
2	Customizations	Software	21-Apr-08	108,150	33.33%	36,050	28,840	7,210	
2	Customizations	Software	12-May-08		16.67%	18,025	14,420	3,605	
2	Customizations	Software	2-Jun-08		16.67%	18,025	14,420	3,605	
2	Customizations	Software	21-Jun-08		16.67%	18,025	14,420	3,605	
2	Customizations	Software	7-Jul-08		16.67%	18,025	14,420	3,605	
3	Data Conversion	Data Mapping	14-Apr-08	166,900	20.00%	33,380	26,704	6,676	
4	Data Conversion	Data	12-May-08		20.00%	33,380	26,704	6,676	
3	Data Conversion	Data	7-Jul-08		20.00%	33,380	26,704	6,676	
3	Data Conversion	Data	1-Sep-08		20.00%	33,380	26,704	6,676	
3	Data Conversion	Data	1-Dec-08		20.00%	33,380	26,704	6,676	
4	Training	Application Training User Documentation	8-Sep-08	33,477	100.00%	33,477	26,781	6,695	
5	Implementation	MS Project Plan - Draft; Statement of Work - Draft; Project Kickoff Mtg	23-Jan-08	361,004	10.00%	36,100	28,880	7,220	
5	Implementation	MS Project Plan - Final; Statement of Work - Final; Staffing Plan - Final; Communication Plan - Final; Quality Control Plan - Final; Issues and Risk Management Plan - Final	28-Jan-08		10.00%	36,100	28,880	7,220	
5	Implementation	JAD Sessions; JAD Session Meeting Notes Initial ERD	4-Feb-08		10.00%	36,100	28,880	7,220	
5	Implementation	Functional Requirements Document - Draft Requirements Traceability Document - Draft	29-Feb-08		10.00%	36,100	28,880	7,220	
5	Implementation	Functional Requirements Document - Final Requirements Traceability Document - Final	21-Mar-08		10.00%	36,100	28,880	7,220	
5	Implementation	Technical Design Document UAT Plan Training Plan	18-Apr-08		10.00%	36,100	28,880	7,220	
5	Implementation	Testing Environment - Final	11-Aug-08		10.00%	36,100	28,880	7,220	
5	Implementation	Go-live	6-Oct-08		20.00%	72,201	57,761	14,440	
5	Implementation	Close go-live	1-Dec-08		10.00%	36,100	28,880	7,220	
6	Maintenance and Support 1	Maintenance and Support FY 10	1-Dec-09		129,360	100.00%	129,360	129,360	-
6	Maintenance and Support 1	Payment of Retainage	1-Dec-09		241,986	100.00%	241,986	241,986	(241,986)
7	Maintenance and Support 2	Maintenance and Support FY 11	1-Jul-10		212,066	100.00%	212,066	212,066	-
8	Maintenance and Support 3	Maintenance and Support FY 12	1-Jul-11	224,170	100.00%	224,170	224,170	-	

On December 12, 2007, the Joint Committee on Finance met and approved the release of \$437,700 GPR in 2007-08, and \$181,300 GPR in 2008-09 from the Joint Committee on Finance's 20.865(4)(a) supplemental appropriation to the Government Accountability Board to permit us to fund the Campaign Finance Information System Project.

On January 9, 2008, Capitol Finance approved the Government Accountability Board's Master Lease funding Program Request to fund the cost of the Campaign Finance Information System.

Looking Ahead

The Campaign Finance staff will be very busy over the next 30 days entering in the January 2008 continuing reports, preparing for the spring pre-primary reports, participating in Joint Application Design (JAD) sessions to determine the design of the Campaign Finance Information System and auditing campaign reports.

Action Items

No action is required of the Board at this time.

Contract Sunshine Update

Tommy Winkler, Contract Sunshine Program Director

Introduction

Wisconsin's Contract Sunshine Act (2005 Act 410) calls for the creation and maintenance of an Internet site at which anyone may access information about every state contract, purchase, and solicitation of bids or proposals that involves an annual expenditure of \$10,000 or more. *Wisconsin Statutes* direct the Wisconsin Government Accountability Board to create and maintain this site. In enacting the Contract Sunshine Act, the Legislature's intention was to enhance citizens' confidence in the State's procurement process by providing a one-stop Internet location where citizens, the press, vendors, and others can learn about current procurement activities. The legislature intended that the Act provide potential vendors of goods and services with ready access to information about the State's purchases and confirm that the State's procurement programs are operating fairly and efficiently.

Key Metrics

- 21** The number of state agencies that have participated in training sessions geared at presenting and implementing the new website. Demonstrations were given to agency procurement officials on how to view and enter procurement information on the new website.
- <\$30,000** The cost of developing the current Contract Sunshine website.
- >\$25,000** The annual expenditure level agencies are required to report information to the website, raised from \$10,000 for implementation purposes by the former Wisconsin Ethics Board at a board meeting.

Noteworthy Activities

Government Accountability Board staff has been and will continue to work with DOA and IT consultant personnel to enter all statewide contracts into the Contract Sunshine system by February 4, 2008. Additional presentations are scheduled to be given to agencies regarding the website, with a presentation before the State Agency Purchasing Council scheduled for February 20, 2008.

Looking Ahead

Government Accountability Board staff will continue to work with state agencies in beginning to report procurement information required under the Contract Sunshine Act using the new online system. Website enhancements and improvements will be implemented based upon feedback from both internal and external stakeholders.

Action Items

No action is required of the Board at this time.

Financial Disclosure Update

Tommy Winkler, Contract Sunshine Program Director

Introduction

State officials and candidates file Statements of Economic Interests under Chapter 19 of Wisconsin Statutes. These statements are filed on an annual basis with the Government Accountability Board, and they are open for public inspection at the time they are filed. A statement identifies a filer's, and his or her immediate families, employers, investments, real estate, commercial clients, and creditors. The idea is to identify which businesses and individuals an official is tied to financially. The focus is on identifying a filer's financial relationships, not on identifying the individual's wealth. This information is entered into an online index that is managed by Government Accountability Board staff.

Key Metrics

- 2200** The approximate number of state public officials required under Section 19.43, *Wisconsin Statutes*, to file Statements of Economic Interests on an annual basis with the Government Accountability Board.
- 184** The number of judicial incumbents and challengers who filed Statements of Economic Interests in order to appear on the ballot for the spring 2008 election.
- 2078** The number of pre-printed annual Statements of Economic Interest that will be mailed out to state public officials in January, February and March of 2008.
- 100%** The former Ethics Board had consistently achieved 99% to 100% compliance with the filing deadlines for Statements of Economic Interests, and the Government Accountability Board is working to continue to achieve 100% filing compliance.

Annual pre-printed Statements of Economic Interests are being mailed out in batches of 200 to 300 statements to state public officials required to file every Friday beginning on January 18, 2008 and ending March 7, 2008. Annual statements are due no later than April 30, 2008.

Looking Ahead

Government Accountability Board staff will investigate the feasibility, efficiency and effectiveness of moving to online filing of Statements of Economic Interests for future filing periods. Government Accountability Board staff will also be processing Statements of Economic Interests into the online index as they arrive over the coming months.

Action Items

No action is required of the Board at this time.

Lobbying Update

Barton Jacque, Lobbying Program Director

Introduction

Wisconsin has some of the most structured lobbying laws in the country. Lobbyists and organizations that employ lobbyists must complete a Statement of Lobbying Activities and Expense Report every 6 months. The report for July – December is due January 31, and the report for January – June is due July 30.

In addition to the Statement of Lobbying Activity and Expense Reports managed by our agency, all state agencies are required to file Legislative Liaison reports to the Government Accountability Board (the ‘Board’) every 6 months. Key staff and agency officials who are authorized to effect legislation and administrative rule-making notify the Board of their annual salary and the percentage of time spent on lobbying matters.

Key Metrics

Measuring the success and timeliness of the reports are quantitative. Reports are filed online and the Ethics and Accountability Division have administrator access to all reports. As is customary most lobbyists and organizations wait until the final week of January and July to complete their report. Last reporting period we had a 99% success rate where only one lobbyist had a reporting issue beyond their control. I expect a 100% success rate for this period.

Liaison reporting is less rigid; we are however pro-active in contacting agencies via telephone and e-mail when the liaison report has not been filed for more than 30 days.

Noteworthy Activities

Statements of Lobbying Activities and Expense Reports are due January 31. Liaison reports are due January 31 as well. The next lobbying report is due July 31. When the new session begins January 1, 2009 we will require all organizations and lobbyists who wish to effect legislation or administrative rule making to re-register, re-license, and re-authorize for the next session.

Looking Ahead

In an effort to supplement the cost of the lobbying program administered by the Board we have established the FOCUS program. This is a subscription service which allows lobbyists to see what other lobbyists are doing in relation to specific key words, topics of legislation, or administrative rules that they themselves are working for or against.

When time permits Tommy and I have considered new ways to market this item to lobbyists and organizations. It is my goal to have a conceptualized product for the board to review before March.

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Legal Counsel

MEMORANDUM

DATE: For the January 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Kevin J. Kennedy, Legal Counsel
Sharrie Hauge, Special Assistant to the Legal Counsel

SUBJECT: Administrative Activities

Agency Organization

Introduction

I have been meeting with the Division Administrators and key agency staff to develop an organizational structure for the Government Accountability Board. Attached is an initial draft of a staff organization chart that reflects the operations of the agency while we complete our evaluation of the best organization to meet the agency's administrative requirements.

Some preliminary determinations have been made. In addition to the two divisions, there will be an office of Legal Counsel and Administrative Services. The two staff attorneys will report to me along with the Division Administrators. I have designated Sharrie Hauge Special Assistant to the Legal Counsel.

Sharrie will be responsible for managing agency operations including human resources, budget and financial services. She will manage the staff responsible for providing the administrative services for the two divisions and the agency. She will also continue to serve as the project manager for the campaign finance information system development.

I expect there will be a significant exchange of personnel between divisions in order to develop a cohesive team and to best accomplish our objectives.

Noteworthy Activities

1. Designation of Legal Counsel Working Title.

At its initial meeting Board members decided the Legal Counsel would be the agency head and serve as a "chief of staff" for the Government Accountability Board. It is clear my statutory designation "Legal Counsel" creates some level of ambiguity with formal agency communications. After discussion among the management team, staff believes a different

working title should be developed for the agency letterhead and my signature line. I recommend the Board designate my working title as “Director and General Counsel.”

This conveys that I am serving as the administrative head of the agency as well as the chief counsel. I have noted a level of confusion at seminars and in communication with individuals outside Wisconsin when the Legal Counsel title is used in the context of my role as agency head. A motion to implement this recommendation follows this report.

2. Resolution of Eligibility Issue Concerning Certain Board Members

In response to an inquiry from the Board Chair, Jonathan Becker, George Dunst and I reviewed court cases and other legal authority that addressed the restriction in the Wisconsin Constitution that a judge of a court of record may not hold a non-judicial office of public trust during the term for which elected and its applicability to two members elected to their judicial positions in 2002 and 2003.

Because it was not clear whether the constitutional restriction would apply to members of the Government Accountability Board, I recommended the agency request an opinion from the Department of Justice. In order to receive a quick resolution, I asked for an informal opinion. Jonathan Becker prepared the request and Board members had the opportunity to individually provide us with comments on the draft. The request was submitted on Friday, January 11, 2008.

3. Accounting

As a result of the merging of the two separate agencies, Sharrie Hauge and Helena Huddleston have been assigned to create the agency’s new accounting system. They are in the process of setting up the budgetary accounting for the new agency. They have completed their preliminary work of determining the agency’s new chart of accounts, funding strings and budgetary controls.

Once the new system is in place, they will move all the existing expenditures from the two prior agencies into the new agency’s expense budget and close out the accounting ledgers for the old accounts.

4. Space Planning

On December 20, 2007, staff submitted a space allocation request to the Department of Administration’s, Division of Facilities, to begin the process of finding one location for all three GAB offices. Sharrie Hauge and Helena Huddleston have been assigned to this project. The Division of Facilities staff has begun their analysis of our request. Once DOA has determined the amount of space that can be allocated, they will assist us in finding adequate space.

Per our understanding of the Board’s intention, we are seeking privately leased space.

5. Staffing

Currently, staff is in the process of recruiting for two vacant Elections Specialist and three vacant Information Technology positions. We are also recruiting for a limited term employee to assist us in developing tools to improve disability accessibility at polling sites.

6. Resolution of Ballot Access Complaints

I expect to issue at least one compliance review order pursuant to Section 5.06, Wis. Stats., resolving an appeal of the decision of a local filing officer with respect to a candidate's qualifications to appear on the spring primary ballot. I will provide Board members with a copy of the order at the meeting.

Looking Ahead

Before the next Board meeting, I expect to finalize an organizational chart for the agency. The staff expects to complete the accounting and financial transition for the two former agencies to a single agency. We should have authorization to proceed with selecting new space to bring all employees together in a single downtown location

Action Items

The Board should address the following action items:

1. The working title for the Legal Counsel.

Motions

Motion: The Government Accountability Board designate the Legal Counsel's working title as "Director and General Counsel." to reflect his responsibilities as the administrative head of the agency as well as the agency's chief counsel.