

Meeting of the Board
Tuesday, April 26, 2016
9:00 A.M.

Agenda
Open Session

Room 412 East, State Capitol

Madison, Wisconsin

Tuesday, April 26, 2016

9:00 A.M.

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- A. Call to Order**
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 - 1. Voting Equipment Override Functions**
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 - 3. Election Night Results Posting Requirement**
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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.	Administrative Rules	85
1.	Authorize Drafting Scope Statement for Rule on Absentee Ballot Tracking Subscription Service	
2.	Authorize Drafting Scope Statements for Division of G.A.B. Rules Between Elections and Ethics Commissions	
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Q.	Closed Session	
5.05 (6a) and 19.85 (1) (h)	The Board’s deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (g)	The Board may confer with legal counsel concerning litigation strategy.	
19.851	The Board’s deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (c)	The Board may consider performance evaluation data of a public employee over which it exercises responsibility.	

The Government Accountability Board has scheduled its next and final meeting for Friday, June 10, 2016. The meeting will be held at the State Capitol to accommodate participation by parties affected by ballot access decisions of the G.A.B.

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

State of Wisconsin\Government Accountability Board

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JUDGE VICTOR MANIAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue
Madison, Wisconsin
March 1, 2016
9:00 a.m.

Open Session Minutes

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Present: Judge Gerald Nichol and Judge Edward Leineweber (in person), Judge Victor Manian, Judge Harold Froehlich, Judge Timothy Vocke and Judge John Franke (by telephone), Elections Commissioner Ann S. Jacobs and Ethics Commissioner Katie McCallum (in person)

Staff present: Kevin Kennedy, Jonathan Becker, Michael Haas, Ross Hein, Nathan Judnic, Sharrie Hauge, Diane Lowe, David Buerger, Kyle Kundert and Reid Magney

Board of Canvass

In the absence of the Chair, Judge Nichol signed the Official Canvass of the Spring Primary Election, held February 16, 2016, for the offices of Supreme Court Justice and Circuit Court Judge.

A. Call to Order

Judge Manian asked Judge Nichol to chair the meeting, which was called to order at 9:04 a.m.

Director Kennedy introduced Commissioner Katie McCallum of the Ethics Commission and Commissioner Ann Jacobs of the Elections Commission. Under 2015 Act 118, members of the

new Elections and Ethics Commissions serve as non-voting members of the Government Accountability Board during the transition period before June 30, 2016.

B. Director’s Report of Appropriate Meeting Notice

Director and General Counsel Kevin Kennedy informed the Board that proper notice was given for the meeting.

C. Minutes of Previous Meetings

December 15, 2015

January 12, 2016

February 8, 2016

MOTION: Approve minutes of the December 12, 2015, January 12 and February 8, 2016 meetings of the Government Accountability Board as presented. Moved by Judge Manian, seconded by Judge Leineweber. Motion carried unanimously.

D. Personal Appearances

There were no personal appearances.

E. Campaign Finance Administrative Rule Review

Ethics and Accountability Division Administrator Jonathan Becker made an oral presentation based on a written report starting on page 21 of the March 1, 2016 meeting materials. He reported that 2015 Wisconsin Act 117, the campaign finance law overhaul, contains a non-statutory provision requiring the Board to review all campaign finance –related administrative rules and advisory opinions and determine if any are inconsistent with the new law. Beginning on the effective date of the Act, any administrative rule that the Board finds to be inconsistent with the Act may not be enforced and any advisory opinion that the Board finds to be inconsistent with the Act is invalid

Staff has reviewed all administrative rules and is bringing recommendations to the Board, with a motion on page 43 of the meeting materials. Staff will present recommendations about advisory opinions at the next Board meeting.

Board Members and staff discussed the Board’s authority and the process to make changes to administrative rules to make them consistent by changing statutory references. Staff is working closely with the editor of the Administrative Code on renumbering. Where there are more complex issues, the Board will have to decide whether to start promulgating new rules or leave that task to the new Ethics Commission which takes over June 30, 2016.

MOTION: Adopt staff’s recommendations contained in the memorandum and find the noted rules to be inconsistent with Wis. Stat. Ch. 11, determine that the Board will not enforce such

rules, and direct staff to take the necessary steps to amend the Administrative Code to reflect its findings. Moved by Judge Vocke, seconded by Judge Leineweber. Motion carried unanimously.

F. Review Ballot Access Document Issues

1. Previously Approved Precedent for Ballot Access Challenges

Staff Counsel Nathan Judnic made an oral presentation based on a written report starting on page 73 of the March 1, 2016 meeting materials. He explained that staff has drafted a guidance document to help local election officials respond to common challenges that arise during the nomination paper process.

Director Kennedy said staff wanted to give local officials a single point of reference, rather than have to research individual cases. He said each of the situations described has come up in the past and has been dealt with by the Board.

Board members and staff discussed whether there was a need to add disclaimer language indicating that different facts could result in different decisions in the future. Director Kennedy suggested that staff could review the disclaimer language, suggest changes, submit them to the Board Chair for approval, and circulate the new language to the Board Members.

MOTION: Authorize staff to publish and distribute the guidance document entitled Common Nomination Paper Challenges, and further authorize staff to make necessary updates and revisions to this document based on Board decisions on specific nomination paper challenges in the future. Moved by Judge Franke, seconded by Judge Froehlich. Motion carried unanimously.

2. Issues Raised by De La Fuente Challenge

Staff Counsel Judnic made an oral presentation based on a written memorandum starting on page 82 of the March 1, 2016 meeting materials. The Board found Mr. De La Fuente's petitions were insufficient to get his name on the Presidential Preference Primary ballot, and the Board's actions were upheld in Circuit Court and by the Court of Appeals, after which the Wisconsin Supreme Court declined to hear the case. Issues that disqualified Mr. De La Fuente's petitions included a failure to list the circulator's municipality and use of an incorrect year by petition signers. Mr. De La Fuente's counsel had argued the filing office can "bracket" the incorrect dates if they are surrounded by correct dates, but Mr. Judnic said bracketing may only be done when a date is illegible or incomplete, not when it is incorrect.

Board Members and staff discussed the memorandum and the issues it raised.

MOTION: Reaffirm that the analysis used by Board staff in resolving the election petition issues described in the memorandum remain valid, and authorize staff to include the analysis in the "Common Nomination Paper Challenges" document. Moved by Judge Vocke, seconded by Judge Manian. Motion carried unanimously.

Board Members and staff further discussed the issue of what happens if petition pages contain signatures from more than one congressional district.

MOTION: Direct staff to refer the problem with Wis. Stat. § 8.12(1)(c) regarding signatures from multiple congressional districts on one election petition page to the Legislature. Moved by Judge Manian, seconded by Judge Leineweber. Motion carried unanimously.

3. Treatment of PO Box on Nomination Paper Form

Staff Counsel Judnic made an oral presentation based on a written memorandum starting on page 111 of the March 1, 2016 meeting materials. He said a number of candidates have had problems with nomination papers over the years because they list a post office box as their address instead of a physical address. Staff looked at the issue and recommends changes to the form and the instructions to indicate “No PO Boxes” so candidates do not make the mistake in the future.

Board Members and staff discussed the issue. Commissioner Jacobs suggested adding the word “Candidate’s” to the box for addresses so people using the form know that it is the candidate’s address, not the campaign committee’s address that must be listed. Consensus of the Board to adopt Commissioner Jacobs’ suggestion.

MOTION: Approve revisions to form GAB-169 as presented and discussed at the March 1, 2016 Board meeting, and direct staff to make the same revisions to forms GAB-166, GAB-167 and GAB-168.

MOTION: Authorize staff to update the instructions to forms GAB-166, GAB-167, GAB-168 and GAB-169 to reflect the approved revisions.

Both motions moved by Judge Manian, seconded by Judge Leineweber. Motions carried unanimously.

G. Election Administration – WisVote Report

Elections Supervisor Ross Hein made an oral report on the modernization of the Statewide Voter Registration System (SVRS) into WisVote. He discussed the history of SVRS and the improvements made in WisVote, which launched January 11, 2016 after two and a half years of planning including a year and a half of development and testing. After the launch there were some issues, but staff has been able to make changes to fix them. A detailed, written report will be provided to the Board at its April meeting.

Board Members and staff discussed the rollout of WisVote and issues involving absentee ballot labels. Elections Division Administrator Michael Haas said that absentee voting has the most complicated procedures in election administration. He said SVRS had issues as well, but with WisVote the staff is able to identify and fix the problems much more quickly.

Judge Nichol called a recess at 10:33 a.m. The Board reconvened at 10:45 a.m.

H. Validity of Hole Punched Driver License for Photo ID

Division Administrator Haas made an oral presentation based on a written memorandum starting on page 116 of the March 1, 2016 meeting materials. He said a question has arisen about whether a driver license that has had a hole punched in it can be used as proof of identification to receive a ballot. Staff recommends that it can be used for photo ID as long as the expiration date is visible, and it is not older than the last general election, because the Photo ID Law does not require a driver license or state ID to be valid, unlike the proof of residence requirement for voter registration.

Board Members and staff discussed what happens if the hole is punched through the expiration date. If the DMV has punched a hole in the license, the holder is getting a new license or ID card, and the hole-punched license would not be valid as Photo ID because it cannot be shown to satisfy the expiration date requirement.

MOTION: Find that a driver license or state ID card issued by the Wisconsin Division of Motor Vehicles which contains a hole punch from the DMV or another state does not constitute an acceptable form of proof of residence because it is no longer current or valid. Find that a driver license or state ID card issued by the Wisconsin Division of Motor Vehicles which contains a hole punch from the DMV or another state does constitute an acceptable form of photo identification for voting purposes, provided that it contains an expiration date after the date of the most recent general election. Moved by Judge Manian, seconded by Judge Franke. Motion carried unanimously.

I. HAVA Reports

Elections Specialist David Buerger made an oral presentation based on a written memorandum starting on page 119 of the March 1, 2016 meeting materials regarding annual reports the Board is required to submit to the U.S. Election Assistance Commission detailing the Board's use of federal funds under sections 101 and 251 of the Help America Vote Act of 2002. No Board action is required.

J. Elections/Ethics and Accountability Division Accomplishments

Director Kennedy made an oral presentation based on a written memorandum starting on page 119 of the March 1, 2016 meeting materials regarding reports of the 2015 accomplishments of the Elections Division and the Ethics Division. He said the reports reflect the preparation activities of the staff during a year when there is not a regularly scheduled election, as well as implementation of a great deal of legislative activity affecting laws administered by the Board. No Board action is required.

K. Request for Approval of Contract for Information Technology Services

Elections Supervisor Hein made an oral presentation based on a written memorandum starting on page 150 of the March 1, 2016 meeting materials regarding staff's request to extend the

information technology services contract for the Ethics and Accountability Division. The contractor in the position provides support for the Eye on Lobbying website and application, as well as Legislative Liaisons and the Campaign Finance Information System. The contract is in the budget and can be terminated at any time.

Board Members and staff discussed projects the contractor is working on and the fact that the contract price is set by the Department of Administration and has not changed.

MOTION: Approve the execution of one IT contract for the Database Architect-3 position. Moved by Judge Franke, seconded by Judge Manian. Motion carried unanimously.

L. Agency Transition Report

Director Kennedy made an oral presentation based on a written memorandum starting on page 152 of the March 1, 2016 meeting materials regarding the transition team's work with the Department of Administration (DOA) in developing a transition plan from the Government Accountability Board to the new Elections and Ethics Commissions. DOA's report to the Joint Committee on Finance will contain a recommendation to set the new agencies' budget authority.

Board Members and staff discussed details of the planning, including orientation for new commissioners, the hiring of new administrators, division of agency assets, creation of new commission websites, division of the administrative code sections, and allocation of funds. Director Kennedy said he and his team have established a good working relationship with Deputy DOA Secretary Cate Zeuske and her team.

M. Legislative Status Report

Ethics and Accountability Specialist Kyle Kundert and Elections Specialist David Buerger made an oral presentation based on a written memorandum starting on page 155 of the March 1, 2016 meeting materials regarding recent legislative activity involving statutes administered by the Board.

Board Members and staff discussed several bills, including SB295, which makes a number of changes in statutes affecting voter registration and election administration, and one change in campaign finance regulation.

F. Review Ballot Access Document Issues (continued)

1. Previously Approved Precedent for Ballot Access Challenges

Staff Counsel Judnic presented proposed disclaimer language for the guidance document:

“This document summarizes previous decisions of the State Elections Board and the Government Accountability Board related to the most common challenges to nomination papers and other election petitions. It is intended to itemize and consolidate previous decisions which state and local filing officers may rely on as precedents regarding the general legal questions and

principles involved. However, the facts of individual cases and challenges often vary, and the policies outlined in this document are not considered binding upon state and local filing officers in future cases.”

Board Members and staff discussed the proposed language and whether it was too broad to have any binding effect. Staff Counsel Judnic offered alternative language with changes to the last sentence:

“This document summarizes previous decisions of the State Elections Board and the Government Accountability Board related to the most common challenges to nomination papers and other election petitions. It is intended to itemize and consolidate previous decisions which state and local filing officers may rely on as precedents regarding the general legal questions and principles involved. However, the facts of individual *circumstances and challenges vary, and the application of these principles will be determined on a case by case basis.*”

MOTION: Approve the amended disclaimer language presented by the staff. Moved by Judge Franke, seconded by Judge Vocke. Motion carried unanimously.

N. Per Diem Payments

MOTION: Authorize payment of a half day per diem for preparation in addition to the full day for participating in the meeting. Moved by Judge Vocke, seconded by Judge Franke. Motion carried unanimously.

O. Director’s Report

Elections Division Report – election administration

Written report from Division Administrator Haas and Division staff was included beginning on Page 190 of the March 2016 Board Meeting Materials.

Mr. Haas said he has filled the position of WisVote specialist by hiring Tony Bridges, who has been with the agency as an office operations associate. He noted that Peter James is leaving his position as WisVote specialist for a position with the Department of Corrections.

Judge Nichol asked about the status of the 22 federally-funded positions in the budget. Director Kennedy said that in his conversations with legislative staffers and leaders, they have indicated they would “take care of” these positions in the next budget.

Ethics and Accountability Division Report – campaign finance, ethics, and lobbying administration

Written report from Division Administrator Becker and Division staff was included beginning on Page 177 of the March 2016 Board Meeting Materials.

Office of General Counsel Report – general administration

Written report from Kevin J. Kennedy, Sharrie Hauge and Reid Magney was included beginning on Page 201 of the March 2016 Board Meeting Materials.

P. Closed Session

Adjourn to closed session as required by statutes to deliberate on requests for advice under the Code of Ethics for Public Officials and Employees, lobbying law, and campaign finance law; to consider the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; to confer with counsel concerning pending litigation; and to consider performance evaluation data of a public employee over which it exercises responsibility.

MOTION: Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to deliberate on requests for advice under the Code of Ethics for Public Officials and Employees, lobbying law, and campaign finance law; to consider the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation, and to consider employment, promotion and performance evaluation data of a public employee of the Board. Moved by Judge Vocke, seconded by Judge Manian.

Roll call vote: Leineweber:	Aye	Manian:	Aye
Nichol:	Aye	Froehlich:	Aye
Franke:	Aye	Vocke:	Aye

Motion carried unanimously. The Board adjourned at 11:52 a.m. and convened in closed session at 12:03 p.m.

Summary of Significant Actions Taken in Closed Session:

- A. Requests for Advice: Three matters considered.
- B. Complaints and Investigative Matters: Two matters considered – one terminated and settlement agreement approved.
- C. Matters beyond the Board’s Jurisdiction: Nine matters considered and dismissed.
- D. Litigation: Two potential matters and three pending matters considered.

F. Adjourn

The Board adjourned in closed session at 2:08 p.m.

#####

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, April 26, 2016, at the State Capitol in Madison, Wisconsin beginning at 9:00 a.m.

March 1, 2016 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

March 23, 2016

March 1, 2016 Government Accountability Board meeting minutes certified by:

Judge Gerald C. Nichol, Board Secretary

April 26, 2016

DRAFT

State of Wisconsin \ Government Accountability Board

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Jonathan Becker
Ethics and Accountability Division Administrator
Government Accountability Board

Prepared by:
Kyle Kundert, Ethics Specialist

SUBJECT: Advisory Opinion Review

Introduction:

The Act amending the campaign finance law, *2015 Wisconsin Act 117, Section 74 (1)* (“Act”) requires the Government Accountability Board (“Board”) to review all of its advisory opinions currently in effect and determine which, if any, opinions are inconsistent with the new law. Opinions that the Board finds to be inconsistent with the Act may not be enforced.

The Board’s advisory opinions covering campaign finance are indexed on the Board’s website. The analysis, which follows, sets forth the opinions currently in effect and the Board staff recommendation on whether the opinion is inconsistent with current law. Each opinion can be accessed in the electronic version of the Board materials through a hyperlink tied to the opinion number in the materials.

The opinions that follow are addressed using three (3) categories. Firstly, items that are “**Consistent**” are valid and rational under current law but may require minor drafting changes. Secondly, items that are “**Partially Consistent**” are valid and rational but a minor portion of the opinion may be inconsistent or more significant drafting changes would be required. Lastly, items that are “**Inconsistent**” are completely invalid and cannot be enforced under current law.

2008 GAB 08

Summary:

The Government Accountability Board advises: 1) A limited liability company may not give office space to a candidate’s legislative campaign committee, even if the candidate is a principal, or the sole, owner of the company. 2) A candidate’s legislative campaign committee may rent office space from a company owned by the candidate at a fair market value.

Disposition:

Partially Consistent. §§11.1112, 11.1113 (sole proprietors, partnerships, LLC). The opinion remains generally true, except that LLCs taxed as sole proprietorship may provide office space.

2009 GAB 01

Summary:

The Government Accountability Board advises: A campaign committee can legally pay court-ordered costs awarded to the defendant in litigation initiated by the committee and for which it was the named plaintiff, when the lawsuit was related to a political purpose, specifically, attempting to enjoin communications which expressly advocated the defeat of a candidate.

Disposition:

Consistent. Political purpose language is no longer used in statute.

2009 GAB 03

Summary:

The Government Accountability Board advises: The candidate committee may organize as a non-stock corporation under Ch. 181, Wis. Stats., and is exempt from §11.38(1)(a)1., Wis. Stats., but only so long as the committee is formed for the express purpose of and is limited to political activities that may be undertaken by candidates and candidate committees under Chapter 11, Wis. Stats., and the rationale for so incorporating is to limit the committee's liability consistent with Wisconsin law. Despite its incorporation, the committee, the candidate and the treasurer are not exempt from liability specifically prescribed by Ch. 11, Wis. Stats.

Disposition:

Consistent. Not addressed in Chapter 11 as amended by Act 117.

2010 GAB 02

Inconsistent. Unpublished Opinion.

2011 GAB 01

Summary:

The Government Accountability Board advises:

1. Contributions exempt from campaign finance limits pursuant to §11.26(13m)(b), Wis. Stats., may be used only for qualifying legal fees and other recall-related expenses incurred before a

recall election is ordered, unless the expenses are incurred specifically for contesting or defending the order for a recall election. Qualifying expenses include legal fees and other expenses incurred “in connection with” or “with the response to” the circulation, offer to file or filing, of a petition to recall an officer, or if incurred in contesting or defending the order for a recall primary or election

2. Qualifying expenses under §11.26(13m)(b) may include public advocacy and persuasion after recall petitions are offered for filing, if such expenses are incurred in connection with the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. The statute is clear that the exemption does not end when a recall petition is offered for filing, but rather ends only when a recall primary or election is ordered.
3. The Board confirms that there is a broad spectrum of qualifying recall-related expenses, which includes expenses incurred for public advocacy and persuasion. However, for any qualifying recall-related expenses, but especially public advocacy and persuasion, there must be a reasonable nexus between the incurred expense and the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. This is a factual determination.

Disposition:

Consistent. §11.1104(9), (10) & (11) (unlimited contributions), §11.1201 (defense fund)
Subchapter IX (Recall Committees)

2014 GAB 02

Summary:

The Government Accountability Board advises: contributions from a candidate’s own personal campaign committee do not count toward that same candidate’s annual aggregate limit. The statutory language is clear that the annual aggregate limit applies only to individuals. Wis. Stat. §11.26 (4). This is so even if a candidate has made personal contributions in excess of \$10,000 in any given calendar year to the candidate’s own personal campaign committee.

Disposition:

Inconsistent. Conclusion is correct but no aggregate limits remain in Chapter 11 as amended by Act 117.

2014 GAB 03

Summary:

The Government Accountability Board advises: that a conduit may redirect contributions to a PAC or other committee under Wis. Stat. §11.185 (1) if it has established or paid the administrative expenses of the conduit, whether or not it has registered as a sponsoring

committee, or (2) if the committee was established by the same organization that established the conduit. The Board further advises that a mere confluence of interests or the fact that a depositor has previously directed the conduit to make a contribution to a PAC is not enough to consider the two entities as “associated” within the meaning of the statute.

Disposition:

Consistent. Subchapter VII (conduits), §11.0705 (redirected contributions)

[El. Bd. Op. 00-1](#)

Summary:

The Government Accountability Board advises: A registrant may use a commercial vendor to collect contributions from visitors to the registrant’s web site. The vendor may not exercise any discretion or control over the amount of the contribution or who receives the contribution. The registrant must obtain the information about the contributor to enable the registrant to comply with the disclosure requirements of the campaign finance law.

Disposition:

Consistent.

[El. Bd. Op. 00-2](#)

Summary:

The Government Accountability Board advises: Non-registrants, including corporations, may communicate to the general public their views about issues and/or about a clearly identified candidate, without subjecting themselves to a registration requirement, if the communication does not expressly advocate the election or defeat of a clearly identified candidate; expenditures which are "coordinated" with a candidate or candidate's agent will be treated as a contribution to that candidate; intra-association communications that are restricted to "a candidate endorsement, a position on a referendum or an explanation of the association's views and interests" distributed to the association's members, shareholders and subscribers to the exclusion of all others, are exempt from Ch. 11, Stats., regulation; and a non-partisan, candidate-non-specific voter registration or voter participation drive is not subject to the registration and reporting requirements of ch.11, Stats.

Disposition:

Partially Consistent. Only express advocacy coordination is regulated. See: §11.1203 (coordination) and case law. *State of WI ex rel. Two Unnamed Petitioners v. Peterson, 2015 WI 85 (Wis., 2015)*

[El. Bd. Op. 01-1](#)

Summary:

The Government Accountability Board advises: Registrants may use drawings as part of a solicitation to a fundraising event, but must report all contributions raised in connection with the solicitation and the event, including the fair market value of any donated prize that is to be awarded as part of the drawing.

Disposition:

Consistent. §11.1105 (valuation).

[El. Bd. Op. 03-1](#)

Summary:

The Government Accountability Board advises: The filing, with the State Elections Board, of a challenge to a candidate's nomination, is an act for political purposes and the spending of more than \$25 in the submitting of that challenge requires that the person challenging file a registration statement with the Board. The spending by an individual of more than \$100 of his or her own money to submit a challenge to a candidate's nomination precludes the individual from exempt status and requires the individual to file a campaign finance report. Whether or not nomination challenge expenditures are an in-kind contribution or an independent expenditure, or are neither, they are permissible political expenditures and should be reported.

Disposition:

Inconsistent. Registration requirements and exemption limits raised.

[El. Bd. Op. 06-1](#)

Summary:

The Government Accountability Board advises: Ancillary events, like a golf outing, held in conjunction with a political fundraiser are treated as part of the fundraiser unless the registrant/beneficiary of the fundraiser is able to show that the fundraiser was a separate and independent event. In determining whether ancillary events are separate and independent from a political fundraising event, PAC/Conduit events to raise money for the PAC are evaluated differently from events held to raise money for a candidate. Compensation for time and travel for persons paid to attend fundraising events is not considered a contribution to the beneficiary of the fundraising event unless the compensated attendee performs, in the course of the fundraiser, services for the beneficiary of the fundraiser.

Disposition:

Consistent.

[El. Bd. Op. 76-15](#)

Summary:

The Government Accountability Board advises: Local union affiliates which act solely as a conduit in collecting and transferring a contribution to state organization need not register as a political committee.

Disposition:

Consistent. The assets in the account cannot linger, must be immediately dispensed and must act only as a conduit.

[El. Bd. Op. 74-10](#)

Summary:

The Government Accountability Board advises: The name and address of each contributor making a single contribution of \$10 or less need not be recorded by a campaign treasurer, but the treasurer is under a statutory duty to exercise a "good faith" effort to seek to obtain such information if he knows or has reasonable cause to believe that a contributor's aggregate contribution has or will exceed \$10.

Disposition:

Partially Consistent. Threshold is \$0 if the contributor information is known. §11.1108 (anonymous contributions) §11.0103 (good faith standard)

[El. Bd. Op. 74-11](#)

Summary:

The Government Accountability Board advises: A political party treasurer may be appointed by a candidate as his campaign treasurer. Separate bank accounts must be maintained so that a candidate's funds are not intermingled with the party treasury.

Disposition:

Consistent.

[El. Bd. Op. 74-15](#)

Summary:

The Government Accountability Board advises: A campaign treasurer holds the power to return residual contributions to donors, in whole or in part, after a campaign has been completed.

Disposition:

Consistent. §11.0105(3). See Also §11.1208(2). Campaign may return unspent contributions to any contributor to the campaign up to the amount of the contribution.

[El. Bd. Op. 74-16](#)

Summary:

The Government Accountability Board advises: Out-of-pocket costs assumed by the host of a party held for political purposes are reportable if funds are raised at the party with the knowledge of the host. Such contributions may be made "in-kind" with the consent of a candidate's treasurer. Certain costs of fund-raising events, although reportable, are excludable from disbursement limitations. An item donated for resale is reportable and the gross proceeds of the sale need be reported after the item is sold.

Disposition:

Inconsistent. §11.0101(8) (b) 7 & 8 (reuse & private residence event). Donated materials to a committee other than the original candidate must report items as contribution at fair market value.

[El. Bd. Op. 74-17](#)

Summary:

The Government Accountability Board advises: A candidate's personal traveling expenses or the personal expenses of his campaign workers are not reportable. If a candidate or worker is reimbursed for or provided with transportation by his committee or by another party, the actual cost is reportable. A gift of car tops is valued at the replacement cost at time of transfer.

Disposition:

Consistent. §11.0101(8) (b) 2, unreimbursed travel expenses that an individual incurs to volunteer his services is not a contribution. Fair market value reporting of non-service based volunteer contributions.

[El. Bd. Op. 74-2](#)

Summary:

The Government Accountability Board advises: A committee may make maximum contributions to a candidate in a primary calculated from his total disbursement limitation in both the primary and election, provided that no further contributions are made after the primary.

Disposition:

Partially Consistent. §11.1103 (applicable periods), the applicable campaign period now ends on the day before the individual takes office.

[El. Bd. Op. 74-4](#)

Summary:

The Government Accountability Board advises: Communications medium offering space to incumbent candidate for newsletter without printing statutory identification does not fall within regulation of campaign finance law.

Disposition:

Consistent. §§11.0101(8) (b) 12, 11.0101 (10) (b) 3, 11.0505(2) (b) 1, 11.0605(2) (b) 1, 11.1001(2) (b) 1, unless the facilities are controlled by any committee or candidate.

[El. Bd. Op. 74-5](#)

Summary:

The Government Accountability Board advises: Contributions by a candidate to his own campaign must be given to the candidate's treasurer like other campaigns. Contributions from a candidate's family members must be made from the family member's funds.

Disposition:

Consistent. §11.1104(7) (Exceptions)

[El. Bd. Op. 74-6](#)

Summary:

The Government Accountability Board advises: A candidate-incumbent who distributes business cards to members of the public who are without normal cause to have business with him would be required to include statutory identification. If such a person places newspaper ads identifying

himself, the information may also be required, absent a non-political rationale for such placement.

Disposition:

Consistent: §11.1303(attribution), §11.1208 (unlawful disbursements)

[El. Bd. Op. 74-7](#)

Summary:

The Government Accountability Board advises: Nonresidents designating an agent in Wisconsin are not exempted from political registration and reporting. Certain transactions by nonresident committees and groups are not reportable if they can be segregated. Section 11.07 (5), Stats., does not prevent the acceptance of a contribution from any unregistered individual under §11.07 (1), Stats.

Disposition:

Inconsistent. No agent designation requirement. New registration and reporting requirements for PAC's, IEC, whether resident or nonresident. See §11.0101(17) & (25). See also §11.0103(5) (non-resident reporting)

[El. Bd. Op. 74-9](#)

Summary:

The Government Accountability Board advises: A campaign worker may make an authorized disbursement exceeding \$25 in support of a candidate and receive subsequent reimbursement from the campaign fund by negotiable instrument if the disbursement is verified by a receipt.

Disposition:

Consistent. Authorized agents may act on committee's behalf. §11.0106 (disbursements by negotiable instrument)

[El. Bd. Op. 75-2](#)

Summary:

The Government Accountability Board advises: The state does not occupy University of Wisconsin owned and operated student residences, dormitories and the facilities incidental thereto which are the subject of a housing lease or agreement entered into by the university with its students. Other University of Wisconsin owned or operated facilities are occupied by the state except when the University of Wisconsin enters into an agreement with individuals or groups, to allow those individuals or groups to use the facilities for non-academic purposes.

Disposition:

Consistent. §11.1207(solicitation)

El. Bd. Op. 75-3

Summary:

The Government Accountability Board advises: A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds.

Disposition:

Consistent. Solicitation and administrative expenses aren't contributions or disbursements. §11.0103(5) (Nonresident Reporting), § 1.0101 (8) (b) & §11.0101 (10) (b).

El. Bd. Op. 75-5

Summary:

The Government Accountability Board advises: Contributions of \$100 or less received in the form of a check drawn on a joint checking account may be assumed to be from the signer of the check absent evidence to the contrary. Contributions over \$100 received in the form of a check drawn on a joint checking account may not be assumed to be from the signer of the check absent evidence to the contrary; instead, the treasurer must affirmatively inquire as to whom the contribution is from. Contributions received in the form of a check drawn on a partnership checking account may not be assumed to be from the signer of the check. The treasurer has a duty to ascertain the identity of the contributor in such instance. Reproduction of personal correspondence by means of a magnetic card typewriter constitutes reproduction by machine. An organization may, pursuant to §11.29 (1), Stats., send nomination papers to its members without reporting such activity.

Disposition:

Partially Consistent: partnership attribution is specified in statute. §11.1113 (partnerships).

El. Bd. Op. 75-6

Summary:

The Government Accountability Board advises: Establishment and administration of separate segregated funds under §11.38 (l)(a) 2., Stats., discussed.

Disposition:

Partially Consistent. No solicitation limit in statute.

[El. Bd. Op. 75-7](#)

Summary:

The Government Accountability Board advises: The contribution limitations of §11.26 (1) and (10), Stats., apply per campaign and not per calendar year.

Disposition:

Consistent. §11.1103 (applicable periods), the campaign period now ends on the day before the official takes office.

[El. Bd. Op. 75-8](#)

Summary:

The Government Accountability Board advises: Discussion of separate segregated funds established pursuant to §11.38 (1)(a) 2., Stats., and their incorporation for purposes of liability.

Disposition:

Inconsistent. Sponsoring Organizations no longer required to register.

[El. Bd. Op. 76-1](#)

Summary:

The Government Accountability Board advises: Use of a hall or room without charge need not be reported as an in-kind contribution if the hall or room is also provided without charge to non-political organizations.

Disposition:

Partially Consistent. Portion relating to spending limits is inconsistent with current law.

[El. Bd. Op. 76-12](#)

Summary:

The Government Accountability Board advises: Questions of whether officeholder's purchase and distribution of printed materials to constituents are subject to reporting and identification requirements and violative of election bribery statute depends on whether intentions of distributor as to political office, content of materials, time and manner of distribution, pattern and

frequency of distribution, and value of materials indicate purchase and distribution are for "political purposes." §§11.01 (16), 11.06, 11.30 (2), 12.11, Stats.

Disposition:

Partially Consistent. §11.1205(use of Government Materials), §12.11 (election bribery), §11.0101(10). Political purpose is no longer the legal standard for registration and reporting.

El. Bd. Op. 76-13

Summary:

The Government Accountability Board advises: Use of charge card for contributions over \$50 is permissible where such use produces a document identifying the contributor's name and the amount contributed. §11.16 (2).

Disposition:

Consistent. §11.1107 (limitation of cash contributions), limitation on cash contributions is \$100.

El. Bd. Op. 76-14

Summary:

The Government Accountability Board advises: Political Advertising: Roadside billboards carrying political advertisements must carry disclaimers readable from the road; §11.30 (2), Stats.

Disposition:

Consistent. §11.1303(2) (g), (Attribution of political contributions)

El. Bd. Op. 76-15

Summary:

The Government Accountability Board advises: A corporation, which acts solely as a conduit in collecting and transferring predetermined contributions of its corporate members to a state organization does not violate the prohibition on contributions by corporations. §11.38, Stats., Ops. El. Bd. 74-1, 75-6, 76-3, 76-6.

Disposition:

Inconsistent. § 11.1112 (Corporation, coops and tribes), contributions cannot be directed from treasury funds.

[El. Bd. Op. 76-16](#)

Summary:

The Government Accountability Board advises: Legislative newsletters and campaign finance laws: Campaign funds cannot be used to pay any part of the cost incurred for newsletters funded in any part by state funds; Use of state employees on state time to prepare newsletters intended primarily for political purposes is unlawful; Test established for determining whether a state-funded newsletter is primarily for political purposes. §§ 11.36, Stats., 11.33, Stats., El. Bd. Op. 76-2.

Disposition:

Inconsistent. Use of campaign funds no longer limited to “political purpose”.

[El. Bd. Op. 76-3](#)

Summary:

The Government Accountability Board advises: A separate segregated fund (PAC) may not agree with prospective contributors that their contributions will be given to the party or candidate of their choice.

Disposition:

Consistent. §11.1202(2). (Earmarking)

[El. Bd. Op. 76-4](#)

Summary:

The Government Accountability Board advises: All statements and reports required by Ch. 11, Stats., to be verified may be sworn to before a town, village, city or county clerk or their respective deputies, if any.

Disposition:

Consistent. §§11.0505, 11.0605, 11.1001, 887.01(1)

[El. Bd. Op. 76-5](#)

Summary:

The Government Accountability Board advises: Section 11.16 (2), Stats., is not violated by payroll deduction plan if corporation supplies fund with list of contributors and amounts

contributed. Corporation may transmit total payroll deduction in the form of a corporate check if list of names of contributors and amounts contributed is provided to fund.

Disposition:

Consistent. §11.1112 (corp., coop, tribes) & §11.1108 (anonymous contributions) corps cannot use treasury funds, contributions over \$10 must be itemized. Payroll deduction plans are acceptable.

[El. Bd. Op. 76-6](#)

Summary:

The Government Accountability Board advises: Labor organizations, which have incorporated, are prohibited by §11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein.

Disposition:

Inconsistent. §11.1112 (corp., coop, tribes), a labor organization may still create an associated PAC and may contribute to IEC or Referendum Committee.

[El. Bd. Op. 76-7](#)

Summary:

The Government Accountability Board advises: Campaign funds may be utilized only for political purposes as defined in §11.01 (16), Stats.

Disposition:

Inconsistent. §§11.0101(8), 11,0101(10), 11.1208. Definition of contribution, disbursement and unlawful political disbursements defined.

[El. Bd. Op. 77-10](#)

Summary:

The Government Accountability Board advises: The statutory identification of political material required in §11.30 (2), Stats., applies to material that is not produced by mechanical means.

Disposition:

Consistent. §11.1303(2)(f) (attribution). See also § 11.0101(8)(b) 3.

[El. Bd. Op. 77-3](#)

Summary:

The Government Accountability Board advises: A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (S), Stats.

Disposition:

Partially Consistent. National party committees are not required to register under Wisconsin law. The Wisconsin committee would still be required to report the contribution of any services provided by the national party committee.

[El. Bd. Op. 77-6](#)

Summary:

The Government Accountability Board advises: Labor organizations, which have incorporated, are prohibited by §11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein.

Disposition:

Inconsistent. Labor groups can contribute to IEC or Referendum committees. See also: §11.1112(corp., labor union)

[El. Bd. Op. 77-7](#)

Summary:

The Government Accountability Board advises: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and contributors are advised of such allocation at the time of contribution, (1) the federal committee is not subject to the regulatory and reporting requirements of chapter 11, Stats., (2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of chapter 11, and (3) the escrow agent is not subject to the registration and reporting requirements of chapter 11. §11.03, Stats., El. Bd. Op. 74-1.

Disposition:

Inconsistent. Joint solicitation plans do not exist in current law.

[El. Bd. Op. 77-9](#)

Summary:

The Government Accountability Board advises: Fund-raising by committee agents. Where circumstances indicate that one is collecting contributions as agent of a committee, he or she must inform the committee of each collected contribution within fifteen days of its collection and transmit the contribution to the committee's treasurer within fifteen days of its collection. §11.06(4)(c), Stats.

Disposition: **Consistent.** §11.0103(2) (b), (reporting; general)

[El. Bd. Op. 78-1](#)

Summary:

The Government Accountability Board advises: Subcommittees of political committees. Local unions may terminate separate registrations and become subcommittees of political action committee operated by a regional affiliate, so long as subcommittees do not engage in financial activity independent of the parent committee and a single depository and treasurer are used. Such subcommittees may act as fund-raising agents for the regional committee, provided they exercise no discretion in transfer of funds to the committee and meet the statutory time deadlines for reporting and transmittal of collected funds to the committee treasurer. §§11.10, 11.26 (2)(c), Stats.

Disposition:

Consistent. Legal entity formulation prescribed in El. Bd. Op. 78-11.

[El. Bd. Op. 78-10](#)

Summary:

The Government Accountability Board advises: The \$500 annual limit on a corporation's solicitation expenditures for its separate segregated fund (PAC) may be applied to any period of 12 consecutive months, including the corporation's fiscal year. §11.38 (1)(a)2., Stats.

Disposition:

Inconsistent. §11.0101(8) and §11.0101(10) administration and solicitation expenses are not included in definition of contributions or disbursements, no limit on those funds.

[El. Bd. Op. 78-11](#)

Summary:

The Government Accountability Board advises: Establishment of separate segregated fund (PAC) by affiliated corporations. Where two corporations are independently incorporated but affiliated for certain purposes, they may each establish a separate segregated fund if (1) neither corporation provides money or other assets for the operation of the other's fund, and (2) neither corporation exercises a significant degree of control over the management of the other's fund. §11.38 (1)(a)2., Stats.

Disposition:

Consistent. Separate legal entity doctrine. §11.0501(5).

[El. Bd. Op. 78-12](#)

Summary:

The Government Accountability Board advises: Secretary of State's office may use state funds for regular mass mailings necessary to carry out duties of office after filing nomination papers and before election, provided that mailings are not directed toward political purposes. §11.33, Stats.

Disposition:

Consistent. §11.1205 (1) & (2) (Government Materials)

[El. Bd. Op. 78-13](#)

Summary:

The Government Accountability Board advises: A corporation's provision of facilities, materials, services and beverages in connection with a candidate's political appearance before members of the corporation's separate segregated fund and "other interested persons" is an impermissible corporate contribution or disbursement, rather than a permissible cost of administering the fund. A corporation may characterize its expenses in subsidizing such candidate appearances as permissible costs of administering the fund if the audience for the appearances is limited to those directly involved in determining how the fund is used. §§11.38, 11.01 (5), 11.01 (6), Stats.

Disposition:

Inconsistent.

[El. Bd. Op. 78-15](#)

Summary:

The Government Accountability Board advises: Application of contribution limits to affiliated committees. Where affiliated committees are prohibited by the terms of their affiliation with a parent organization from supporting statewide or state legislative office candidates other than those chosen through an endorsement procedure controlled by the parent, the contributions of the affiliated organizations to statewide or state legislative candidates must be charged to the contribution limits of the parent. §11.26, Stats. The Board concludes that, for contributions to candidates for statewide office or state legislative office, the various PACS here must be treated as a single committee subject to a single limit. Because the regional and local units PACS are free to make their own choices among local candidates, the PACS will not be treated as a single committee for purposes of applying the contribution limits in local races; each PAC may contribute up to the applicable per-candidate limit to a candidate for local office.

Disposition:

Consistent. Separate legal entity doctrine. §11.0501(5) and El. Bd. Op. 78-11.

[El. Bd. Op. 78-2](#)

Summary:

The Government Accountability Board advises: The personal campaign committee of a candidate seeking more than one office may ensure compliance with contribution limits by either (a) separate bookkeeping and reporting or (b) adherence to the lowest applicable contribution limit. Such committee may not claim the \$250 reporting exemption if its total activity, attributable to all offices sought, is over \$250. GAB 1.02, Wis. Adm. Code, Sec. 11.05 (2r), Stats.

Disposition:

Partially Consistent. §11.1114 (two candidate committees) candidates may still use one account but are no longer required to. Bookkeeping and reporting is substantially similar.

[El. Bd. Op. 78-3](#)

Summary:

The Government Accountability Board advises: Application of disbursement limits on public financing applicants to pre-campaign and post-campaign disbursements clarified. §11.31 (7), Stats.

Disposition:

Inconsistent. Public financing no longer exists.

El. Bd. Op. 78-4

Summary:

The Government Accountability Board advises: Limits on Contributions to political Party Committees and Retirement of Debts: El. Bd. 1.04, Wis. Adm. Code, does not apply to political party committees; a political party committee may not accept a contribution in excess of the limits in §11.26 (8), Stats., in any calendar year, even if part of such contribution is used for retirement of debts outstanding from a previous calendar year. §11.26 (8), Stats.

Disposition:

Inconsistent. §11.0105(3) dissolution of committee or conduit and termination reports. §11.1104 (3) & (4) Exceptions.

El. Bd. Op. 78-5

Summary:

The Government Accountability Board advises: A candidate who has exceeded the limit on contributions to his own campaign after October 21, 1978 is ineligible to receive a public financing grant, even if the candidate's committee reimburses him for the excess amount. §§11.50 (2)(b), 11.26 (10), Stats.

Disposition:

Inconsistent. Public funding provisions no longer exists in law.

El. Bd. Op. 78-6

Summary:

The Government Accountability Board advises: The ban on use of filed reports and statements for solicitation of contributions does not prohibit a candidate from using information gained from reports or statements to inform persons of his or her candidacy and inviting questions on political issues.

Disposition:

Partially Consistent. §11.0100(construction), reports cannot be used for commercial purpose but may be used "political purpose". §11.1304(12)

[El. Bd. Op. 78-8](#)

Summary:

The Government Accountability Board advises: Establishment and operation of voluntary committees; use of public grant funding.

Disposition:

Inconsistent. No public financing under current law.

[El. Bd. Op. 78-9](#)

Summary:

The Government Accountability Board advises: A candidate's own contributions count toward the threshold of individual seed money required for public financing eligibility. Grants may not be used to purchase services directly from a person or business who or which does not meet the statutory definitions of "printer" or "communications medium." Withdrawal of an application for a grant prior to the acceptance of a grant is permissible. Disbursements of a public financing applicant must be allocated between the primary and election according to the ultimate purpose of the disbursement. §§11.50, 11.01 (4) and (17), Stats.

Disposition:

Inconsistent. Public financing no longer exists in law.

[El. Bd. Op. 79-2](#)

Summary:

The Government Accountability Board advises: Applicability of Ch. 11, Stats., to Lawyers' Judicial Endorsement Poll: A poll conducted for the purpose of endorsing candidates in which the only information disseminated to those polled is biographical information on the candidates is not political activity and, therefore, not subject to regulation under Ch. 11, Stats. The same is true of a press release indicating the results of the poll.

Disposition:

Consistent. None specifically, but see §11.1303(3), also see §11.1111 (valuation of poll). News story (including poll) is not a contribution or disbursement.

[El. Bd. Op. 79-3](#)

Summary:

The Government Accountability Board advises: The registration and reporting requirements of the campaign finance law do not apply to school district annual meetings.

Disposition:

Consistent. Registration and reporting requirements have been changed. WIS. STAT. Chapter 120 governs school district government.

[El. Bd. Op. 79-4](#)

Summary:

The Government Accountability Board advises: The registration, recordkeeping and reporting requirements of the campaign finance law, Chapter 11, Stats., do not apply to a corporation, which communicates its views on a general issue, which may later become the subject of a referendum question.

Disposition:

Consistent. §11.0101(8) 10 & §11.0101(10) 1 - (*Citizens United, Speechnow, et. al...*)

[El. Bd. Op. 79-5](#)

Summary:

The Government Accountability Board advises: A corporation, which establishes and administers a separate segregated fund under §11.38 (l)(a)2., Stats., may purchase and pay premiums on officers and directors' liability insurance, general liability insurance and fidelity bonds for the fund.

Disposition:

Consistent.

[El. Bd. Op. 80-3](#)

Summary:

The Government Accountability Board advises: The separate segregated fund of a corporation or association established pursuant to §11.38(l)(a)2., Stats., may not accept contributions from other corporations to be used solely for the administrative expenses of the separate segregated fund.

Disposition:

Consistent.

[El. Bd. Op. 82-1](#)

Summary:

The Government Accountability Board advises: A corporation sponsoring a nonresident separate segregated fund must register with the Elections Board pursuant to §11.38(1)(a)2., Wis. Stats., and file semi-annual reports disclosing its administrative and solicitation expenses with respect to Wisconsin related campaign finance activities of the separate segregated fund. A corporation may not spend more than \$500 annually for solicitation of contributions to its separate segregated fund for Wisconsin related campaign finance activity.

Disposition:

Inconsistent. Sponsoring organizations are not regulated. Administration and solicitation expenses are no longer recognized as contributions or disbursements. §11.0101(8) & §11.0101(10)

[El. Bd. Op. 84-1](#)

Summary:

The Government Accountability Board advises: a candidate who accepts contributions that exceed the applicable limits is ineligible to receive a public financing grant, even if the candidate's committee reimburses the excess contributions; a candidate who exceeds the applicable spending limits also is ineligible to receive such a grant; in-kind contributions are limited to things of value; loans if timely forgiven may be used as qualifying contributions. §§11.50(2)(b), 11.26(1), 11.31 (1), (2), (9), and 11.01(6) (a)1., Stats.

Disposition:

Inconsistent. No longer exists in law.

[El. Bd. Op. 86-1](#)

Summary:

The Government Accountability Board advises: A political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats.

Disposition:

Inconsistent. No longer exists in law.

[El. Bd. Op. 86-3](#)

Summary:

The Government Accountability Board advises: Organization or PAC that sponsors a partisan "get out the vote" drive must register with the appropriate filing officer and meet the applicable requirements of the campaign finance law. §11.05(1), Stats. Disbursements used in the drive are not allocable as in-kind expenditures.

Disposition:

Consistent. § 11.0100(nonpartisan voter regulation drives), as long as it is non-partisan it is acceptable.

[El. Bd. Op. 88-3](#)

Summary:

The Government Accountability Board advises: Independent insurance agents can establish a commission withholding system that will enable participating insurance companies to forward agents' contributions to an agents' PAC, without attributing any of those contributions, or the expenses of maintaining the system to the participating insurance companies. Separate bookkeeping of each individual agent's contributions and pro-rata expenses must be maintained and reported.

Disposition:

Partially Consistent. The portion relating to the itemization of contributions now requires source information for all known sources.

[El. Bd. Op. 88-4](#)

Summary:

The Government Accountability Board advises: The exclusion set out in §11.29(1), Stats., and the application of Wisconsin's campaign finance disclosure law is limited to communications from an organization to its members to the exclusion of all others for the purpose of communicating endorsements of candidates, positions on referenda or an explanation of the organization's views and interests. The funding of such communications must be paid for by the organization.

Disposition:

Consistent. §§11.0101(8) 10, 11.0101(10) (b) 1, 11.0505(2) (b) 2.

El. Bd. Op. 89-1

Summary:

The Government Accountability Board advises: Interest income from conduit and PAC depository accounts, properly invested under §11.25(3) Stats., may be used in the same manner as other funds in the account, including payment of administration and solicitation expenses of a conduit if the conduit agreement so provides.

Disposition:

Consistent. §11.1208 (1) Unlawful political disbursements and obligations. §11.0101(8), and §11.0101 (10).

El. Bd. Op. 91-1

Summary:

The Government Accountability Board advises: A corporation which acts solely in the nature of a conduit in collecting and transferring the contributions of its employee-agents to the political action committee of the employee agents' statewide trade association does not make a contribution to that trade association PAC, if none of the expenses of administration or solicitation of those contributions are borne by the corporation and if a list of the contributors and the amounts of their contributions is maintained at each stage of the transfer.

Disposition:

Partially Consistent. § 11.1112 (corp., coop, tribes) & §11.1108 (anonymous contributions) corps cannot use treasury funds, contributions over \$10 must be itemized. Payroll deduction plans are acceptable. This scenario uses deposits into third party escrow account. If however, the check came from the corporation or association, it would be impermissible.

El. Bd. Op. 98-1

Summary:

The Government Accountability Board advises: A registered conduit may transfer funds from members' accounts to political committees (PAC's) and those transfers will be treated as the contributions from the individual members who authorized the transfers to the PAC in the amount authorized by each member.

Disposition:

Consistent. §11.0701 (conduits)

GAB Op. 11-1

Summary:

The Government Accountability Board advises:

1. Contributions exempt from campaign finance limits pursuant to §11.26(13m)(b), Wis. Stats., may be used only for qualifying legal fees and other recall-related expenses incurred before a recall election is ordered, unless the expenses are incurred specifically for contesting or defending the order for a recall election. Qualifying expenses include legal fees and other expenses incurred “in connection with” or “with the response to” the circulation, offer to file or filing, of a petition to recall an officer, or if incurred in contesting or defending the order for a recall primary or election.
2. Qualifying expenses under §11.26(13m)(b) may include public advocacy and persuasion after recall petitions are offered for filing, if such expenses are incurred in connection with the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. The statute is clear that the exemption does not end when a recall petition is offered for filing, but rather ends only when a recall primary or election is ordered.
3. The Board confirms that there is a broad spectrum of qualifying recall-related expenses, which includes expenses incurred for public advocacy and persuasion. However, for any qualifying recall-related expenses, but especially public advocacy and persuasion, there must be a reasonable nexus between the incurred expense and the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. This is a factual determination.

Disposition:

Consistent. §11.0101(27), Subchapter IX, §11.1104(9),(10) & (11) (Recall Committees).

GAB Op. 14-1

Summary:

The Government Accountability Board advises:

1. A personal campaign committee or a legal defense fund may pay a law firm for representation in an investigation potentially involving both civil and criminal charges.

2. The defense of a committee in a criminal matter can be paid for by a defense fund established by a candidate. A committee may pay a law firm and other related expenses in a civil matter. Payment to a law firm from either a personal campaign committee directly or from a candidate's legal defense fund can be made in reasonable proportion to the types of claims being investigated, and subject to changing circumstances identifying specific civil versus criminal conduct.
3. A personal campaign committee or a legal defense fund may also pay a law firm to represent the committee's agents during an investigation subject to any constraints under the Attorney's Code of Professional Responsibility.
4. If criminal charges are brought against a committee's agents, a legal defense fund may pay for their defense. A personal campaign committee may pay the costs of defending its agents in connection with civil complaints only if it can establish a political purpose for doing so.

Disposition:

Inconsistent. §11.1301(defense fund)

[GAB Op. 14-2](#)

Summary:

The Government Accountability Board advises: Contributions from a candidate's own personal campaign committee do not count toward that same candidate's annual aggregate limit. The statutory language is clear that the annual aggregate limit applies only to individuals. Wis. Stat. §11.26 (4). This is so even if a candidate has made personal contributions in excess of \$10,000 in any given calendar year to the candidate's own personal campaign committee.

Disposition:

Inconsistent. Case Law: No aggregate contribution limits: *CRG Network, McCutcheon, and Young v. Vocke*

[GAB Op. 14-3](#)

Summary:

The Government Accountability Board advises: that a conduit may redirect contributions to a PAC or other committee under Wis. Stat. §11.185 (1) if it has established or paid the administrative expenses of the conduit, whether or not it has registered as a sponsoring committee, or (2) if the committee was established by the same organization that established the conduit. The Board further advises that a mere confluence of interests or the fact that a depositor has previously directed the conduit to make a contribution to a PAC is not enough to consider the two entities as "associated" within the meaning of the statute.

Disposition:

Consistent. §11.0705 (redirected contributions)

Recommended Motion

The Government Accountability Board adopts staff's recommendations and finds the noted opinions to be inconsistent with Wis. STAT. Ch. 11 and determines that the Board will not enforce such opinions.

State of Wisconsin \ Government Accountability Board

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel

Prepared and Presented by:
Michael Haas
Elections Division Administrator

SUBJECT: Implementation of 2015 Wisconsin Act 261

The Governor signed 2015 Wisconsin Act 261 (passed by the Legislature as Senate Bill 295) on March 15, 2016, and several of its provisions became effective for the 2016 Spring Election three weeks later. Other provisions of the legislation will not go into effect until after the Partisan Primary in August. This memorandum outlines steps that Government Accountability Board (G.A.B.) staff has taken to implement the various provisions of Act 261 as well as several implementation issues which require Board consideration or direction to staff.

After being notified that SB 295 would be approved by the Senate and signed by the Governor, G.A.B. staff prepared and conducted a webinar on March 9th in order to provide information to local election officials regarding provisions which were to become effective immediately. On March 10th, staff also posted a Clerk Communication on the agency website outlining the effective dates of various provisions and providing guidance regarding implementation.

A. Changes Effective Immediately

1. A veteran's photo identification card issued by the Veterans Health Administration of the federal Department of Veterans Affairs may now be used as an acceptable form of proof of identification for obtaining a ballot. The ID card must be unexpired or have no expiration date. G.A.B. staff provided to local clerks an updated picture guide of acceptable photo ID's which included the two versions of the Veterans Affairs ID card (or "VA Card") that are currently in use. Due to the assurances from Senate leadership and the Governor that SB 295 will be in effect for the April election, the G.A.B. advised clerks to immediately honor requests for Spring Election absentee ballots which were accompanied by a VA Card that was unexpired or had no expiration date even before the legislation was enacted.
2. An occupant of a residential care facility may now use a contract or intake document prepared by the facility that specifies that the occupant currently resides in the facility as

proof of residence for the purpose of registering to vote from the facility's address. The document may, but is not required to, identify the room or unit in which the occupant resides. This provision addressed one of the most common complaints regarding the proof of residence requirements and options for residents of those facilities who often no longer have a driver's license.

3. An election inspector may use the override function of voting equipment when processing an overvoted ballot rather than remaking the ballot. The use of the override function is an option and is not mandatory. Because this change occurred so close to the 2016 Spring Election, G.A.B. staff advised that if voting equipment had already been programmed without the option to override overvoted ballots (as required by previous Board conditions of equipment approvals), the equipment did not need to be re-programmed. No county or municipality reported that they took advantage of the option to use the override function at the Spring Election, but G.A.B. staff distributed the attached guidance to be used at polling places in the event that the override function would be used.

This provision of Act 261 conflicts with specific conditions that the Board has attached to its approval of many tabulators used in the State, including the ES&S DS200 and the Dominion ImageCast Evolution. Due to concerns that voters may not properly understand their options upon reading the message conveyed by the tabulator screen when an overvoted ballot is submitted, the Board has approved voting equipment with the condition that the tabulator may not be programmed to allow the use of the override function when a ballot includes multiple votes for the same office. Such an override function permits the voter to submit the overvoted ballot into the tabulator and have votes for the remaining offices counted. Instead the Board has required that the tabulator reject the ballot so that it is either spoiled and a new ballot is marked by the voter, or an election inspector remakes an absentee ballot so that properly cast votes can be counted.

Due to this provision of Act 261, the Board must determine how to handle its previous voting equipment approvals which included the condition that the tabulator could not be programmed to allow use of the override function. It is the opinion of G.A.B. staff that the Board cannot impose a condition which contradicts the Statutes and therefore the conditions prohibiting the use of the override function must be withdrawn from the respective equipment approval documents and the Board should clarify that the use of the override function to process overvoted ballots is an option for local election officials. Staff also believes that the testing process for the equipment which has been approved for use demonstrated that the override function for each tabulator performed properly and no further testing is required. In other words, the override function can be programmed for use, but the Board's approval conditions have thus far prevented that option from being used in Wisconsin. Staff recommends that the Board direct staff to remove the condition which now conflicts with State law from existing voting equipment approvals and to exclude that condition from future voting equipment approvals.

While not part of Act 261 implementation, past Board approval of particular voting equipment prohibited use of the override function for ballots containing crossover votes. A ballot with a crossover vote is a ballot where the voter failed to select a party preference and voted in more than one party, which is prohibited by state law. A crossover vote would result in no votes being counted for any partisan office, because voter intent cannot be determined. Under current Board guidance, particular voting equipment approvals require

ballots with crossover votes to be remade by election inspectors indicating no votes for partisan offices.

Allowing the override function to be used for overvoted ballots but not for crossover ballots is likely to create confusion and inconsistency both in training election inspectors and in providing guidance to voters. In addition, remaking a crossover ballot into a blank ballot is burdensome and time-consuming, and many clerks believe it to be unnecessary when the override function would process the ballot with the same result. Therefore, staff requests that the Board apply the same guidance for crossover votes as the statutes require for overvoted ballots, permitting the option to use the override function for crossover ballots. Staff would provide procedural guidance similar to the guidance related to overvoted ballots including stationing an election inspector at the tabulator to assist voters who may have cast an overvoted or crossover ballot.

Recommended Motion: The Board directs staff to remove the condition prohibiting the use of the override function to process overvoted and crossover ballots from all existing approvals of voting equipment, and to exclude the same condition from voting equipment approvals in the future.

4. While Act 261 delayed the elimination of special registration deputies until the implementation of online registration (see C.2 below), the legislation immediately repealed the ability of SRD's to conduct voter registration at polling places. Municipal clerks may now appoint "election registration officials" to conduct voter registration at polling places, at residential care facilities during the open registration period, and in the clerk's office during in-person absentee voting. If clerks wished to use an existing SRD to register electors at polling places for the 2016 Spring Election, the clerk must have appointed the SRD as an election registration official. Election registration officials must receive the same training as regular election inspectors, and are appointed for two-year terms.
5. Whenever a municipal clerk 1) receives an in-person absentee ballot application, 2) mails an absentee ballot, or 3) receives a completed absentee ballot, the clerk must, within 48 hours, indicate the status of the absentee ballot in WisVote, or provide the updated information to their WisVote provider who must then enter the data into WisVote within 24 hours. If the deadline for recording the absentee ballot information falls on a Saturday when the clerk does not normally have office hours, a Sunday, or a legal holiday, the deadline is extended to the following business day.

Prompt tracking of the absentee ballots for military and permanent overseas voters was already required under federal law, and Act 261 extended this requirement to all absentee ballots. Making absentee ballot data available more promptly will be more consistent with the practice in some other states. However, municipal clerks and WisVote provider clerks have warned for years that this type of requirement would create a significant increase in the volume of absentee ballots for which the status at various stages needs to be tracked within a short period of time. Some provider clerks have consistently stated that they would seek to terminate their agreements to perform WisVote services for their relier municipalities in the event that the G.A.B. or the Legislature required such tracking for all absentee ballots.

Based on conversations with the Legislature and local clerks, G.A.B. staff understood that this task may be impossible to implement for some WisVote reliers and providers prior to the 2016 Spring Election. The Legislature included this provision with a focus on making timely

data available during the upcoming fall election cycle. G.A.B. staff asked that clerks make their best efforts to satisfy the reporting requirement for absentee ballot activity related to the Spring Election and Presidential Primary, so that any necessary adjustments may be made in anticipation of full compliance starting with the 2016 Partisan Primary in August. Because of the efforts of clerks to comply with this provision, the G.A.B. was able to more accurately gauge the level of absentee voting which was occurring and to convey that information to the media and the public.

Act 261 also required the G.A.B. to establish a subscription service to allow interested parties access to the absentee ballot data provided by clerks on at least a semiweekly basis, once a pricing structure was established by the Board. G.A.B. staff was prepared to make all data which was entered by clerks available upon request using the agency's BADGER Voters application and current pricing structure, but the G.A.B. did not receive any requests for the absentee ballot data and ongoing reports prior to the Spring Election.

The fee schedule for the subscription service is to be set by administrative rule, and the initiation of a proposed rule is addressed under a separate agenda item in the Board materials. In the interim, Board staff has developed a proposed fee schedule for the Board's consideration, which is outlined in the attached memorandum, along with a recommended motion.

6. On Election Night, municipal clerks now must report returns, by ward or reporting unit, to the county clerk no later than two hours after the votes are tabulated, and county clerks must post all returns on a county website within two hours of receiving the returns. The G.A.B. must provide a link to those returns on its website. G.A.B. contacted county clerks to obtain current website links for Election Night returns and posted those links prominently on the agency's website.

The legislation does not specify whether or not the results must include local contests. For the 2016 Spring Election, G.A.B. staff advised that that decision was left to the judgment of municipal and county clerks, but the results must include at least state judicial contests and the Presidential Preference Primary. The relevant text of the Statutes now reads:

7.51(4)(c) On election night the municipalities shall report the returns, by ward or reporting unit, to the county clerk no later than 2 hours after the votes are tabulated.

7.60(1) KEEP OFFICE OPEN. On election night the county clerk shall keep the clerk's office open to receive reports from the ward inspectors and shall post all returns. On election night the clerk shall post all returns, by ward or reporting unit, on an Internet site maintained by the county no later than 2 hours after receiving the returns.

These provisions refer to "the returns" and posting "all returns." Given this language, it is the opinion of Board staff that the Legislature has not provided any exception to the returns which municipal clerks must report to county clerks, and which county clerks must post on the Internet on Election Night.

Recommended Motion: The Board advises that Wis. Stats. §§ 7.51(4)(c) and 7.60(1) require municipal clerks to report all returns, including those involving local contests, to county clerks, who must post all such returns on the county's Internet site on Election Night.

B. Changes Affecting Voters and Election Officials for 2016 General Election

The following changes will first be in effect for the November 8, 2016 Presidential and General Election, and therefore did not require new instructions for voters at the Spring Election:

1. All absentee ballots must be delivered to the polling place by 8 p.m. on Election Day, removing the option for an absentee ballot to be received by the Friday after the election if it is postmarked by Election Day. The Friday deadline for curing provisional ballots will remain in effect. The G.A.B. will issue new certificate envelope language and uniform instructions for absentee ballots to comply with this provision to be used starting with the 2016 General Election.
2. An absentee ballot may not be counted if the certificate envelope is missing the address of the witness. G.A.B. staff intends to issue further guidance regarding the processing of absentee ballots with a missing or incomplete witness address prior to the 2016 General Election.

C. Other Changes

The following changes have a longer-term implementation period and/or will not have an immediate impact on voters.

1. The G.A.B. may facilitate the creation and maintenance of electronic poll books, including entering into contracts with vendors and establishing programs for development and testing. This provision reinforced which already existed in the Statutes, and does not include any specific deadline for implementation. Based on previous Board actions, the G.A.B. has deferred any applications for approval of a commercial electronic poll book system until the agency can conduct a cost-benefit analysis of creating an electronic poll book system in-house compared to allowing vendors to sell their own poll book systems. If electronic poll books are used, only one inspector is required to maintain the poll book. Board staff originally intended to present the cost-benefit analysis at the Board's March 1, 2016 meeting, but the launch of WisVote as well as preparations for the spring elections has delayed the completion of that analysis and report.
2. Act 261 requires that the G.A.B. (and the future Elections Commission) and the Division of Motor Vehicles develop and implement online voter registration no later than the 2017 Spring Primary, but earlier if the system can be developed in time for elections in the fall of 2016. Electors would be able to register online during the open registration period (up to 20 days before an election) if they possess a current and valid Wisconsin driver's license or DMV-issued identification card, and if the name and address used for voter registration matches the individual's name and address in the Department of Motor Vehicles database.

On March 30, 2016, G.A.B. staff met with DMV staff to coordinate development of online voter registration. At that time, DMV staff advised that it was likely not possible to complete the development of electronic registration prior to the General Election in November 2016. Act 261 requires the two agencies to submit quarterly reports to the Legislature regarding the

status of this project, with the first report due April 20, 2016. The G.A.B.'s report to the Legislature will be included in the Board's meeting folder.

One of the key issues being considered by G.A.B. and DMV staff is whether or not the registrant's electronic signature needs to be physically transferred to and retained by the Board or Elections Commission. Wis. Stat. §6.30(5) states that "an elector who registers electronically under this subsection must authorize the board to obtain from the department of transportation an electronic copy of the elector's signature, which signature shall constitute an affirmation that all information provided by the elector is correct and shall have the same effect as if the elector had signed the application personally." That provision also states that "upon submittal of the electronic application, the board shall obtain from the department of transportation a copy of the electronic signature of the elector."

G.A.B. staff believes that a requirement to transfer the electronic signature is redundant because it would be stored in two separate state databases and has limited value because the signature is not being compared to or verified with any other record. There would also be increased G.A.B. cost for the storage of the electronic signatures as well as a greater security risk with the transfer and storage of electronic signatures. For these reasons and based on conversations with Legislative staff, it was the understanding of G.A.B. staff that the bill would not require transfer of the electronic signature. The electronic signature could be made available to the Elections Commission and law enforcement for investigations or other purposes.

Recommended Motion: The Board concludes that Act 261 does not require the transfer of electronic signature as part of the online voter registration process, provided that the G.A.B. or Elections Commission can obtain the electronic signature from DMV if necessary for investigative purposes.

3. Special registration deputies will be eliminated effective upon the implementation of online voter registration. Upon the elimination of special registration deputies, all voter registration efforts and drives outside of locations served by election registration officials will require that a copy of the elector's proof of residence document is submitted with the voter registration application.
4. The State will join the Electronic Registration Information Center (ERIC), a consortium of states which compare voter registration and participation data and use other sources to improve the accuracy of their voter registration systems and to identify individuals who may be eligible to vote but are not currently registered. States which are members of ERIC are required to contact individuals identified as being eligible to vote but who are not registered voters at least every two years. Board staff is examining its current available funds to determine whether it can implement this directive without additional funding.

If this initiative is funded and the matching process is completed early enough in 2016, municipal clerks may receive a significant increase in the number of voter records to be updated and new registrations to be processed. Staff intends to pursue this initiative as soon as possible, especially given that the G.A.B. has received a grant from the Pew Center for the States to offset part of the costs of the required initial mailing to prospective voters, and that grant will expire if Wisconsin does not join ERIC by May 31, 2016. The DMV has indicated that it has concerns regarding whether it is legally permitted to share certain confidential data

in its files with the G.A.B. or with ERIC partners, and G.A.B. staff is attempting to address those concerns with the DMV and ERIC representatives.

5. Act 261 also removed the current prohibition on the use of an examination for chief inspectors. Board staff advised local election officials that it intends to develop a self-evaluation mechanism as part of its chief inspector training, and municipalities may develop their own evaluation tools. The results of any such examination will not affect an individual's qualifications to serve as a chief inspector.
6. Finally, the legislation permits the G.A.B. to approve electronic voting equipment which has not been certified by the U.S. Election Assistance Commission (EAC). The G.A.B. has adopted a policy to allow such approval in limited circumstances involving modifications to voting equipment which have not been certified by the EAC, provided that the underlying voting system has received EAC certification. The G.A.B. may revisit its current policy in the future to determine whether such approvals should be expanded in light of this provision.

G.A.B. staff advised local election officials to take steps to immediately implement the changes identified above as affecting the 2016 Spring Election. Staff is in the process of revising its manuals and other guidance on these topics, and will provide additional information as necessary and as new initiatives progress, such as online registration, electronic poll lists, and participation in ERIC.

Board staff seeks the Board's consideration of the two recommended motions described above, as well as the recommended motion contained in the attached memorandum.

Tabulating Overvoted Ballots Using the Override Function

If the voting equipment is programmed to permit the use of the override function to tabulate overvoted ballots, that function may be used instead of remaking ballots for which the elector's intent regarding the overvoted contest cannot be determined. All such ballots must be treated uniformly, either by remaking or using the override function, as instructed by the municipal clerk.

An overvoted ballot is a ballot with at least one contest in which the elector has voted for more than the maximum number of selections allowed. When programmed to use the override function, the voting equipment will display an overvote warning message when a voter inserts an overvoted ballot into the machine. An election inspector must be assigned to monitor the tabulation equipment at all times that voters are inserting ballots into the machine.

Below are two separate procedures for using the override function when processing an overvoted ballot, depending upon whether it is an absentee ballot or one that is being cast while the voter is present.

Overvoted Absentee Ballots

1. The election inspector inserts the ballot without inspection into the tabulation equipment and the machine displays the overvote warning.
2. The inspector selects the "return ballot" option on the machine.
3. The inspectors review the ballot to attempt to determine the voter's intent for the contest, or contests in question.
 - a. If voter intent can be determined, the ballot should be remade using the process outlined in the Election Day Manual.
 - b. If voter intent cannot be determined, continue to Step 4.
4. The inspector reinserts the ballot into the tabulation equipment and casts the ballot using the override function.
5. The inspector makes a notation on the Inspectors' Statement (GAB-104) to indicate that the override function was used to cast the ballot. The ballot is not marked.

Overvoted Ballot When Voter is Present

1. The voter inserts the ballot into the tabulation equipment and the machine displays the overvote warning.
2. The election inspector assigned to monitor the tabulation equipment should intervene and explain the overvote notification to the voter.
3. The voter is informed that they can spoil the overvoted ballot and mark another ballot (up to three ballots) OR cast the ballot as is.
 - a. If the voter chooses to spoil the ballot, the election inspector should select the "return ballot" option, return the ballot to the voter without examining it, and direct the voter to exchange the overvoted ballot at the ballot issuing table for a replacement ballot.
 - b. If the voter wants the ballot cast as is, the election official casts the ballot using the override function. The inspector should first offer to retrieve the overvoted ballot by selecting the "return ballot" option so that the voter may review the ballot.
4. The inspector makes a notation on the Inspectors' Statement (GAB-104) to indicate that the override function was used to cast the ballot. The ballot is not marked.

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Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Mai Choua Thao
WisVote Specialist

Ross Hein
Elections Supervisor

SUBJECT: Absentee Voter Data Subscription Service

2015 Act 261 requires the Government Accountability Board (G.A.B.) to implement a subscription service that would provide electronic access to absentee ballot data entered in the statewide voter registration system (WisVote). Wis. Stat. §5.05(14)(b) mandates the subscription service to include updated absentee ballot data on a semiweekly basis and must include: 1) the date on which an elector applied to vote by in-person absentee ballot, 2) the date on which the clerk mailed an absentee ballot to the elector, and 3) the date on which the elector returned the absentee ballot to the municipal clerk.

G.A.B. staff is planning a long-term automated process to fulfill the subscription service requirement that would include semiweekly updates of absentee ballot data. This memo provides an overview of the initial development and proposed cost structure of the subscription service. Until development and testing of the automated subscription service process is complete, data requesters who wish to obtain absentee ballot data on a semiweekly basis are encouraged to use the agency's current data request website, BADGER Voters, to access such information. Any received request for semiweekly updates for absentee ballot data are currently generated manually by G.A.B. staff and the IT team.

Subscription Service Application: BADGER Voters

BADGER Voters is a website that is designed for the public to submit data requests, obtain a cost estimate of the request file based on the number of records pulled, make a payment, and download the file, all through online services. Users can complete the entire data request process online and

independently 24 hours per day, seven days per week. The BADGER Voters system currently serves as the online application that is used to process all data requests received at the G.A.B.

The online application was developed internally to allow users to submit data requests and purchase data files of Wisconsin voter registration and election participation data from the WisVote system in a cost-efficient manner. Given the application's central role in processing data requests as well as its ability to effectively and efficiently fulfill data requests in a timely manner, BADGER Voters is the most efficient option to serve as the online platform that will be used to house the subscription service in order to meet the specific provisions as outlined in Act 261.

Since the launch of BADGER Voters on April 25, 2014, the G.A.B. has received approximately 1,450 data requests and processed more than 858 data requests to date. The remaining 592 data requests that were not processed failed to submit a payment to the G.A.B.

In order to access BADGER Voters, users must first obtain a State of Wisconsin username and password by registering for a Wisconsin External domain account (WIEXT). This account is intended to provide users with access to multiple State of Wisconsin web applications, including the BADGER Voters website. Once the user account is created, the user can begin the request process by selecting the type of data request they wish to obtain. After successfully submitting the data request, the user will receive an email notification that contains the number of records found based on the criteria of the request and an estimated quote should the user decide to purchase the file. Once the payment for the file is submitted and processed, the user will receive a final email notification informing the user the file is ready for download. All downloaded files are in Excel format.

Currently, there are six standard voter data reports available through BADGER Voters. A full list and description of all six different types of reports available in BADGER Voters is attached as Appendix A. Users can also submit custom data requests through BADGER Voters if their request does not meet any of the six standard voter data reports. Completed data files contain standard data elements including the voter's full name, home and/or mailing address, and the voter's phone number and/or email address if available. Absentee data requests such as the *Absentee Requests during a Specified Time Period* report contain the absentee ballot request date, the date the clerk mailed the absentee ballot to the voter, and the date the clerk received the completed ballot.

Subscription Service Process

Building from BADGER Voters, staff plans to develop a subscription service in order to meet the subscription service requirement for absentee ballot data information as described in Act 261. While the Act was effective as of mid-March, the G.A.B. did not receive any requests for the absentee ballot data in advance of the Spring Election.

Users will have the option to sign-up or register for an annual subscription of the submitted absentee data request in BADGER Voters. If the user chooses to subscribe, the subscription service will allow the user to receive and download updates of the selected absentee data request for the calendar year and will allow the requestor to obtain updates as often as the subscriber prefers. The BADGER Voters absentee subscription service will automatically look for any new data that meets the criteria of the submitted request twice a week. If new updates or records exist for the submitted data request, the user will be notified via email of the updated records and will

have a choice to purchase and download the file. The current BADGER Voters system sends automated email notifications that contain a count and an estimate of the data request file. Similarly with the semiweekly updates for absentee ballot data, the user will receive an email notification that will contain the number of new records found for the submitted request and a valid quote for the file if the user wishes to purchase the new records. Users can log into their BADGER Voters account and download the new updates through their account online.

Cost Structure and Pricing for Subscription Fee

Wis. Stat. §6.36(6) permits the Board to establish administrative rules for setting the price structure for accessing the subscription service. The current fee structure as described under §GAB 3.50, Wis. Adm. Code for standard WisVote data reports is a \$25 base fee plus \$5 for up to the first one thousand records, and \$5 for each additional one thousand records rounded to the nearest one thousand records. The existing fee structure established by administrative code was to reflect not only the cost of fulfilling data requests from BADGER Voters but to also help offset some of the costs associated with maintaining the statewide voter registration system. Wis. Stat. §6.36(6).

While the subscription fee will need to be established through administrative rulemaking, the G.A.B. staff recommends that in the meantime, the Board adopt the existing standard base fee of \$25 currently applied to all purchased data requests as the annual subscription fee. In addition, any updated records retrieved by the system whereby the user decides to purchase the records should also adhere to the \$5 fee per every one thousand records. The proposed fee structure for the absentee subscription service is consistent with existing rates for comparable data requests. Users can choose to unsubscribe at any point in the process. There are no charges for unsubscribing from the service.

Recommended Motion:

The Board authorizes staff to develop a semiweekly absentee data subscription service through BADGER Voters and establish an annual subscription fee of \$25 and a pricing structure to be set at \$5 per every one thousand records generated, until the promulgation of an administrative rule establishing the pricing structure can be completed.

Appendix A

Voter Data Reports

The **BADGER Voters** site allows users to request six types of standard voter data reports, or submit a custom request. Each of the standard types of requests is explained below.

- **All Statewide Registered Voters:** This type of request provides a list of all active-registered voters in the entire State of Wisconsin. Active voters are those whose names appear on the printed poll list on Election Day. Those whose names do not appear on this list would need to first register before they could be issued a ballot. Selecting this request category does not require also completing the jurisdiction and districts step of the request process.
- **All Registered Voters in the Jurisdiction or District:** This list includes all active-registered voters in the specified jurisdiction or district (step 3 of the process). Only the jurisdictions or districts of interest are required, except to clarify the district if necessary. For example, you do not have to provide the Congressional District if you are only interested in a State Assembly District. However, some requests will require clarifying information. If you are interested in a municipality or county supervisory district, you must also first select the county. If you are interested in an aldermanic district, you must first select the county and the municipality.
- **Voters from Specific Elections:** This list includes voters who participated in at least one of the selected elections. For example, if you select the 2013 Spring Election and the 2012 Spring Election, the list would contain voters that participate in either of the elections or both of them.
- **Permanent Absentees:** This list contains only voters in the specified district or jurisdiction that are listed as permanent absentee voters in Wisconsin's Statewide Voter Registration System (SVRS).
- **Absentees Including Permanent from Specific Elections:** This list contains only those voters who participated in the specified elections and voted absentee for past elections, or that requested an absentee ballot for an upcoming election.
- **Absentee Requests During a Specified Time Period:** This list includes voters that have an approved absentee ballot request within the time period specified. This report was created after several requests from those who wanted a periodic list of absentee requests before an election.

Custom Data Request: If your request does not match any of the criteria in the six standard request types, you can enter a custom request. Please provide as much detail as possible regarding the scope of your request.

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Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Jonathan Becker, Administrator
Division of Ethics and Accountability

Prepared By: Adam Harvell
Division of Ethics and Accountability

SUBJECT: 2015 Wisconsin Act 117 – Further Questions on Changes to Campaign Finance Regulation

INTRODUCTION:

The purpose of this memorandum is to reexamine current campaign finance procedures in light of changes made to the campaign finance law upon adoption of 2015 Wisconsin Act 117. The legislation makes substantive changes to registration, reporting, contribution limits and several other major policy areas. The Board resolved a number of questions in its December, 2015 meeting. However, additional questions have arisen and are presented below.

QUESTIONS FOR THE BOARD

The new law raises a number of questions of interpretation. Since the last time these issues were brought to the Board, staff has identified additional issues that may cause administrative difficulties, and asks that the Board consider them.

1) Local Committees – Local Filing Fee

Issue: Should local recall and referendum committees be required to pay the \$100 annual filing fee?

Discussion: The previous statute §11.055 specifically limited the filing fee to entities “required to register with the board.” The current statute §11.0102(2)(a) states: “Except as provided in pars. (c) and (d), each committee that is required to register under this chapter shall annually pay a filing fee of \$100 to the commission.”

All candidate committees, local and state, are exempt from paying the filing fee. Additionally, any committee that does not make disbursements exceeding \$2,500 in a calendar year is also not required to pay the fee. However, if a local referendum committee or recall committee (required to register under Chapter 11) were to have more than \$2,500 of activity in a calendar year, the statute could require them to pay a \$100 fee to the commission.

In practice, only a very small number of local committees would ever meet the thresholds to pay the filing fee. Referendum committees are only required to register if they have more than \$10,000 of activity, which is fairly rare at the local level. Recall committees are also rare, and local efforts are less likely than state committees to exceed \$2,500 in activity.

Since these committees are required to register only with local filing officers, there is no master list of active committees. Instead, commission staff would have to contact all county clerks, municipal clerks, and school district clerks on a yearly basis to verify the committees' registration and activity level. Collecting the fee may actually cost more in staff time than the revenue it would generate.

Additionally, the rationale for the filing fee – using the funds to offset expenses for the CFIS website and campaign finance staff - doesn't apply to local committees. Local committees do not use CFIS. While they do occasionally ask staff for help with campaign finance questions, the time spent to support local committees is minimal compared to state-level committees.

Recommendation: The Board should direct staff not to enforce the filing fee requirement on local referendum committees and recall committees. The Board should also add this item to its legislative agenda, and request that the statute be changed to apply only to those committees registered with the commission.

2) Local Committees – Complaints and Filing Officer Notifications

Issue: Should the Board continue its past practice of referring all local complaints and notifications from local filing officers to county District Attorneys?

Discussion:

Complaints. Previous state statutes §§11.60(4) and (5) stated civil actions for alleged violations of campaign finance law could be brought either by the Board or a district attorney, and that complaints could be brought to either the Board or the appropriate district attorney. At its meeting of February 25, 2008, the Board adopted the following policy:

- 1) Always defer to a D.A. or the Wisconsin Attorney General's office if either wants to investigate;
- 2) Always refer a complainant to the D.A. or Attorney General's office in the first instance;
- 3) If a D.A. or the Attorney General's office declines to investigate or prosecute, the Board may defer to those decisions;
- 4) If a D.A. or the Attorney General's office declines to investigate, the Board may investigate if it appears likely that there is a clear violation, the violation is more than technical, there is reason to suspect that the violation is occurring or may occur in other localities, and the violation may have statewide significance.

The considerations in adopting its policy of non-involvement were that there may be hundreds of such matters; the issues may be relatively minor in character; and, because they arise from local politics, a DA may be in a better position to judge the legitimacy of a complaint and the relative importance of the issues raised. Considerations for involvement by the Board were that district attorneys generally do not like to become involved with campaign finance/local political issues and some matters may serve as statewide precedent.

On May 10, 2010, the Board revisited its policy. Staff believed we could see more district attorneys refusing to investigate campaign finance matters as resources decline. The Board voted to maintain its policy and has followed it ever since.

The new statute §11.1400(6) states that complaints (verified petitions) may be filed with the commission. The statute §11.1400(5) also provides that actions may be brought “by the commission or, upon the commission’s determination of probable cause, by the district attorney....” The requirement that the commission find probable cause is new.

Under the prior statutes governing the Board’s enforcement authority, the Attorney General opined that the Board District Attorneys possess joint and co-equal authority to investigate and prosecute alleged violations of the laws administered by the Board. A copy of that opinion is attached. Staff does not believe that any changes to the statutes materially affect that opinion.

However, what has changed is that, apart from candidate, referendum, and recall committees, all committees now register with the Board rather than a local filing officer. Former statute §11.02 provided that political action committees and independent disbursement committees must register with local filing officers. The current statute, §11.0102, mandates that all conduits, political action committees, and independent expenditure committees must register with the Board. As a result, a small number of PACs and IECs are now registered at the state level even though they are only involved in campaign finance activity in one county or municipality.

Filing officer notifications. In addition, former statute §11.22(4) directed local filing officers to notify both the board and district attorney of errors, discrepancies in reports and delinquencies in filing. The current statute §11.0102(3)(e) instructs local filing officers only to notify the commission, and says the commission may transmit a copy of the notification to the district attorney.

Recommendations

Staff recommends that the Board adopt the following motion:

- (1) That staff notify local clerks to first attempt to obtain compliance from local filers before sending notices to the Board;
- (2) That the Board evaluate notices from local filing officers and complaints concerning local filers, and dismiss those that are not violations within our jurisdiction, do not present probable cause that a violation has occurred, or present only a minimal violation for which no settlement would be pursued under the Board’s settlement offer schedule;
- (3) That after evaluation, the Board continue its current practice of referring matters involving local candidates and committees to the District Attorney, apart from matters arising from the filing of registration materials and campaign finance reports with the Board.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Jonathan Becker, Administrator
Division of Ethics and Accountability

SUBJECT: Amended guidelines

Attached are two Guidelines and a Frequently Asked Questions document that have been amended to reflect a change in the campaign finance law to the definition of “candidate” to include an incumbent elected state official. Guidelines and a Frequently Asked Questions document on a variety of topics are posted on the Board’s website to help provide plain language guidance to candidates, campaigns, election officials and others on various topics under the Board’s jurisdiction.

Recommended Motion: The Board approves revised guidelines GAB 1249 (Campaign Fundraising), GAB 1255 (What candidates should know about Wisconsin’s lobbying law) and Frequently Asked Questions: Lobbyist furnishing campaign contributions to candidates to reflect the enactment of 2015 Wisconsin Act 117.

Campaign Fundraising

This Guideline is provided as an information resource only. For authoritative advice, contact the Wisconsin Government Accountability Board.

Times during which fundraising is permitted. State statutes do not limit the time period during which campaign fundraising may occur, once the individual has registered a campaign committee with the Board. Rules or policies of the Assembly or Senate may limit the time during which fundraising activities are permitted for an incumbent of either house; consult the Chief Clerk of each house for specific restrictions.

Soliciting a lobbyist or lobbying principal for a contribution.

For a personal contribution to a legislative candidate. State statutes limit when a member of, or candidate for, the Legislature may solicit a personal contribution from a lobbyist. A legislator or candidate for the Legislature may solicit a lobbyist for a personal contribution **only between the date when candidates can begin to circulate nomination papers (April 15 for the general election) and the date of the election in the year of the candidate's election.** This solicitation "window" may be delayed because it does not open for a legislative candidate or current legislator until after the Legislature concludes its final floor period (as determined by joint resolution of the Legislature). The "window" for a legislative candidate closes during any time that the Legislature is in a special or extraordinary session.

The restriction on soliciting applies whether a legislator or legislative candidate is soliciting a personal contribution for the candidate's own campaign committee or for another candidate or committee. The restriction also applies to soliciting using another individual who is acting for, in cooperation with, and at the behest of the candidate.

For a PAC, conduit, or other contribution to a legislative candidate. There is no limitation on when a legislator or legislative candidate may solicit a lobbyist for a PAC, conduit or other contribution.

Accepting a contribution from a lobbyist or principal. A legislator or legislative candidate may accept a contribution from a lobbyist or lobbying principal only during the time period permitted for soliciting a lobbyist or principal for that contribution. Moreover, a legislator or legislative candidate may accept a contribution from a lobbying principal only if it is an unincorporated organization – i.e., not a corporation. The restrictions apply to both monetary and in-kind contributions. This means:

- A legislator or legislative candidate may accept a PAC, conduit, or other non-personal contribution delivered by a lobbyist at any time and
- A legislator or legislative candidate may accept a personal contribution from a lobbyist only during the "window."

Accepting a contribution from a Political Action Committee (PAC). The restrictions under the lobbying law apply only to a lobbying principal itself – not to a PAC, even if it is a principal's PAC. A legislator or legislative candidate may solicit and accept a PAC contribution at any time, except as otherwise restricted by a rule or policy of the Legislature.

Types of persons from whom a legislator or legislative candidate may accept a contribution. A legislator or legislative candidate may accept a contribution from any individual (either directly or through a conduit), a political party, or a political action committee (PAC). A legislator or legislative candidate may not accept a contribution from any corporation, union or American Indian tribe but may accept a contribution from such an organization's PAC.

What is a solicitation? A solicitation can be oral, written, or electronic. We recommend that a solicitation sent to a lobbyist outside the "window" should contain a disclaimer that it is not a solicitation for a personal contribution from the lobbyist.

Limitations on how much a legislator or legislative candidate may accept. A member of, or candidate for, the Assembly may accept up to \$1,000 from a single individual during any two-year period, beginning when the current officeholder began her or his term, and ending when the next officeholder is sworn in. A member of, or candidate for, the Senate may accept up to \$2,000 from a single individual during any four-year period beginning when the current officeholder began her or his term, and ending when the next officeholder is sworn in. The maximum aggregate contribution from a single PAC is also \$1,000 for Assembly candidates and \$2,000 for Senate candidates.

There is no limit on how much an individual may contribute to his or her own campaign committee.

Exceptions to these contribution limits or time periods may apply when a candidate is subject to a recount or recall election, or runs for election to another office.

Legal references: §§11.1101 and 13.625, *Wisconsin Statutes*; *Plumbers and Gas Fitters Local 75 Political Action fund, et al. v. State of Wisconsin Ethics Board*, Dane County Circuit Court, 93-CV-3984 (February 23, 1994), *aff'd*, District IV Court of Appeals, 94-0826 (May 19, 1995), *rev. den.*, Supreme Court, 94-0826 (September 27, 1995).

What candidates should know about Wisconsin's lobbying law

This Guideline is provided as an information resource only. For authoritative advice, contact the Wisconsin Government Accountability Board.

Wisconsin's lobbying law applies to all candidates for elective state office. The lobbying law permits candidates to receive contributions from lobbyists but places restrictions on when a *partisan* elected state official or candidate for *partisan* elected state office may solicit or accept such a campaign contribution. The lobbying law also restricts a candidate's acceptance of other items or services from a lobbyist or an organization that employs a lobbyist.

"Candidate" means an individual about whom any of the following applies:

(a) The individual takes any of the following affirmative actions to seek nomination or election to a state or local office:

1. Files nomination papers with the appropriate filing officer.
2. Is nominated as a candidate for state or local office by a caucus under s. [8.05 \(1\)](#) or by a political party and the nomination is certified to the appropriate filing officer.
3. Receives a contribution, makes a disbursement, or gives consent for another person to receive a contribution or make a disbursement in order to bring about the individual's nomination or election to a state or local office.

(b) The individual holds a state or local office and is the subject of a recall petition.

(c) The individual holds a state or local office.

[§§11.0101(1) and 13.62 (5g)].

Partisan state offices are those of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, and state representative to the assembly. [§13.62(11p)].

CAMPAIGN CONTRIBUTIONS

CONTRIBUTIONS FROM A LOBBYIST. A partisan state elected official running for any office, or a candidate for a partisan elected state office, may solicit and accept a campaign contribution from a lobbyist or an organization that employs a lobbyist **ONLY WHEN**

the contribution is made between the first date to circulate nomination papers and the date of the election in the year of the candidate's election AND, in the case of a candidate for election to the Legislature or a current legislator, the Legislature has concluded its final floor period and is not in special or extraordinary session.

SERVICES FROM A LOBBYIST

A lobbyist may, at any time, furnish uncompensated personal services (e.g., distributing yard signs, stuffing envelopes, going door-to-door and bookkeeping *provided the lobbyist does not charge a fee to others for similar work*) to any candidate. A lobbyist may not, at any time, provide a candidate for any state office with professional services for which the lobbyist would normally charge a fee, such as legal, accounting, consulting, or computer services.

A lobbyist may host a fundraiser for any candidate at a private residence but may not, at any time, pay for invitations to the event, or provide food or beverages at such a fundraiser for a partisan state elected official running for any office, or a candidate for a partisan elected state office. Per *Wis. Stat.* §11.0101, these expenses are not contributions, but since they do have pecuniary value, they would be banned under *Wis. Stat.* §13.625(1)(b) 3. .

A lobbyist may endorse a candidate and may be listed as a sponsor of a fundraising event at any time.

CONTRIBUTIONS FROM A PAC. A candidate may accept a PAC contribution at any time, even from a PAC controlled by an organization that employs a lobbyist

CANDIDATE'S SOLICITATION OF CONTRIBUTIONS. A partisan state elected official running for any office, or a candidate for a partisan elected state office, may solicit a lobbyist or an organization that employs a lobbyist to furnish a campaign contribution only during the period during which the candidate may accept a contribution from a lobbyist, but may solicit a lobbyist to arrange for a PAC or conduit to furnish a contribution at any time.

CANDIDATE'S BUSINESS RELATIONSHIP WITH ORGANIZATION THAT LOBBIES

EMPLOYEE DURING THE CAMPAIGN. In spite of the general rule that an organization that employs a lobbyist may not furnish anything of pecuniary value to a candidate for state office, an organization may pay salary, wages and employee benefits to a candidate for an elective state office who does not yet hold the office if (1) the employee is neither an official of a state agency nor a legislative employee, and (2) the organization or employee can demonstrate by clear and convincing evidence that the employment, compensation, and employee benefits are unrelated to the candidacy.*

EMPLOYEE AFTER ELECTION. Having been elected to a state government position, a successful candidate may not, after assuming office, continue to receive compensation (including commissions or fees for sale of goods or services) or employee benefits from an employer that employs a lobbyist.

BUSINESS RELATIONSHIPS WITH LOBBYISTS AND THE ORGANIZATIONS THAT EMPLOY THEM.

LOBBYISTS: As a general rule, neither a candidate for election to a state public office nor an individual elected to state public office may purchase or otherwise accept from a lobbyist food, drink, transportation, lodging, compensation or other payment (even for goods or services purchased from the candidate or official), services of the type for which the lobbyist would normally charge (e.g., legal counsel or accounting), goods, or any other thing of pecuniary value.

LOBBYING PRINCIPAL. As a general rule, neither a candidate for election to a state public office nor an individual elected to state public office, may accept from an organization that employs a lobbyist food, drink, transportation, lodging, compensation or other payment (even for goods or services purchased from the candidate or official), goods, or any other thing of pecuniary value

* If the organization employed the candidate prior to the first day of the 12th month commencing before the deadline for the filing of nomination papers for the office sought and the employment continues uninterrupted, without augmentation of compensation or employee benefits, except as provided by preexisting employment agreement, it is rebuttably presumed that the employment and compensation and benefits paid are unrelated to the candidacy.

other than items or services which it makes available to the general public on the same terms and conditions.

Legal references: §13.625, *Wisconsin Statutes*; 1997 Wis Eth Bd 8; 2004 Wis Eth Bd 03; 2005 Wis Eth Bd 08

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

FREQUENTLY ASKED QUESTIONS

DATE: April 2016

SUBJECT: Lobbyist campaign contributions

Lobbyists furnishing campaign contributions to candidates

Q. When may a lobbyist furnish a personal campaign contribution from the lobbyist's own funds to a candidate?

A. To a candidate for partisan state office (or a partisan elected state official running for any office), between April 15 and the general election, except as noted below. To a candidate for any other office (as long as the candidate is not currently a partisan elected state official), lobbyists may contribute personal funds at any time.

Q. Are there additional restrictions for furnishing a personal campaign contribution from the lobbyist's own funds to a legislative candidate?

A. Yes. A lobbyist may furnish a personal campaign contribution to a candidate for the Legislature (whether an incumbent or non-incumbent) after April 15 but only after the Legislature has concluded its final scheduled floor period. This "window" for furnishing a contribution closes during any special or extraordinary session.

Q. Do these additional restrictions apply to a Legislator running for another partisan office?

A. Yes. The new campaign finance law defines candidate to include an incumbent legislator..

Q. When may a lobbyist furnish a PAC or conduit contribution to a candidate?

A. A lobbyist may furnish a PAC or conduit contribution to a candidate running for any office at any time.

Q. What does "furnishing" mean?

A. "Furnishing" means to deliver or convey, in person or by writing, or by signing a contribution check.

Q. When may a lobbyist and candidate participate in discussions about PAC or conduit contributions?

A. At any time.

Q. When may a PAC furnish a campaign contribution to a candidate?

A. At any time.

Q. Even if the PAC is controlled by a lobbying principal?

A. Yes.

Q. When may a conduit furnish a campaign contribution to a candidate?

A. At any time, unless the contribution is from a lobbyist's personal funds. If it is from a lobbyist, all the timing restrictions on a lobbyist furnishing a personal contribution apply.

Q. What services may a lobbyist furnish to a candidate apart from furnishing a campaign contribution?

A. A lobbyist may endorse a candidate, be listed as a sponsor of a fundraising event, and provide uncompensated personal (non-professional) services to a campaign.

Q. When may a lobbyist furnish a contribution to a PAC, political party, or legislative campaign committee?

A. At any time. The lobbyist may furnish either a personal contribution or contributions from a PAC or conduit.

Q. May a lobbyist arrange a fundraising event for a legislator's personal campaign committee?

A. Yes, provided it is as a volunteer or the lobbyist's time is reimbursed through a PAC.

Candidates soliciting campaign contributions from lobbyists

Q. When may a candidate ask a lobbyist to furnish a personal campaign contribution from the lobbyist's own funds?

A. During the time during which the intended recipient may accept such a personal contribution from a lobbyist; see page 1 for details.

Q. When may a candidate ask a lobbyist to furnish a PAC or conduit contribution?

A. At any time.

Q. May a candidate ask a lobbyist for a non-lobbyist contact from whom the candidate may request a PAC or conduit contribution?

A. Yes.

Q. May a candidate ask a lobbyist to convey information about a fundraiser to others?

A. Yes.

Q. May a candidate send an invitation to a fundraiser to a lobbyist?

A. Yes, but if the invitation is sent outside of the personal contribution "window" it should specify that it is not a solicitation of a lobbyist's personal contribution.

Q. May a legislative campaign committee invite a lobbyist to a fundraiser for the legislative campaign committee?

A. Yes, but neither a legislator nor a legislative employee may solicit a personal campaign contribution from a lobbyist except during permitted times, even if it is for a legislative campaign committee or a PAC.

Q. May a legislative campaign committee's employee solicit contributions to the legislative campaign committee?

A. Yes. As long as the employee of the legislative campaign committee is not also an employee of the legislature, that person may solicit a lobbyist for a contribution to the legislative campaign committee at any time.

Q. May a lobbyist arrange a fundraising event for a legislative campaign committee?

A. Yes, a lobbyist may make arrangements for and obtain potential contributors for a fundraising event for a legislative campaign committee.

Q. May a lobbyist personally pay for invitations, or food and beverages for a candidate's fundraiser, since these do not qualify as campaign contributions?

A. No, those items have pecuniary value, and a lobbyist may not provide them to a state partisan elected official or candidate for partisan state office at any time.

Q. May a lobbyist ask a candidate for advice about where to direct campaign contributions?

A. Yes. Statutes do not prevent a candidate's replying to a communication from a lobbyist asking who should be the recipients of PAC or conduit contributions.

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JUDGE VICTOR MANIAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

(In December, 2015, Act 117 was signed into law. That act made changes to campaign finance law effective January 1, 2016, resulting in minor updates to the settlement schedule that follows. Changes are highlighted).

Settlement Offer Schedule for Campaign Finance Violations

This document sets out authorized settlement offers for campaign finance violations, in lieu of pursuing court action. It includes recommended settlement amounts for specific situations. The Board's authority to make settlement offers is set out in Wis. Stat. **§19.49(1)(b)**. The Board may specify penalties for certain offenses and may compromise and settle those matters without formal investigation. If an individual or committee chooses not to accept a settlement offer, the Board may bring a civil action and seek the maximum forfeitures provided by law, including costs and attorneys' fees.

The Board's primary interest is providing timely and accurate campaign finance information to the public, and collection of civil penalties is secondary. When addressing violations, Board staff will consider mitigating or exacerbating circumstances, and may adjust penalties accordingly. These circumstances include:

- The number of previous offenses
- The amount of financial activity
- Whether the committee is a candidate or non-candidate committee
- A candidate's presence on the ballot
- Whether the committee has provided a portion of the required information
- The sophistication of the parties, and whether the individuals involved should have been aware of the violation

1. Late Filing of Continuing Campaign Finance Reports:

(Calendar) Days Late:	First Offense:	Second or Greater Offense:
0-30	Warning	Warning
31-60	\$100	\$200
61-90	\$200	\$300
91-120	\$300	\$400
Over 120	\$500	\$500

Every registered committee, referenda group, or sponsoring organization must file a continuing report every six months. Committees on "exempt" status that have less than **\$2,000** activity in a calendar year do not have to file reports. Reports are due by **January 15th and July 15th**, or if those dates fall on a weekend, the following Monday.

Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency. If a report is not filed after 120 days or a forfeiture is not paid, a registrant may be subject to court action and/or administrative suspension. A committee

on administrative suspension may not engage in any activity without subjecting itself to court action.

Committees required to file electronically that file only on paper may be considered as not having filed.

2. Late Filing of Pre-Primary, Pre-Election, and special Post-Election Reports:

(Business) Days Late:	Penalty:
1	\$100
2	\$150
3	\$200
4	\$250
5	\$300
6	\$350
7	\$400
8	\$450
9	\$500

Election related reports are the Pre-Primary, Pre-Election and special Post-Election reports. Every candidate on the ballot in an election, and every committee or conduit that gives to a candidate on the ballot must file the Pre-Primary or Pre-Election reports. Non-Partisan state-level candidates with no primary must file a Pre-Primary report. Candidates who lose their primary must still file a Pre-Election report. Only candidates in special elections must file the special Post-Election report. Local candidates with no primary do not file with the G.A.B. and do not have to file a Pre-Primary report.

Pre-Primary and Pre-Election reports cover up to 15 days before the election and are due 8 days before Election Day. Special Post-Election reports cover up to 22 days after the election and are due within 45 days after Election Day. If a due date falls on a weekend, reports are due the following Monday.

Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency. If a report is not filed by a losing candidate after 60 days or a forfeiture is not paid, the candidate may be subject to court action and/or administrative suspension. A committee on administrative suspension may not engage in any activity without subjecting itself to court action. Office holders and other registrants may be subject to court action.

3. Late Payment of Annual Filing Fees (**Wis. Stat. § 11.0102(2)**):

(Calendar) Days Late:	Penalty:
1-15	Warning
16-45	\$300
46-90	\$500
91 or more	\$800

All non-candidate committees with more than \$2,500 in expenses in the previous calendar year must pay a \$100 filing fee by January 15th, or the following Monday if January 15th is on a weekend. Maximum penalty is \$800.

4. Late/Incomplete Filing of 72-Hour Reports:

Late/Incomplete Reporting

Penalty:

5% of the total amount of unreported contributions
(\$50 per \$1000 unreported)

Candidate committees, party committees, and legislative campaign committees must report contributions of \$1,000 or more received between the closing date of the Pre-Primary or Pre-Election report and the day of the Primary or Election. Any such contributions must be reported to the G.A.B. within 72 hours. Those committees, persons, or organizations are required to report independent disbursements within 72 hours if 1) the communication occurs within 60 days of an election and 2) they have passed a \$2,500 threshold for independent expenditures during that calendar year.

Maximum penalty is \$500 for each reporting violation.

5. Incomplete Contribution Information:

(Calendar) Days Late:

Up to 30 days from staff contact
31 or more days from staff contact

Penalty:

No penalty
\$100 plus 10% of contributions with incomplete information

When a registrant fails to disclose required contributor information such as name, address, or occupation, staff will request the information from the registrant and make a record of the request. If a registrant does not respond to a staff request for the required information within 30 days, the Board may initiate enforcement action. Staff will have discretion to extend the 30 day deadline based on a registrant's level of activity, number of violations, and partial communication of the required information.

Maximum penalty is \$500 per reporting violation.

Wis. Stat. §11.0103(1) requires a committee to "make a good faith effort to acquire all required information." If a registrant demonstrates a concerted effort to obtain required information and provides all required information for at least 90% of its contributions where the information is required, no forfeiture will be sought. No forfeiture will be sought if fewer than ten contributions have incomplete information.

6. Cash Balance Discrepancies:

(Calendar) Days Late:

Up to 30 days from staff contact
31 or more days from staff contact

Penalty:

No penalty
\$100 plus 10% of discrepancy

A cash balance discrepancy occurs when a registrant submits a campaign finance report with a beginning cash balance which differs \$100 or more from the ending cash balance on the prior campaign finance report. A cash balance discrepancy can also occur if the report's beginning cash balance, plus all receipts, minus all expenditures differs by \$100 or more from the reported ending cash balance.

The registrant who filed the report will be contacted and informed that the report is inaccurate and given 30 days to file a corrected campaign finance report.

Maximum penalty is \$500 per unreported transaction that led to the discrepancy.

Staff will have discretion to extend the deadlines based on a registrant's level of activity, number of violations, and partial communication of the required information.

7. Exceeding Contributions Limits

Violation Type:

Receiving Excess Contribution
Furnishing Excess Contribution

Penalty:

Amount of excess contribution
If receiving committee forfeits
full amount of excess contribution, \$0.
Otherwise, case-by-case basis

There shall be no penalty for excess contributions returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. §11.1110(2)(b).

If any registrant pays the amount of the excess contributions to the common school fund (through the Board) or to charity, no additional penalty will be required from the contributor. If a registrant contributes funds to charity, staff will request documentation of that payment.

If a receiving committee returns excess contributions to the donor after the deadline stated above, the Board may seek a settlement from the committee and contributor of the amount of the illegal contributions. This will be presented to the Board on a case-by-case basis.

Maximum penalties for the receiving committee are \$500, plus payment of the amount of the excess contribution to the donor, the common school fund, or charity. Maximum penalties for the contributor are \$500 plus treble the amount of the portion of the contribution that exceeds the maximum.

8. Prohibited Corporate Contributions

Violation Type:

Corporate Contribution – Committee Penalty

Penalty:

Amount of contribution
plus the lesser of \$500 or 50% of the
contribution

Corporate Contribution – Corporate Penalty

1 ½ times amount of contribution

There shall be no penalty for excess or improper contributions returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. §11.1110(2)(b).

Maximum penalty for the receiving committee is \$500 but a committee that refuses to pay the amount of the excess contribution to the donor, the common school fund, or charity may be subject to a criminal referral. Maximum penalty for the corporate contributor is **three** times the amount of the contribution.

9. Prohibited Lobbyist Contributions

Violation Type:

Lobbyist Contribution – Committee Penalty

Penalty:

Return of the contribution
to the lobbyist

Lobbyist Contribution – Lobbyist Penalty

1.5 times amount of contribution,
up to maximum of \$1,000

There shall be no penalty for excess or improper contributions returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. §11.1110(2)(b).

Limitation on lobbyist contributions are set out in Chapter 13 but the settlement offer schedule is set out here. Maximum penalty for the receiving committee is \$1,000. Maximum penalty for the lobbyist is \$1,000.

10. Board procedures for implementing settlement offers and resolving violations

- a. Staff may issue warnings for minor violations.
- b. Staff will consider registrants' explanations, and mitigating or exacerbating circumstances, when assessing penalties or recommending action to the Board.
- c. Penalties may be reduced or waived at the staff's discretion if the committee has terminated or is terminating and has insufficient funds to pay a penalty.
- d. Board staff will inform the Board as soon as practicable of any deviations from the standard settlement offer schedule and the reasons therefore.
- e. Once Board staff has notified a registrant or individual of the violation and settlement offer, the registrant or individual shall have 30 days to pay the settlement offer or submit a written request to the Board to present their case.
- f. The Board may, on its own motion or at the request of its staff, reconsider any settlement offer. Material mistakes and new evidence are among factors the Board may consider.
- g. If the registrant or individual refuses to accept the Board's settlement offer or does not respond, staff counsel may commence a civil action to collect a forfeiture of at least the amount of the settlement offer. After litigation begins, any settlement of the case shall include all costs of litigation.
- h. Staff may place some registrants on administrative suspension rather than pursue civil action. This will generally apply to registrants with little activity that cannot be contacted. When staff believes a registrant should be placed on administrative suspension, staff will present the situation for the Board's approval. If a registrant on administrative suspension wishes to become active again, staff will actively seek all incurred penalties and all reports, including asking the Board to initiate a civil action.
- i. Board staff will inform the Board of all late reports, settlement offers, paid settlements and administrative suspensions, and will compile a yearly summary for each calendar year.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

<u>Prepared by:</u> Sarah Whitt WisVote Functional Lead	<u>Presented by:</u> Ross Hein Elections Supervisor
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SUBJECT: WisVote Update

This memo provides an update to the Government Accountability Board members on the new WisVote system, and is a follow up to the verbal presentation provided by Elections Supervisor Ross Hein at the March 1, 2016 Board meeting.

WisVote was developed in-house by G.A.B. staff to replace the Statewide Voter Registration System (SVRS) which was over ten years old and nearing the end of its technological life. The new WisVote system was deployed on January 11, 2016.

Background and Development Timeline

The Statewide Voter Registration System (SVRS) was first created by the State Elections Board in 2005, in response to new Federal requirements in the Help America Vote Act of 2002 (HAVA). The original SVRS software was a commercial off the shelf (COTS) package called Accenture Election System Manager (AESM) purchased from Accenture LLP through a Request for Proposal process. Accenture encountered issues while developing the software, causing the system to be delayed and missing critical features. Three other states developing their electronic voter registration files pursuant to HAVA terminated their contracts with Accenture due to the delays.

Accenture delivered AESM to Wisconsin in late 2005 but it suffered from serious flaws and countless bugs, and could not be deployed statewide until the summer of 2006. Several critical features of the system were never developed or functioned as specified in the contract, resulting in a contract settlement with Accenture in 2008. Under the settlement, Accenture transferred to G.A.B. staff a perpetual license for the AESM product with full access to modify the source code as needed to maintain the system. Accenture also returned or forfeited \$6 million to the former State Elections Board of the \$9.6 million in funds paid to or allocated

under the terms of the original contract. G.A.B. established an internal IT development team to support the SVRS system going forward.

The G.A.B. IT team began using Microsoft Dynamics CRM in 2012 as a development tool that allowed staff to quickly develop new features without having to update the existing SVRS system. CRM was used to develop provisional ballot tracking (which did not function in SVRS) as well as to modernize the process of delivering printable felon lists for clerks to use at the polling place. After these successes with CRM, staff began exploring CRM as an option to replace the SVRS system.

In July of 2014, staff began development of a new statewide voter registration system using CRM. The project was projected to take a year and a half and cost approximately \$2 million. At the September 1, 2015 meeting of the Government Accountability Board, the Board approved purchase of two server licenses and 2,000 user licenses for Microsoft Dynamics CRM needed to deploy the system to users. Additional background information regarding the decision to modernize SVRS using Dynamics CRM can be found in the attached Board memorandum dated September 1, 2015. The system was completed on December 31, 2015 and was deployed to users on January 11, 2016.

Overview of the WisVote System

WisVote is Wisconsin's flagship system for administering elections statewide. WisVote is used by Wisconsin's 1853 municipal clerks, 72 county clerks, Board staff, and even the public via the MyVote Wisconsin website. In addition to containing voter registration data, it serves as a comprehensive elections administration system. The following features are some of what WisVote encompasses:

- Voter registration
- Tracking of Elections and progress through the election cycle
- Tracking of contests up for election and candidates running in those contests
- Tracking of absentee applications and ballots
- Polling place information
- Tracking of provisional ballots
- Maintenance of addresses and districts using GIS
- Clerk contact information
- Frequently Asked Questions and other training articles
- Integration with the MyVote Wisconsin website to provide election information to voters
- Integration with BADGER Voters to satisfy data requests from individuals and organizations

WisVote also includes interfaces with other state agencies as required by State and Federal law to improve the quality of the voter data in WisVote:

- The Wisconsin Department of Corrections provides data to WisVote nightly via a web service regarding felons currently serving sentences. WisVote compares those felons to voters to identify individuals who may have committed a felony and who need to be deactivated in the WisVote system. The DOC felon data is also used for clerks to print

lists of felons who are on probation and parole for use at the polling place, and to perform the post-election Voter Felon Audit to determine if any felons voted in an election.

- The Wisconsin Department of Health Services provides data on a monthly basis of deaths reported to the State Vital Records Office. WisVote compares the death records to voter data to identify voters who may have died and need to be deactivated in the WisVote system.
- WisVote sends records nightly to the Wisconsin Department of Transportation which compares voter information (name, date of birth, driver license number, and last four digits of SSN) to Division of Motor Vehicle records to determine if the information matches.

Several new features are on the horizon for WisVote in 2016 and 2017, including:

1. Supporting Online Voter Registration as required by 2015 Wisconsin Act 261.
2. Joining the Electronic Registration Information Center (ERIC) as required by 2015 Wisconsin Act 261. ERIC is a consortium of states that uses technology to identify voters who may have moved or who may be eligible to vote but are unregistered so that they can be contacted proactively to register, as well as voters who may have moved out of state or died so that they can be removed from the registration list. ERIC currently has 16 member states including Illinois and Minnesota.
3. Integration with the new MyVote Wisconsin website version 2.0 which is currently in development. MyVote version 2.0 is scheduled to be released in June 2016.
4. Modernizing the Canvass Reporting System, used to certify election results statewide, and moving it into WisVote.
5. Modernizing the Wisconsin Election Data Collection System, used to collect election statistics required by statute, and moving it into WisVote.

Benefits of WisVote

The WisVote system was originally developed to respond to three critical needs that could not be achieved with the existing SVRS system:

1. Improved Usability
2. Reduced Cost
3. Improved Stability, Security and Supportability

All three of these benefits and more have been realized since WisVote went live.

Improved Usability

Since going live, G.A.B. staff has received numerous comments from clerks regarding the ease of use and visual appeal of the new WisVote system. Many clerks have sent positive feedback

on the system even while reporting issues and challenges with the transition. Other clerks contacted the G.A.B. specifically to express appreciation for the new system and explain how much easier to use it is than SVRS.

Due to the increased usability of the system, training was offered to existing SVRS users in a completely online fashion. The WisVote Learning Center website was designed and developed by G.A.B. training staff and includes training videos, interactive tutorials, and a printable training manual. These online resources can be updated and re-published as new features are added without requiring clerks to attend new training. Clerks can use the training resources on their own time at their convenience. Nearly 200 new users have been certified online since WisVote went live this year. After launching SVRS in 2006, the State Elections Board and the G.A.B. deployed much greater resources to conduct lengthy in-person training sessions to new SVRS users, an approach that would not be feasible given current budget and staffing constraints. The emphasis on usability helps to make online training a practical and affordable solution.

Microsoft performs extensive research and development and usability testing on the CRM product. In this way the G.A.B. can leverage the expertise of Microsoft and the broader user experience with CRM. Microsoft has introduced new features to improve CRM even since G.A.B. started using it. For example, WisVote was able to take advantage of new “roll up” fields that automatically calculate counts as records are updated (such as the total votes recorded on a poll book or the total number of Election Day Registrations entered). G.A.B. staff also is currently testing a new search feature that allows searches in the system to return results more quickly, with looser search criteria making it easier for clerks to find the records they are looking for. G.A.B. staff looks forward to reviewing and working with the new features of the next CRM release that could be used to further improve the user experience for WisVote.

The ease of use of WisVote also helps G.A.B. staff that supports clerks using the system. When clerks contact the Help Desk for assistance, staff is able to more easily explain to users how to complete tasks in the system versus the processes in SVRS. There are more tasks that clerks can do independently without having to call for assistance. When clerks do call, the length of the call is shorter than were SVRS calls, which frees up staff to spend more time helping other clerks, making improvements to the system or working on other projects. The system is more intuitive and easier to explain, reducing stress on both the clerk and the staff person assisting them.

Reduced Cost

WisVote has already realized cost reductions over SVRS since its launch in early January. Using an on-line training platform has saved G.A.B. staff tens of thousands of dollars as compared to the in-person training sessions held across the state which took several days and were required for clerks to gain access to SVRS.

Over 20 servers have been de-commissioned since going live with WisVote. WisVote requires a much smaller server infrastructure than SVRS did, saving G.A.B. thousands of dollars a month in hosting and infrastructure costs. This is particularly important since hosting costs were paid primarily with federal HAVA funds and that funding source will no longer be available in the next biennium.

Since work began on WisVote, G.A.B. has been able to maintain a four-person IT team to support the Elections Division's IT needs. G.A.B. previously employed up to 11 developers to maintain SVRS and the other Elections Division IT systems.

These cost savings will continue to increase the longer WisVote is used. These cost savings will be critical in 2017 as the new Elections Commission transitions from federal funding to needed state funding for HAVA-related activities.

Stability, Security and Supportability

Because WisVote is built upon the CRM product, stability, security and supportability are included in the software and backed by Microsoft. Microsoft provides monthly security patches to keep the environment secure, and releases major product updates annually. New versions of CRM always work with current versions of system software Windows Server and SQL Server, ensuring that WisVote is always supported. During the latter stages of SVRS use, the system became less stable and secure as the technology became outdated and it became more difficult to ensure its ongoing security.

Additional Benefits

Perhaps the most immediately realized benefit of WisVote is its overall flexibility. CRM allows for updates to be made to WisVote quickly and easily. The separate modules of the system are more self-contained than SVRS so that updates in one area do not negatively impact other areas of the system, which allows new changes to be put in more quickly, with less testing required, and with lower overall risk. Since WisVote went live, new updates to the system have been implemented approximately every two weeks to respond to clerk concerns and feedback, and to continue to improve core functionality. Emergency changes were able to be deployed to fix issues reported by clerks, in some cases on the same day the issue was reported, or even within an hour or less of being reported.

WisVote Challenges

All new IT projects experience some challenges. The following list describes some of the challenges the WisVote team experienced and the steps taken to mitigate these challenges:

- Some clerks expressed concerns regarding the timing of the roll-out. January 11 fell right after municipal tax season. It was approximately a month before the February Primary, and 2016 was anticipated to be the busiest election year in the four year cycle, and possibly the biggest since 2008. WisVote was also launched closely after the Legislature voted to eliminate the G.A.B. and create the new Elections Commission beginning June 30, 2016.

However, G.A.B. staff had given much thought to the timing of the WisVote launch and concluded that the election calendar dictated that the only available window to roll out the system was ahead of the February Primary. The next available opportunity would not have been until after the spring elections in 2017. With the SVRS servers running the unsupported Server 2003 operating system

and no longer getting security patches, it was essential to move forward in January of 2016.

Providing clerks with the information regarding why WisVote needed to be rolled out when it did helped calm most clerks' frustrations with the schedule. As clerks became more familiar with the system and experienced the ease of use, the immediate shock of the change dissipated and clerks who were initially dissatisfied have become more supportive. While some may still disagree regarding the timing, they understand the decision and have been willing to work with the new system and with G.A.B. staff to be successful using it.

- Because of the complexities of the SVRS system and with Wisconsin election laws and procedures, it was necessary to prioritize the features that would be available in WisVote at the time of the launch and determine what features would be rolled out later. This meant that not all features of SVRS were immediately available in WisVote. It also means that staff will be working throughout 2017 both to address bugs and clerk suggestions, as well as develop core scope requirements that were not included in the original launch. WisVote management and supporting staff have taken an active role in helping identify high priority issues that must be fixed in a timely manner and those items that can be deferred to future updates to help staff juggle multiple responsibilities.
- Because the WisVote system was developed in-house, many of the staff working on the project did not have experience with IT system development and testing. WisVote management developed a "team approach" with different teams working on different areas of the system. All Elections Division staff were involved in developing some part of the system, and each team had at least one team member with knowledge and experience to cross train the other team members. Clerks were included in WisVote testing to help identify issues that staff would not have found. Now that WisVote is live, management continues to adapt the WisVote update schedule to ensure time for thorough testing before the updates are deployed. However, supporting clerks with their transition to the new system while simultaneously continuing development of the system creates a challenge for strained staff resources.
- The volume of calls from clerks needing assistance in WisVote has been high. The WisVote Learning Center is available 24 hours a day, seven days a week to help clerks use the system if they are not able to reach someone at the G.A.B. Staff also regularly publishes FAQ's which are posted in WisVote to answer questions frequently raised by clerks to help users independently answer their questions. All Elections Division staff has been available to take WisVote calls from clerks and not only the WisVote Team. Even Ethics Division staff assisted in answering calls on Election Day.

The WisVote team has also been publishing regular clerk communications regarding WisVote every two weeks since the launch, and the WisVote team has presented several times at Wisconsin County Clerks Association (WCCA) and Wisconsin Municipal Clerk Association (WMCA) events to help educate clerks. As clerks become more familiar with the system, the volume of calls has been

decreasing overall, despite the record-breaking voter turnout in the 2016 Spring Election and Presidential Preference Vote.

Project Highlights and Statistics

The WisVote project began on July 1, 2014. It was scheduled to be completed by December 31, 2015 at a cost of \$2,162,476.

The system was completed on-time on December 31, 2015, with G.A.B. staff and IT developers working throughout the holidays. The new servers were then set up and data was migrated from SVRS to WisVote over a two week period, and the system went live for users starting on Monday, January 11, 2016.

Total project costs were \$2,052,756, under budget by \$109,720.

The following table illustrates project costs through its completion on December 31, 2015:

Cost Category	Budgeted	Actual	Difference
FY14 Staff	\$512,476	\$512,476 ¹	\$0
FY15 Staff	\$600,000	\$544,094	\$55,906
FY16 Staff	\$300,000	\$478,902	(\$178,902)
Contingency	\$100,000		\$100,000
Licenses	\$650,000	\$517,284	\$132,716
Totals	\$2,162,476	\$2,052,756	\$109,720

Post Launch Updates

Since WisVote went live on January 11, 2016, the system has been used to support two statewide elections:

- The 2016 Spring Primary on February 16, 2016
- The 2016 Spring Election and Presidential Preference Vote on April 5, 2016

The WisVote team has deployed five updates to WisVote since its launch, generally on a two week schedule. Each of these updates (referred to as a “Sprint”) includes multiple bug fixes and new features that were developed during the Sprint period. Fixes to high-priority issues can also be deployed between scheduled updates and have allowed the WisVote team to respond quickly to unexpected issues. The following chart details the updates to WisVote since its launch:

Update	Start Date	End Date	Weeks	Work Items
Sprint 1	1/11/2016	1/22/2016	2	60
Sprint 2	1/25/2016	2/5/2016	2	59
Sprint 3	2/8/2016	2/26/2016	3	65
Sprint 4	2/29/2016	3/11/2016	2	39

¹ Actual project costs were not tracked in FY14. Tracking of actual project costs began when the Wisconsin Department of Administration identified WisVote as a “High Profile IT Project” which required tracking of actual costs and quarterly reporting to DOA.

Sprint 5	3/14/2016	3/25/2016	2	59
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Scheduled updates for WisVote ceased after 3/25/2016 due to the 2016 Spring Election and Presidential Preference Vote on April 5. A new Sprint 6 is currently being developed and will be deployed in early May.

Conclusion

The WisVote system has been live for three and half months, and has already shown its value. Clerks have been overwhelming positive about WisVote, despite the challenging timing and the volume of election-related tasks they will have in 2016. The system has proven to be very flexible, with updates being made more quickly and with fewer problems than with SVRS. The system was delivered on-time and under budget, a very rare feat for a high profile State IT project. The use of Microsoft Dynamics CRM ensures the system will remain robust, easy to use, and stable for years to come. Having a stable, functional WisVote system will help with the transition to the new Elections Commission in 2016 and the transition from Federal funds to needed State funds in 2017. The new system offers Wisconsin a sustainable elections management system that will help voters, elected officials, and the public continue to have confidence in the administration of Wisconsin elections well into the future.

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JUDGE GERALD C. NICHOL
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the September 1, 2015 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by Elections Division Staff and Presented by:

Ross Hein
Elections Supervisor

SUBJECT: Request to Purchase Software Licenses for the WisVote Project

Government Accountability Board staff is requesting Board approval to purchase software licenses for Microsoft's Dynamics CRM product in the amount of \$489,024. This software will be used for the modernization of the Statewide Voter Registration System (SVRS), which will now be called WisVote and is scheduled to be released for use by local election officials in early 2016. SVRS modernization has been an ongoing agency project for the last several years, involving a significant amount of time and attention from much of the Elections Division and the agency's team of IT developers. Updates regarding this project have been provided to the Board in the Elections Division Update, and it has been a project included in the last several agency budgets.

As the new WisVote system nears completion, it is now necessary to purchase the user licenses necessary to roll out the system to the approximately 2,000 WisVote users, who are county and municipal clerks and their staffs. This memorandum provides background regarding the WisVote project and outlines the components of the requested license purchase.

Background: Brief History and Development of SVRS

The Statewide Voter Registration System (SVRS) was first established in Wisconsin in 2005, in response to new Federal requirements in the Help America Vote Act of 2002. The SVRS software was a commercial off the shelf (COTS) package called AESM purchased from Accenture LLP through a Request for Proposal process. The software license for AESM was purchased for \$1.5 million, with an additional \$652,604 in customization costs to adapt the package for Wisconsin, as well as ongoing maintenance costs of approximately \$400,000 per year.

The AESM system was based on a county voter registration system developed in the late 1990s. Accenture upgraded the system to the newer technologies available in 2003 and added additional

features to allow it to work as a statewide and not just countywide system. Development of the system encountered delays, causing several other states to terminate their contracts with Accenture. Accenture reportedly employed over 100 IT developers working on the system in an attempt to complete it on time.

The system was ultimately delivered to Wisconsin in 2005 but suffered from serious flaws and countless bugs. In the initial roll-out of the system, only voter registration features were functional, with absentee ballot tracking and election management features added on as they became usable. Several critical features of the system were never developed or functioned as specified in the contract, resulting in a contract settlement with Accenture in 2007. With the settlement, Accenture gave G.A.B. staff a perpetual license for the AESM product with full access to modify the source code as needed to maintain the system, as well as returning monies paid by the G.A.B. for features that had not been developed.

G.A.B. subsequently established an internal IT development team to support the SVRS system going forward. The initial IT team consisted of a lead architect (formerly employed by Accenture with deep expertise in the AESM software) as well as a contracted software developer and database administrator. In 2009, with the assistance of the Department of Administration's Division of Enterprise Technology (DET), staff issued a Request for Information (RFI) to determine if there were IT companies available to take over support of the existing AESM software, or if another COTS statewide voter registration package was available that could meet Wisconsin's needs. The system required several critical updates at that time (such as supporting the upcoming redistricting process as well as updates to system software that was becoming outdated). Unfortunately the RFI process did not produce sufficient results to recommend moving forward with a Request for Proposal process.

G.A.B. instead expanded its internal IT development team, bringing on a new IT Lead (formerly employed by DET) and several additional contracted developers. The new IT team was able to successfully update SVRS to be able to implement the redistricting process. The IT team began using Dynamics CRM to develop new IT functionalities instead of modifying SVRS directly. Dynamics CRM is a customer relationship management software program that can be customized by an organization to meet their needs. Initially used primarily by the private sector, in recent years it has been adopted for use by public agencies to manage data and workflow processes. The Wisconsin Department of Agriculture, Trade and Consumer Protection as well as the Wisconsin Department of Administration use Dynamics CRM for new application development, as well as many other government customers nationwide. The G.A.B. first used Dynamics CRM in February 2012 to create a new provisional ballot tracking system to comply with the Photo ID law (Provisional ballot tracking was one of the features of SVRS that did not function properly requiring the tracker to be created in Dynamics CRM). In April 2012 it was used to produce the printable felon lists that clerks are required to have in polling places. Dynamics CRM was used again for the post-election Voter Felon Audit in February 2014.

After the successful use of Dynamics CRM for several projects, the G.A.B.'s IT Lead recommended rewriting the entire SVRS system using Dynamics CRM and retiring the AESM product. During 2013 and 2014, staff worked to conceptualize how SVRS could be improved by developing it in Dynamics CRM. Actual development of the new system in Dynamics CRM began on July 1, 2014. Based upon clerks' experiences utilizing Dynamics CRM to complete several statutory requirements and other feedback from clerks, it is clear that the more intuitive

interface of Dynamics CRM can address several of the current Statewide Voter Registration Systems deficiencies and improve election administration for both clerks and G.A.B. staff.

Objectives of License Purchase

G.A.B. staff has identified three critical goals for WisVote that serve as the strategic vision for this project – improved usability for clerks, reduced cost to the G.A.B., and creating a stable and supportable system. Using Dynamics CRM as the foundation of WisVote will allow staff to achieve all three goals.

1. Improved Usability

Many clerks have provided feedback over the years to express their dissatisfaction with the current SVRS system. In short, it is functional but often inefficient and “clunky” and its performance is progressively deteriorating. In many instances, SVRS requires the clerk to take several distinct steps in a very specific sequence in order to complete a single task. Many clerks must rely on the voluminous printed SVRS User Manual to complete tasks, or have G.A.B. staff walk them through processes by phone. G.A.B. staff dedicates significant time at each election to perform extensive tracking to ensure that clerks are completing all the required steps in the election set-up, administration, and follow up, many of which are complicated and not obvious to the user, making them frequently forgotten. Printing documents from SVRS, such as reports, letters, and poll books can be significant stumbling blocks for many clerks.

With WisVote, the goal is to streamline tasks, and in many cases, eliminate steps entirely by automating tasks. WisVote is specifically tailored to Wisconsin’s statutes and election processes. The unused clutter of SVRS which may apply to election administration in other states has been removed, and the screens and features of WisVote only include items that are relevant to Wisconsin clerks. Dynamics CRM allows clerks to print or save documents directly through their web browser, similar to most websites.

Dynamics CRM includes a host of standard features that come with the base software to make the system easy to use. Microsoft also invests significant resources into research and development for the Dynamics CRM product. By using Dynamics CRM as the base software for WisVote, G.A.B. can leverage Microsoft’s extensive testing for ease of use and constant updates based on the latest findings regarding user behavior and preferences.

Since the inception of SVRS, staff has been collecting feedback from clerks regarding its performance and their desired improvements, which has informed the development of WisVote. Over the past month, G.A.B. staff convened a Clerk Review Committee to review the design of WisVote to date, and to provide specific feedback on ways to make the system even better. Overall, feedback from the review committee has been positive and many of the clerk suggestions will be implemented immediately in Phase 1 of WisVote. Additionally staff presented WisVote to a group of over 300 clerks at the Wisconsin Municipal Clerks Association meeting in La Crosse on August 19, 2015. Feedback received from clerks was very positive and at many times elicited applause from the crowd regarding the improved ease of use of the WisVote system. Clerks will also be involved in the testing of WisVote, where even more feedback can be collected to improve the clerk experience in the new system. (*See Addendum A: Clerk Review Committee Overview*)

2. Reduced Cost

Dynamics CRM provides a base of standard features that allows IT staff to develop the system much more quickly and with fewer developers than building a system from scratch. These standard features include a security model, audit logging, customizable tables and screens, and customizable business rules and workflows that make development and maintenance more efficient. For comparison, Accenture spent 3-5 years creating the AESM software with upwards of 100 developers during its peak development stages. G.A.B. staff are developing WisVote in two years with five IT staff.

Once WisVote is complete, less on-going IT support will be necessary. Dynamics CRM includes tools to easily update screens or change business rules and workflows without having to complete new development. Because it will not be necessary to devote as many IT resources to the statewide voter registration and election management system, staff anticipates **resulting savings of at least \$175,000 per year and possibly as much as \$300,000 per year.**

The current SVRS system relies on the Citrix product to deliver the system to users over the Internet through a secure tunnel. Citrix adds considerable overhead to the system, requiring 56 total servers, compared to Dynamics CRM, which is fully web-based and will require only 17 servers. The current datacenter costs for server hosting, storage and backup of the 56 SVRS servers is \$18,370 per month. In comparison, the WisVote datacenter costs are projected to be only \$4,460 per month, **resulting in a savings of \$13,910 monthly, or \$166,922 annually.** The following chart summarizes the hosting cost savings of the proposed new WisVote environment compared to the current SVRS environment:

	SVRS Monthly Cost	WisVote Monthly Cost	Monthly Savings	Annual Savings	3-Year Savings
Server Hosting	\$14,732.58	\$3,455.76	\$11,276.82	\$135,321.84	\$405,965.52
Data Storage & Backup	\$3,637.00	\$1,003.59	\$2,633.41	\$31,600.92	\$94,802.76
Total	\$18,369.58	\$4,459.35	\$13,910.23	\$166,922.76	\$500,768.28

Training costs are expected to be significantly reduced with the commencement of WisVote. Current SVRS training requires a team of two G.A.B. staff members (usually an SVRS Trainer and an SVRS Specialist) to travel to various regions throughout the state, providing training to groups of new clerks in numbers ranging from 12 to 18. The SVRS training program consists of two days of Basic SVRS training and an optional three-quarter day of Absentee tracking.

While the new clerk training plan for WisVote is still being developed, the WisVote system has been designed to automate many of the steps for voter management and election management. Fewer steps results in a more intuitive process, reducing the number of exercises that will be required in order to provide the clerks with an adequate training experience. Instead of requiring the training team to spend three nights on the road, with WisVote the teams will likely only spend one night on-location, and in some cases maybe none at all. The reduction in time spent on the road will significantly impact training costs. Reduced travel and training time also directly benefits clerks, requiring less time out of the office and reduced travel costs that are absorbed by local governments.

The in-person training will be supplemented with online E-Learning tools to provide additional information and hands-on experiences for clerks, further reducing the requirements for the in-person

training. E-Learning components will consist of video tutorials and hands-on simulations of clerk tasks within WisVote. These tutorials will be available to all clerks at any time allowing clerks to complete training at their convenience without interrupting office work. G.A.B. staff plans on implementing/rolling out WisVote in early 2016. Additional information on the deployment plans will be made available in future board meetings.

Utilizing Dynamics CRM will also reduce program staff costs. The staff time required to conduct ongoing election tracking and monitoring, provide phone support, and lead regular in-person training sessions is costly to the G.A.B.

3. Stable and Supportable System

The technology infrastructure of the current SVRS database is not as stable and supportable as it once was or as it should be going forward, creating increasing risk each year that the system remains in use.

SVRS relies upon old versions of system software that are now being sunsetted by Microsoft, meaning that Microsoft support is no longer available. Support for Windows Server 2003 ends in 2015, and Microsoft will no longer be releasing security patches for this product, leaving the SVRS servers more vulnerable to attack. Lack of support also means that Microsoft cannot provide any assistance in the event of system failures or other problems. Also, other software associated with SVRS, such as SQL Server Reporting Services and .NET framework, is equally out of date, creating similar risks. State IT standards and best practices require that state agency IT systems use current and supported system software. Upgrading SVRS to current versions of the system software would be both costly and high risk due to the complexity and outdated quality of the AESM software itself, and would essentially require a re-write of the system code.

Clerks have continuously reported that the system is too slow. This is largely due to a combination of design issues and outdated technology. A 2008 analysis of the SVRS code identified major design changes that would need to be made in order to improve performance. Yet making any significant changes to the existing code base introduces risk to the entire system. Code that controls a particular set of features may be spread throughout the system, sometimes duplicated and triplicated, requiring changes be made meticulously and in many different places. Making changes to one area of the system may impact other seemingly unrelated areas of the system. Certain portions of the code are considered “untouchable” by the developers for the purpose of making changes, due to their impact on other functions and the overall system, as well as the age of the code and programming languages used. In other words, any time a change is made to SVRS, staff needs to conduct full regression testing of the entire system to make sure unrelated functions were not affected by the change. Because the current system contains so much functionality, full regression testing is time-consuming. Clerks and staff frequently identify problems after changes are implemented, regardless of the thorough testing process.

The lack of ability to update the system is particularly problematic when statutes change or new requirements arise. As new requirements have arisen, they have largely been implemented outside of SVRS, using tools like Dynamics CRM that are much easier to update and maintain.

Cost of Licenses

Dynamics CRM licensing includes several components. Server licenses are required for the specific servers that will be running the Dynamics CRM application. G.A.B. will need to purchase two server licenses for the new WisVote environment that will be running the Dynamics CRM software. Although there will be 17 servers in the new WisVote environment, G.A.B. will only need to pay for two specific licenses that will be used on the CRM application servers. The other servers will be used for maintaining the database and for other functions such as maintaining and securing user access and load balancing for performance. Client access licenses (CAL) are required for the users to access the system. CAL's for the users to access the system are available per device (i.e. computer) that accesses the system, or per user that accesses the system. User CAL's allow a given user to access the system from multiple devices, and are more expensive. Device CAL's are less expensive and allow multiple users to access the system using the same device.

Most SVRS users only access the system from a single device (their computer) so the device CAL is sufficient to meet the needs of clerks who use the system. Device CAL's also better facilitate counter service where multiple users may be using a single computer. Staff projects that 2,000 device CAL's will be needed to allow all users to access the system. Due to the improved usability and reduced training requirements for WisVote as compared to SVRS, it is possible that additional licenses may be needed in the future if significant numbers of SVRS reliers choose to become self-providers. Additional device CAL's can be purchased if this occurs.

Server and client access licenses for Dynamics CRM automatically include three years of Software Assurance through Microsoft. Software Assurance provides the G.A.B. with access to Microsoft Support, if problems with the software arise. It also provides G.A.B. with ongoing access to all new versions of Dynamics CRM that are released during the 3-year Software Assurance period. Microsoft generally releases a new version of Dynamics CRM every other year, taking into account user feedback, the latest data from their research and development, and the latest changes in web-based technologies.

This is particularly critical given the rate of change being experienced with web browsers. Browsers such as Chrome and Firefox are releasing updates several times a year. Many features in older web-based applications are not supported by newer browsers which could inhibit clerks' ability to perform tasks in WisVote if it is not kept current. Using a tool like Dynamics CRM allows Microsoft to keep up with the latest browsers rather than requiring G.A.B. IT staff to diagnose issues with browser capability and to rewrite the application every two to three years. Software Assurance helps ensure that the new WisVote system can be used for years to come. It is recommended that Software Assurance be renewed in 2018 to further extend the life of WisVote and decrease future costs. Further, as part of the initial contracting process, Microsoft now requires customers to purchase Software Assurance for Dynamics CRM.

The following chart describes the licenses and costs being requested in this memo:

	Quantity	Unit Price	Total Cost
Dynamics CRM Server License and 3-Year Software Assurance	2	\$5,002.00	\$10,004.00
Dynamics CRM Device CAL and 3-Year Software Assurance	2000	\$239.51	\$479,020.00
Total			\$ 489,024.00

Overview of the New WisVote System

Staff will provide the Board with a brief demonstration of the WisVote system. (*See Addendum B: Step by Step Task Comparisons: SVRS vs. WisVote*)

Conclusion

SVRS is reaching the end of its useful life and the development of WisVote using Dynamics CRM will enable election officials in Wisconsin's decentralized system to continue administering elections into the foreseeable future. The modernization of SVRS into the new WisVote system is a critical step in providing clerks with the tools they need to serve Wisconsin voters, and in ensuring the G.A.B.'s ability to effectively administer Wisconsin's election laws. Modernizing the system will save money and lower IT risks for the G.A.B. over time, and can be accomplished while federal funds are still available to the G.A.B. Using Dynamics CRM allows staff to modernize the system efficiently using existing IT resources and within a short period of time, which would not be possible without a tool such as Dynamics CRM. The costs of Dynamics CRM are recouped in only a few years through cost savings in server hosting and IT staff. Purchase of the Dynamics CRM server and user licenses is a necessary and critical step to complete development and implementation of WisVote. The G.A.B.'s financial team has sufficiently budgeted for the purchase of these licenses using federal funds.

Proposed Motion

Motion: The Government Accountability Board approves the purchase of software licenses for Microsoft's Dynamics CRM product in the amount of \$489,024.00.

Clerk Review Committee Overview

Scope:

38 clerks were invited to participate in 20 webinar/teleconference sessions covering 10 different topics or features of the new WisVote system. A demonstration was provided at the beginning of each session followed by an open discussion including questions and suggestions for improvement.

Results:

The majority of the questions raised by clerks were answered with descriptions of functionality already addressed in the development of WisVote. Of the suggestions made by the clerks which were not already in production:

- 78 suggestions were made which related to the specific functionality which was demonstrated during the sessions
 - 26 of these are being included in the Phase I plan to be included with the initial roll-out of WisVote in January, 2016
 - 52 of these are being considered to determine their feasibility and, if they may be included, when can they be implemented (e.g. Phase II?)
- 22 suggestions relating to the general functionality of WisVote are being considered to determine feasibility and whether they can be included in the Phase I plan
- Additional suggestions relating to topics not specifically covered in the sessions was turned over to the respective teams to determine feasibility and whether they can be included in the Phase I plan

Some of the comments received from clerks:

“...The system looks so much improved and streamlined over the existing SVRS. I’m looking forward to working in WisVote!” Great job everyone at GAB!!!”

“...I see a lot of positive things with the new system.”

“...The team that has worked on the new system has done a great jobYou have really addressed the functionality and automation that is critical in maintaining elections and voter records so there isn’t much for us to suggest or improve!!! Bravo to all of you!!!! “

“...It seems great strides have been in the reports portion of the former SVRS. Looking forward to it!”
“I like the new SVRS!!! It has great enhancements...little things can make a BIG difference.”

Step by Step Task Comparisons: SVRS vs. WisVote

Example 1: Generate Ballot Styles

Steps in SVRS:

1. Check Milestone 3 (open the Election, click on the Events tab, check the Milestone to confirm all contest & candidates have been added).
2. Expand the Election in the menu and select Ballot Styles.
3. Click the link in Quick Tasks to Generate Ballot Styles.
4. Check Milestone 4 (open the Election, click on the Events tab, check the Milestone indicating ballot styles have been created).

NOTE: Failing to take any of these steps will prohibit the printing of absentee labels and/or the printing of voters in the poll book.

Steps in WisVote

0. No steps are necessary. Ballot styles are automatically added based on the contests (these are also automatically added by the system) included in the election. If any additional contests are added that change the ballot style, the system will automatically generate them again based on the new information.

Example 2: Inherit an Election

Steps in SVRS

1. Review Polling Place Assignment Plans (PPAP) and Reporting Unit Plans (RUP). (If a usable plan is not found, create a new one.)
2. Click Elections in the Menu.
3. Click Create Setup Election.
4. Follow the directions on the Election Setup Wizard, including:
 - a. Select the option to inherit the election
 - b. Select the desired election
 - c. Select the PPAP & RUPs to be used
5. Open the Election and check Milestone 2 (this must be done before contests & candidates may be added).
6. Add Contests & Candidates

Steps in WisVote

1. Add Candidates. (No other steps are necessary. The election is automatically added to the Elections list for the county or municipality. The Election Plan is automatically selected based on the Election type (e.g. General Election; Spring Election; etc.) and contests (except for referenda & special office elections) are already programmed into the election.

NOTE: The election plan, which replaces the PPAP and RUP, is automatically chosen based on the election type. End users will complete a one time set-up by assigning their polling places to their reporting units. They can edit their election plans as they change over time in an easily accessible place.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel

Prepared by:
Nathan W. Judnic, Staff Counsel
David A. Ausloos, Legal Intern

Presented by:
Nathan W. Judnic, Staff Counsel

SUBJECT: Administrative Rules Transition Update and Requests to Draft Statements of Scope

I. Administrative Rules Transition

The Government Accountability Board (G.A.B.) staff continues to work with the Legislative Reference Bureau (LRB) to ensure a smooth transition of the G.A.B.'s existing administrative rules to the respective commission, effective June 30, 2016. A transition memorandum addressed to Bruce Hoesly, Revising Attorney/Code Editor at the LRB, outlining the process currently underway and the plan going forward is attached (Attachment A).

II. Request Authorization to Draft Statements of Scope: Absentee Ballot Subscription Service and Fee Structure

The Government Accountability Board staff, requests authorization from the Board to draft scope statements for emergency and permanent rules to establish a subscription service for absentee ballot data as required with the passage of 2015 Wisconsin Act 261. Act 261 states, *“The board shall establish a subscription service whereby a person may electronically access the absentee ballot information provided under s. 6.33 (5) (a), including semiweekly updates of such information.”* Wis. Stat. § 5.05 (14) (b). Act 261 also requires the Board to, *“establish by rule the fee for obtaining a copy of the official registration list, or a portion of the list, including access to the subscription service established under s. 5.05 (14) (b). The amount of the fee shall be set, after consultation with county and municipal election officials, at an amount estimated to cover both the cost of reproduction and the cost of maintaining the list at the state and local level. The rules shall require that revenues from fees received be shared between the state and municipalities or their designees under s. 6.33 (5) (b), and shall specify a method for such allocation.”* Wis. Stat. § 6.36 (6). To comply with these requirements as soon as possible the

G.A.B. staff requests authorization to draft scope statements for both emergency and permanent rules for the subscription service and associated fee structure.

The G.A.B. staff also requests the Board delegate its authority to approve the scope statements for the subscription service and associated fees to the Board chair and the Director and General Counsel once they are drafted. No work, other than preparation of the statement of scope may be completed on an agency rule until approval of the Governor's Office has been obtained. Delegation of this step will facilitate the submission of the scope statements to the Governor's Office for approval on a more expedited basis so that staff may work on drafting the rule. The Board may delegate some, but not all, of its specific responsibilities to the Director and General Counsel. Wis. Stat. § 5.05(1)(e). The Board has previously delegated its authority to the Board Chair and the Director and General Counsel to expedite this step in the rules process. Otherwise, staff would have to wait for the next Board meeting before the statement could be published and work on preparing the rule for Board/Commission approval could begin.

Recommended Motion #1: Authorize G.A.B. staff to draft scope statements for emergency and permanent administrative rules to establish the subscription service for obtaining absentee ballot data and associated fee structure as required by 2015 Wisconsin Act 261.

Recommended Motion #2: Delegate the Board's authority to approve the scope statements for emergency and permanent administrative rules to establish a subscription service for obtaining absentee ballot data and associated fee structure as required by 2015 Wisconsin Act 261 to the G.A.B. Chair and G.A.B. Director and General Counsel to expedite submission to the Governor's Office for approval.

III. Request Authorization to Draft Statements of Scope: Amendments to Chapters GAB 6 and GAB 21

As part of the transition of the G.A.B.'s rules to the new separate commissions effective June 30, G.A.B. staff identified two rules which contain subject matter (agency procedures) that applies to both commissions. Therefore, in consultation with the LRB, G.A.B. staff proposed transferring current Chapters GAB 6 and 21 to both the Ethics and Elections Commissions (See Attachment A). Both chapters address internal agency procedures, such as accepting certain documents by FAX which are used by both the current Ethics and Elections Divisions. Some provisions however, clearly apply to only one area of the law overseen by one of the commissions. Once the new commissions are in place, portions of Chapters 6 and 21 will need to be amended as the subject matter no longer applies to that commission. The G.A.B. staff requests authorization to draft scope statements to amend current Chapters GAB 6 and GAB 21 to ensure the repeal of the inapplicable portions of the rules occurs on a timely basis.

The G.A.B. staff also requests the Board delegate its authority to approve the scope statements to amend Chapters GAB 6 and GAB 21 to the Board chair and the Director and General Counsel once they are drafted. No work, other than preparation of the statement of scope may be completed on an agency rule until approval of the Governor's Office has been obtained. Delegation of this step will facilitate the submission of the scope statements to the Governor's Office for approval on a more expedited basis so that staff may work on drafting the rules. The Board may delegate some, but not all, of its specific responsibilities to the Director and General Counsel. Wis. Stat. § 5.05(1)(e). The Board has previously delegated its authority to the Board Chair and the Director and General Counsel to expedite this step in the rules process.

Recommended Motion #1: Authorize G.A.B. staff to draft scope statements to amend Chapters GAB 6 and GAB 21 of the administrative code to ensure each commission's rules after the transition occurs are consistent with the subject matter they are tasked with enforcing.

Recommended Motion #2: Delegate the Board's authority to approve the scope statements to amend Chapters GAB 6 and GAB 21 to the G.A.B. Chair and G.A.B. Director and General Counsel to expedite submission to the Governor's Office for approval.

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JUDGE VICTOR MANIAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: March 22, 2016
TO: Bruce Hoesly, Revising Attorney/Code Editor
Legislative Reference Bureau
FROM: Kevin J. Kennedy, Director and General Counsel
Wisconsin Government Accountability Board
SUBJECT: Administrative Rule Transition

Introduction

The Government Accountability Board ("Board") staff has been in contact with you recently regarding the Board's transition to two separate commissions – Elections Commission and Ethics Commission. This memorandum will outline the current Board rules, and which commission each of these rules should be transferred to effective June 30, 2016.

2015 Wis. Act 118

As you are aware, 2015 Wis. Act 118 includes the following non-statutory provision contained in § 266(6) regarding existing GAB rules:

(6) RULES, ORDERS, AND FORMAL OPINIONS. All rules promulgated and all formal opinions and orders issued by the government accountability board that are in effect on the effective date of this subsection are transferred to the elections commission and the ethics commission and shall remain in effect until the commission to which they are transferred amends or repeals a rule or order or changes or withdraws a formal opinion. The secretary of administration shall determine which rules, orders, and formal opinions are transferred to each commission.

Rule Transfers to New Commissions

The chart below lists the current GAB rule chapter, and which commission this chapter should be transferred to, with an effective date of June 30, 2016.

Table with 2 columns: Current GAB Rule, Transferred to Elections or Ethics Commission. Rows include Campaign Financing, Election Related Petitions, and Voter Registration.

Ch. GAB 6 – Procedure	Elections and Ethics Commission*
Ch. GAB 7 – Approval of Electronic Voting Equipment	Elections Commission
Ch. GAB 9 – Challenges at a Polling Place	Elections Commission
Ch. GAB 10 – Voter Identification	Elections Commission
Ch. GAB 11 – Training and Certification of Election Inspectors	Elections Commission
Ch. GAB 12 – Certification and Training of Municipal Clerks	Elections Commission
Ch. GAB 15 – Statement of Economic Interests	Ethics Commission
Ch. GAB 16 – Lobbying	Ethics Commission
Ch. GAB 20 – Complaint Procedure	Elections Commission
Ch. GAB 21 – Practice and Procedure	Elections and Ethics Commission*
Ch. GAB 25 – Forms	Ethics Commission

*Portions of these rules are applicable to both the Elections and Ethics Commissions. Transferring the entire rule to both commissions and letting the commissions then repeal the portions that do not apply seems to be the best approach with these rules. A note in the rule, indicating that a portion of the rule may not apply to the respective commission could be considered.

Naming Conventions for New Commission Rules

The current naming convention for Board rules is “Chapter GAB ____.” Rules that are transferred to the Elections Commission should be given the naming convention of “Chapter EL ____.” Rules transferred to the Ethics Commission should be given the naming convention of “Chapter ETH ____.”

Next Steps

- Legislative Reference Bureau begins the process of renumbering the rules based on the separation indicated in the chart above.
- Legislative Reference Bureau works to fix all cross-references contained in the rules.
- The Board transition team presents this memorandum and plan to the Department of Administration Transition team for inclusion into the final Implementation Plan submitted to the Joint Committee on Finance by June 1, 2016.
- Legislative Reference Bureau confirms to G.A.B. that the changes have been developed and will go into effect on June 30.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

Prepared and Presented by:
Ross Hein, Elections Supervisor

SUBJECT: Requests for Approval of IT Related Contracts

Pursuant to the revised delegation of authority approved by the Board at its meeting of January 12, 2016, the following purchasing request is submitted for the Board's consideration and approval to ensure continuation of IT work for both Division's in FY 17. Although the contracts will become effective July 1 at which time the new Commissions will be in place, in order to provide continuity of IT services and to draft required renewal documents and purchase orders, staff is requesting Board approval at this time.

FY 17 Approval for Contracted Information Technology (IT) Services

At the beginning of each fiscal year, Board staff is required to authorize the continuation of IT work through a process called Continued Appropriateness, as required by the Department of Administration's (DOA) State IT contracting processes. This process is required for annual expenditures of services over \$50,000. G.A.B. staff is requesting Board approval to authorize the continuation of IT contractors for FY 17 per the Board's delegation of contract authority which requires pre-approval from the Board for purchases from a statewide contract over \$100,000. All IT contractor rates of pay are determined by the position classification established by the DOA rate card.

The G.A.B.'s IT efforts for the Elections Division are funded primarily through federal funds granted through the Help America Vote Act (2002) and Federal Voting Assistance Program EASE grant, while the Ethics & Accountability Division's IT work is funded by General Purpose Revenue funds and revenue generated through the Division's Lobbying program.

Contracted IT staff provide critical services to both divisions to ensure that all IT applications are maintained and functional, while making continuous enhancements and necessary modifications. It is imperative to authorize the continuation of IT work in order to complete development of major IT projects (MyVote Wisconsin 2.0, WisVote phase II, Online Voter Registration and SEI online application) on schedule and according to required design and functional elements. Failure to continue these IT contracts would, to a large degree, bring the agency's services to a halt.

G.A.B. staff has secured funds to pay for all IT contracts in FY 17. For the four Election Division IT contractors, staff anticipates expending \$725,920. For the one Ethics and Accountability IT contractor staff anticipates expending \$156,000.

Recommended Motion:

MOTION: Authorize the continuation of IT contracts in FY 17 for the G.A.B.'s five IT contract positions.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Agency Transition Report

Legislation to reorganize the Government Accountability Board into two separate bipartisan commissions effective June 30, 2016 was approved by the Governor on December 16, 2015 as 2015 Wisconsin Act 118.

The legislation requires the Secretary of the Department of Administration (DOA) to submit an implementation plan by June 1, 2016, to the Joint Committee on Finance for approval under section 13.10 of the statutes. We expect the plan to be completed in early May so that the Joint Committee on Finance can take it up before June 1, 2016.

In the plan, the secretary shall propose expenditure authority for the elections commission and the ethics commission by appropriation and specify the funding sources of all positions for each commission. The Director and General Counsel is required to participate in formulating the implementation plan. He is also required to work in concert with the secretary and members appointed to the elections and the ethics commissions to ensure a smooth transition.

On March 10 and April 18, 2016 Director Kennedy had teleconference meetings with Deputy DOA Secretary Cate Zeuske on transition issues. There was also an in-person meeting on March 31, 2016, when Kevin Kennedy and Sharrie Hauge met with Deputy DOA Secretary Cate Zeuske and staff from the Department of Administration for further discussion on the transition from the Government Accountability Board to the Elections and Ethics Commissions. We discussed a list of transition issues developed by the agency Management Team as well as followed up on issues from our previous meetings. DOA staff has provided the transition team with a first draft of the implementation plan, and the team has responded with feedback and additional information to be included.

In addition to our meetings with Deputy Secretary Zeuske, I have had some contact with legislative staff on transition issues. As of the preparation date of this report we have learned of all legislative appointments. We have not learned of the former clerk and former judge nominees to be submitted to the Governor for each commission by the Democratic leadership.

Any commissioners appointed become non-voting members of the G.A.B. and are entitled to participate in future agency meetings. An orientation session for the four legislative appointees to the Ethics Commission is scheduled for Monday, April 25, 2016 in the G.A.B. offices. An orientation session for the four legislative appointees to the Elections Commission is scheduled for Wednesday, May 4, 2016 in the G.A.B. offices.

Attached is an updated list of actions taken by agency staff to facilitate the transition.

The next meeting of the G.A.B. transition team and DOA representatives has not been scheduled.

I will continue to keep Board Members apprised of the development of the plan through periodic reports.

This report is provided for the Board's information and no action is required.

Transition Activities of G.A.B. Staff

1. Developed Staff Assignment Recommendations for Allocating Staff Between Commissions.
2. Developed Position Funding String Allocations for Department of Administration (DOA) Input into STAR.
3. Developed Draft Position Descriptions for Commission Administrators.
4. Developed Options for Assigning Commissioners to Staggered Terms.
5. Public Information Officer Has Prepared Plan for G.A.B. Website Division and Development for New Commissions.
6. Inventory and Map of Agency Files Completed.
7. Inventory of IT Assets Completed.
8. Inventory of Fixed Assets in Progress.
9. Staff Counsel Has Completed Work with Legislative Reference Bureau (LRB) on Creation of Administrative Code Chapters for New Commissions.
10. Staff Counsel Has Organized Contracts in Force and Arrangements are being made to amend the contracts to reflect the applicable commission as the responsible party rather than the G.A.B.
11. Staff Counsel Has Identified Three Active Law Suits that Will Be Transferred to Ethics or Elections. The Department of Justice Has Been Notified of the Change in Defendants Effective June 30, 2016.
12. Assigned Staff to Review Electronic Document Files (H: Drive) for Division of Electronic Records.
13. Division Administrators Have Developed Subject Matter Transition Plan for New Commissions – Division Overview of Duties and Responsibilities with Calendar Year 2016 Deadlines, Summary of Pending Matters, Status of Ongoing Projects.
14. Prepared Statutory Duty Charts for New Commissions.
15. Budget Allocation Recommendations Have Been Completed.
16. Resolved Agency Location at Current Offices through January, 2018.
17. Developed Proposed MOU between Elections and Ethics Commissions for Shared Location.
18. Developed Proposed MOU between Elections and Ethics Commissions for Shared Personnel Services – Reception, Budget, Procurement, Personnel.
19. Developing Proposed MOU between Elections and Ethics Commissions for Website Management and Public Information Officer Services.
20. Developed Allocation of Telephone Lines and Equipment Between Commissions.
21. G.A.B. Staff Has Collected and Filed Oaths from the Commissioners Appointed by Legislative Leaders.
22. The G.A.B Staff Is Making Arrangements with DOA/DET to Separate the H: Drive of Electronic Files, Assign New Email Distribution Lists and Allocate DOA/DET IT Chargebacks to the New Commissions Based on IT Asset Allocation.

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy – Director and General Counsel

SUBJECT: 2015-2016 Enacted Legislation Summary

During the 2015-2016 legislative session, 14 acts were passed by the Legislature and signed by the Governor that impacted campaign finance, elections, ethics, or lobbying. Below is a brief summary of these acts.

1. *2015 Wisconsin Act 2 (Assembly Bill 9 and Senate Bill 6): Legislative Audit Bureau access to documents maintained by state agencies and authorizing the Government Accountability Board to provide investigatory records to the Legislative Audit Bureau.*

Sponsors: Bipartisan. This act clarified LAB authority to have access to all state agency documents by providing that LAB also has specific access to state agency documents that relate to agency expenditures, revenues, operations, and structure that are confidential by law. In addition, the act required GAB to provide investigatory records to LAB to the extent necessary for LAB to carry out its duties.

2. *2015 Wisconsin Act 36 (Assembly Bill 124 and Senate Bill 96): fees for election recounts.*

Sponsors: Bipartisan. This act provided that, if the difference between the votes cast for the leading candidate and those cast for the petitioner, or the difference between the affirmative and negative votes cast on the referendum question, is less than 10 if 4,000 or fewer votes are cast or not more than 0.25 percent of the total votes cast for the office or on the question if more than 4,000 votes are cast, the petitioner does not pay for the recount.

Under any other circumstance, the petitioner pays the actual cost of performing the recount. However, if the recount overturns the result of the election or referendum, the petitioner receives a refund of the recount fees. No recount in Wisconsin history has changed the outcome of a contest when the original margin was more than 0.125 percent. Therefore, the 0.25 percent threshold for a free recount is double the largest original margin in Wisconsin history of a successful recount.

3. *2015 Wisconsin Act 37 (Assembly Bill 164 and Senate Bill 121): various election law changes.*

Sponsors: Bipartisan. This act made several changes to election laws and addressed several concerns identified by the Wisconsin County Clerks Association in their 2015-2016 Legislative Objectives:

- Write-in candidates must file a registration statement no later than noon on the Friday before the election to be a registered write-in candidate.
- The governing body of a town or village may hold a caucus between January 2 and January 21.
- The board of canvassers need not reconvene if the municipal clerk certifies that he or she has received no provisional or absentee ballots from the time that the board of canvassers completed the initial canvass and 4 p.m. on the Friday after the election.
- Electors are required to submit a petition to pass an ordinance or resolution (direct legislation) at least 70 days from the date on which the council or board must act.
- Removed language related to an elector affixing a sticker to a ballot.
- Under prior law, if a school board election is held in conjunction with a state, county, municipal, or judicial election, the school board election must take place at the same polling place, and the municipal election hours apply. This act provided that a school board referendum held in conjunction with a state, county, municipal, or judicial election is subject to the same procedures.

4. *2015 Wisconsin Act 39 (Assembly Bill 79 and Senate Bill 71): allowing municipal clerks to register voters on Election Day.*

Sponsors: Bipartisan. Under prior law, election inspectors may register electors to vote at a polling place on Election Day. In addition, a municipality may provide, by adopting a resolution, that an inspector's registration duties may be performed by special registration deputies appointed by the municipal clerk or board of election commissioners.

Under this act, an inspector's registration duties may be performed by the municipal clerk, if the clerk is not a candidate listed on the ballot, or by special registration deputies appointed by the municipal clerk or board of election commissioners, without the municipality first adopting a resolution to allow the procedure.

5. *2015 Wisconsin Act 55 (Assembly Bill 21 and Senate Bill 21): state finances and appropriations constituting the executive budget act of the 2015 legislature.*

Sponsors: Majority. This act was the "executive budget bill" under section 16.47 (1) of the statutes. It contained several provisions related to the creation and maintenance of district lines.

6. *2015 Wisconsin Act 64 (Assembly Bill 68 and Senate Bill 43): John Doe proceedings and providing a penalty.*

Sponsors: Majority. This act imposed a six-month time limit on a John Doe proceeding. This limit may be extended for additional six-month periods if a majority of judicial administrative district chief judges find good cause for each extension. This act also provided that the same

finding is required to add specified crimes to the original complaint. The vote of each judge must be available to the public. Finally, under this act, records reflecting the costs of John Doe investigations and proceedings are a matter of public record, temporary or permanent reserve judges are excluded from presiding over John Doe proceedings, and special prosecutors may be appointed to assist the district attorney in a John Doe proceeding only under certain conditions.

7. *2015 Wisconsin Act 79 (Assembly Bill 199 and Senate Bill 137): publication of certain legal notices on an Internet site maintained by a municipality.*

Sponsors: Majority. Under this act, a municipality that opts to post a legal notice in lieu of publication may, instead of posting the notice in three public places, post the notice in one public place and publish the notice on the municipality's Internet site.

8. *2015 Wisconsin Act 117 (Assembly Bill 387 and Senate Bill 292): campaign finance.*

Sponsors: Majority. This act restructured Chapter 11 of the Wisconsin Statutes, the campaign finance law. The act followed the recommendation of the Board to strike the existing statutes and provide a complete redraft of the chapter. Assembly Amendment 1 (AA1) to the bill was approved in Executive Session. AA1 added several of the recommendations made by Board staff, including redefining the major purpose test for PAC's and Independent Expenditure committees. AA1 left out filing of continuing reports for committees that don't make contributions, allowed for the creation of separate segregated funds by party and legislative committees, and redefined what disbursements are reportable.

9. *2015 Wisconsin Act 118 (Assembly Bill 388 and Senate Bill 294): reorganizing the Government Accountability Board, requiring the exercise of rule-making authority, and making appropriations.*

Sponsors: Majority. This act eliminates the GAB and replaces it with an Elections Commission, which administers and supervises elections; and an Ethics Commission, which administers and supervises ethics, campaign financing, and lobbying regulation. The act eliminates the position of General Counsel, and creates Commissioners and Deputy Commissioners to manage each new commission. The act also provides for a process of the appointment of the membership of each commission. Assembly Amendment 1 was approved in Executive Session. AA1 made several changes to the bill, including, allowing appointees to serve on the commission before confirmation, ensuring the commission consists of six (6) members, and requiring meetings to be conducted in accordance with parliamentary procedures.

10. *2015 Wisconsin Act 154 (Assembly Bill 868 and Senate Bill 707): relating to: prohibiting a legislator from concurrently holding office as a county executive.*

Sponsors: Majority. This act prohibits a legislator from holding office as a legislator from concurrently holding office as a county executive.

Senate Amendment 1 modified the prohibition created under the bill to allow a person to serve as a legislator and county executive concurrently for 60 days immediately following an election.

11. *2015 Wisconsin Act 209 (Assembly Bill 58 and Senate Bill 47): responding to a request for an absentee ballot.*

Sponsors: Bipartisan. Under this act, a municipal clerk who receives a request for an absentee ballot by mail, electronic mail, or facsimile transmission must respond to the request no later than one business day after receiving the request.

12. *2015 Wisconsin Act 229 (Assembly Bill 532 and Senate Bill 391): Relating to: training period for election officials and terms for members of a board of canvassers.*

Sponsors: Majority: This act requires elections officials to attend at least one training session every two years during the period beginning on January 1 of each even-numbered year and ending on December 31 of the following year. Current law requires such training at least once every two years, but indicates neither the beginning nor the end of that period.

13. *2015 Wisconsin Act 261 (Assembly Bill 389 and Senate Bill 295): voter registration, verification of certain registrations, proof of residence for voting in an election, authorizing Wisconsin to enter into agreements to share information related to the registration and voting of electors.*

Sponsors: Majority. This act permits a qualified elector to register to vote electronically, eliminates the position and responsibilities of special registration deputies, and requires the Government Accountability Board (G.A.B.) to enter into agreements with other state election administrators to share information related to the registration and voting of qualified electors. The act also made several other changes to Wisconsin's election laws.

- Permits the use of a veteran's photo identification card issued by the Veterans Health Administration of the federal Department of Veterans Affairs to meet the proof of identification requirement to obtain a ballot.
- Permits the use of a contract or intake document by occupants of a residential care facility to meet the proof of residence requirement to register to vote at that facility.
- Permits the use of the override function of automatic tabulating equipment when presented with an overvoted ballot.
- Permits the G.A.B. to approve electronic voting equipment without prior certification by the U.S. Election Assistance Commission.
- Removes the prohibition on testing as part of chief inspector training.
- Removes voter initiated transfer of registration.
- Requires absentee ballots to be received as of Election Day. (First effective for the November 2016 election.)
- Requires the address of the absentee ballot witness to be recorded on the certificate envelope before the ballot can be counted. (First effective for the November 2016 election.)
- Requires municipal clerks to report Election Night returns to the county clerk within two hours of tabulation.
- Requires county clerks to post all returns received on their website within 2 hours after receiving them from the municipality.
- Requires the G.A.B. to provide links to all county returns on our website.

- Requires data entry in the WisVote system within 48 hours* for the following events:
 1. When the clerk receives an in-person absentee ballot application.
 2. When the clerk mails an absentee ballot to a voter.
 3. When the clerk receives a voted absentee ballot.

*WisVote providers have an additional 24 hours to enter this information into WisVote after receiving the information from their relier.

Assembly Amendment 2 imposed limits on the amounts “other persons” may contribute to a candidate committee. Under the amendment, the same contribution limit amounts that apply to PAC contributions to candidate committees also apply to contributions made by “any person” (other than individuals, candidate committees, PACs, corporations, associations, tribes, or labor organizations, which are already subject to limits or prohibitions).

14. *2015 Wisconsin Act 356 (Assembly Bill 673 and Senate Bill 488): relating to: creating a program to protect the confidentiality of addresses for victims of domestic abuse, sexual assault, or stalking; providing an exemption from emergency rule procedures; and requiring the exercise of rule-making authority.*

Sponsors: Bipartisan. This act creates a program, administered by the Department of Justice (DOJ) that keeps the addresses of victims of certain crimes confidential. This act also expands confidential voter status to participants in this program.

Senate Amendment 1 allowed a municipal clerk to require a program participant to provide his or her actual address for voter registration and voter verification purposes. A clerk must also require a participant to disclose his or her actual address to enroll a participant in the confidential voter program. If a voter is enrolled in the confidential voter program, the clerk must keep the program participant’s actual address confidential as provided under the confidential voter program.

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JUDGE VICTOR MANIAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Richard Bohringer, Adam Harvell, Kyle Kundert
and Molly Nagappala
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Update

Richard Bohringer, Adam Harvell, Kyle Kundert, and Molly Nagappala
Campaign Finance Auditors

2016 Campaign Finance Filing Fees

A \$100 filing fee is due from all non-candidate committees that had more than \$2,500 in expenses in the previous calendar year. 302 committees have paid the \$100 filing fee covering calendar year 2015. Eleven committees remain outstanding. Staff will follow up and collect late fees where appropriate.

January Continuing 2016 Reports

All non-exempt registrants were required to file the January Continuing 2016 report. Because of new campaign finance legislation signed December 16, the due date was moved to January 15 from February 1, and the former requirement of notice by first class mail was replaced by email.

As of April 15th, 1,166 reports have been filed, and 284 of those were filed after January 15. Late filers have received notices by email and phone. 16 committees remain outstanding. Staff will continue to follow up.

The Spring Pre-Primary 2016 Reports

All candidate committees on the ballot this spring were required to file the Spring Pre-Primary 2016 report by February 8, 2016. All candidates have filed.

The Spring Pre-Election 2016 Reports

All candidate committees on the ballot this spring were required to file the Spring Pre-Election 2016 report by March 28, 2016. All candidates filed by the deadline.

Campaign Finance Audits

Staff is at work doing data entry and uploads in CFIS in preparation for this year’s campaign finance audits. Staff plans to delay the 2016 audits until after July 1, 2016, so new audits occur under the supervision of the new Ethics Commission.

Lobbying Update

Molly Nagappala and Kyle Kundert
 Ethics and Accountability Specialists

New State Agency Legislative Liaison Reporting System

In June 2015, staff began a project to modernize state agency legislative liaison reporting. All agencies’ data was transferred to the Eye on Lobbying website. Staff completed training materials and emailed all agency users in November to inform them of the new system, and ask them to log in and verify their current information. Around the February 1, 2016 deadline, staff fielded calls from agencies for assistance in navigating the process, and all agencies successfully filed using the new system. Many agency contacts reported appreciation for the new online format.

2015-2016 Legislative Session Registration and Licensing Continues

Lobbying registration has slowed in recent weeks due to the Legislature’s adjournment. Staff continues to process new principal registrations, authorizations, and lobbying licenses. Interestingly, at slightly after the session’s halfway point, principal registrations have already exceeded totals from the 2013-2014 legislative session, which was a low point in lobbying registration over the last several sessions. While it is too early to draw any broad conclusions, it is encouraging to see a reverse in the downward trend of registrations.

The following tables provide a summary of license, registration, and authorization applications and revenue for the current session, as of April 18, 2016, and totals for the previous legislative session.

2015-2016 Legislative Session as of April 18, 2016

Fee Type	Fees Paid	Fee Amount	Total Paid
Limited Lobbying Principal Registration Fee	15	\$20.00	\$300.00
Limited Lobbying to Full Lobbying Principal Amendment	5	\$355.00	\$1,775.00
Principal Registration Fee	766	\$375.00	\$287,250.00
Lobbyist Authorization Fee	1,696	\$125.00	\$212,000.00
Lobbyist License (Single Principal)	547	\$250.00	\$136,750.00
Single to Multiple Principal Lobbying License Amendment	5	\$150.00	\$750.00
Lobbyist License (Multiple Principals)	111	\$400.00	\$44,400.00
Focus Subscription	84	\$100.00	\$8,400.00
Total			\$691,625.00

2013-2014 Legislative Session

Fee Type	Fees Paid	Fee Amount	Total Paid
Limited Lobbying Principal Registration Fee	29	\$20.00	\$580.00
Limited Lobbying to Full Lobbying Principal Amendment	15	\$355.00	\$5,325.00
Principal Registration Fee	718	\$375.00	\$269,250.00
Lobbyist Authorization Fee	1,587	\$125.00	\$198,375.00
Lobbyist License (Single Principal)	571	\$350.00	\$199,850.00
Single to Multiple Principal Lobbying License Amendment	11	\$300.00	\$3,300.00
Lobbyist License (Multiple Principals)	105	\$650.00	\$68,250.00
		Total	\$744,930.00

Financial Disclosure Update

Adam Harvell
 Campaign Finance Auditor and Ethics Specialist

Statements of Economic Interests

Staff prepared the 2016 annual filing of statements of economic interests in December and mailed them to municipal judges, reserve judges, and other judges up for election. The statements for annual filers were mailed January 18. As of April 15th, 2,435 SEIs have been requested for 2016. We have received 1,807, and entered 179 of those into our database. There are 628 SEIs still outstanding. The deadline for annual filers is May 2nd.

Staff will continue to request SEIs from newly appointed officials throughout the year. Candidates who wish to be on the November ballot must file a statement by June 6.

State of Wisconsin Investment Board Quarterly Transaction Reports

Staff sent out 56 quarterly financial disclosure reports to State Investment Board members and employees at the beginning of April. They are due by May 2nd.

Gubernatorial Appointments

New appointments continue to be processed on an ongoing basis. Tasks include securing statements of economic interests from all appointees and referring copies of their statements to the Senate for future confirmation hearings.

Ethics, Complaints and Investigations Update

Jonathan Becker, Division Administrator

Division staff continues to answer questions from legislators, legislative staff, and the public on various provisions of the State Ethics Code. Division staff intake numerous complaints from various parties and deal with them appropriately according to the Division's standard procedures. Division staff continues to devote time to assist on investigations and the resolution of complaints when called upon by the Division Administrator and/or the Director and General Counsel. An update on active complaints is included in a separate report in closed session.

On April 12th and 13th, Jonathan Becker conducted four ethics training sessions required for legislative staff at the Capitol. Other staff assisted in preparing and revising those presentations, in preparation for presenting further trainings for state agencies scheduled in June and July.

Ethics Division - Forfeitures 1/1/2016 to 4/15/2016

AuditID	In the matter of	Committee ID	Audit Category	Reporting Period	Settlement Paid:	Additional Comments
2016-6	Ashton Kirsch for State Assembly	0105513	Anonymous Contributions over \$10	2014 Calendar Year (CF)	\$ 170.00	
2016-2	Republican Party of Trempealeau County	0300204	Corporate Contributions (CF)	2014 Calendar Year (CF)	\$ 400.00	
2016-3	Republican Party of Marathon County	0300335	Corporate Contributions (CF)	2014 Calendar Year (CF)	\$ 2,950.00	
2016-5	Bowen 4 Action	0105535	Corporate Contributions (CF)	2014 Calendar Year (CF)	\$ 150.00	
2016-4	Republican Party of Rock County	0300168	Incomplete Report /Cash Balance (CF)	2014 Calendar Year (CF)	\$ 187.00	
2016-1	Citizens for Richards	0103633	Incomplete Report /Cash Balance (CF)	2015 Calendar Year (CF)	\$ 140.00	Committee also terminated.
2016-7	United Council of UW Students		Late Statement of Lobbying Activities and Expenditures	2015-2016 Session Period 1	\$ 350.00	

State of Wisconsin\Government Accountability Board

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JUDGE VICTOR MANIAN
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Board Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by Elections Division Staff and Presented by:

Michael Haas
Elections Division Administrator

SUBJECT: Elections Division Update

Since its last Update (March 1, 2016), the Elections Division staff has focused on the following tasks:

1. General Activities of Election Administration Staff

A. Spring Primary and Spring Election/Presidential Preference Vote

The Spring Primary held on February 16, 2016 was certified by Judge Nichol at the meeting on March 1, 2016. The Amended Certification of Candidates for the April 5, 2016 election was sent to the county clerks immediately thereafter.

The Spring Election and Presidential Preference Vote was conducted on Tuesday, April 5, 2016. Offices appearing on the ballot, in addition to various county, municipal and school district offices were:

President of the United States
Justice of the Supreme Court
Court of Appeals Judge (all four districts)
Circuit Court Judge in 20 Counties

Phone call volume on election day was as intense, if not more so, than for a November election. Elections Specialists received phone calls at a rate of one every 3 to 5 minutes, almost continually, all day. Many calls were routine inquiries as to locations of polling places, placement of campaign signs and materials and what documents are needed to register and vote. There were also inquiries from voters as to whether observed procedures at polling

places were proper, why a particular photo ID is not acceptable and why voters are restricted to one party when voting in a partisan primary.

Of particular interest was the wide-spread phenomenon of 17-year-olds convinced they could vote in the Presidential Primary if their 18th birthday would occur on or before the date of the general election because they read it on the internet. A website wrongly included Wisconsin as a state that had passed a “Suffrage at 17” law and encouraged 17-year-olds to insist they be allowed to vote. Further bolstered by misinformed parents and teachers who also believed this to be true, teenagers across the state attempted to register and vote. Clerks and election inspectors throughout election day reported encounters with insistent and sometimes belligerent teenagers demanding the franchise. Most clerks and inspectors firmly refused, but a few relented and allowed the underagers to vote.

After voter participation for the April 5th election has been recorded, staff will run a report by birthdate of electors registering to vote on election day. The names of electors whose voter registrations indicate an age less than 18 on election day will be submitted to the applicable county district attorney. Some clerks have already referred such cases to their district attorney or law enforcement agencies.

Election-Night Results

Per the requirements of 2015 Wisconsin Act 261, the Government Accountability Board provided a link on the G.A.B. website to the internet posting site of each county’s election returns. Staff communicated with all county clerks before election day to ensure the accuracy of links to each county website.

County Canvasses

All 72 counties completed their respective canvasses of the votes cast at the April 5, 2016 Spring Election and Presidential Preference Vote and submitted their canvass reports to the G.A.B. by the statutory deadline of April 15, 2016. The statewide canvass statement is scheduled to be signed by a designee of the G.A.B. chairperson at the April 26, 2016 Board meeting. Once the canvass statement is signed, the results of the election will be made public, including results by congressional district of the Presidential Preference Vote, which is required to be distributed to the Republican and Democratic Parties.

B. Fall Partisan Primary and General Election

Staff has begun preparing for the Partisan Primary on August 9th and the General Election on November 8th. At the time of this writing, there are 207 candidates registered for the fall election. Nomination paper circulation began on April 15th and papers will be due in the G.A.B. office at 5 p.m. on June 1st. Staff has entered all candidate information into the new WisVote system and produced a “Candidate Tracking by Office” report, which replaces the former “Candidates Registered” report. The report lists each candidate’s name, address and party under the office for which he or she is registered and tracks the submission of each candidate’s required ballot-access documents. Each office lists the current incumbent and whether that incumbent has filed a Notification of Noncandidacy. As nomination papers are submitted, the report will document the date of submission and the number of acceptable

signatures. When the sufficiency of the nomination papers and other ballot-access documents has been determined, a “Candidates on Ballot” report will show only the candidates that have qualified for ballot placement.

2. Voter Data Requests

The following statistics summarize voter data requests as of April 15, 2016:

Fiscal Year	Total Number of Requests	Requested Files Purchased	Percentage of Requests Purchased	Total Revenue
FY2016 to date	682	389	57%	\$180,780.00
FY2015	679	418	61.56%	\$242,801.25
FY2014	371	249	67.12%	\$125,921.25
FY2013	356	259	72.75%	\$254,840.00
FY2012	428	354	78.04%	\$127,835.00

3. WEDCS

A. WEDCS Reporting

Board staff continues to monitor municipal and county clerk compliance with several reporting requirements following the 2016 Spring Primary. Pursuant to Statutes, the GAB-190NF Election Administration and Voting Statistics Report was due to be entered into the Wisconsin Elections Data Collection System (WEDCS) by March 17, 2016. As of April 15, 2016, sixty-one municipalities do not have a report entered in WEDCS.

The GAB-192 Annual Elections Cost Report is also due from each municipality and county by January 31, 2016 for the preceding year. There are currently 1826 out of 1925 reports completed at this time. Staff continues to follow up with clerks to obtain the outstanding reports.

4. Electronic Voting Systems and Equipment

A. Democracy Live Voting System Demonstration

Representatives from Democracy Live, Inc. conducted a demonstration of several of their products for Board staff on March 2, 2016 at the G.A.B. offices. The main component that was presented was the LiveBallot tablet, which is a tablet-based ballot marking device. The LiveBallot system pairs an off-the-shelf tablet computer with a printer to create an accessible voting system that is compatible with several voting systems currently approved for use in Wisconsin. A voter using this system would use the tablet to make their ballot choices and print a ballot that is able to be read by optical scan tabulation equipment.

This system is not currently certified for use by the Election Assistance Commission (EAC), but it has been tested by a voting system testing laboratory. The vendor has indicated their intention to file an application for approval of this system for use in Wisconsin, but has not yet done so. A testing protocol would have to be developed in order to evaluate this system as

the Board has not previously reviewed a system that does not have EAC certification, nor does it have a protocol in place that can evaluate a system comprised of off-the-shelf components.

5. The Access Elections Accessibility Compliance Program

A. Polling Place Audits for the Presidential Preference Vote and Spring Election

For the 2016 Presidential Preference Vote and Spring Election, 105 polling places were audited. Ten temporary workers were hired and trained to conduct onsite accessibility compliance audits in 91 municipalities in Buffalo, Crawford, Fond Du Lac, Grant, Iowa, Jackson, Kenosha, Trempealeau and Walworth counties. Reports will be created for each conducted audit and provided to each municipality once the data has been verified.

The audit program continues to focus on locations that have not been previously visited by Board staff. Once verification of the reports for this election has been completed, staff will review the list of unvisited polling places and begin the planning process for the August Partisan Primary.

All temporary staff auditors were recruited from the state-approved staffing agency and went through an interview process. They were also required to attend a two-day training event. Training consists of a review of the polling place accessibility survey and Americans with Disabilities Act standards, training on the tablet computers used to gather the survey data and a mock polling place exercise at a City of Madison polling place. The auditors were also provided with a tutorial on accessible voting equipment and given training on all of the tools they need to conduct the site visits.

The accessibility coordinator leads the audit program and is assisted by 5-7 other staff. Before each election an audit plan is submitted to management for approval. Various staff provide help with recruiting temporary staff, scheduling and conducting interviews, identifying audit locations, creating maps and routes for auditors, training temporary staff on the survey instrument and touchscreen tablet, and coordinating with the staffing agencies concerning billing, scheduling and human resource issues.

B. Ongoing Accessibility Compliance Efforts

Staff continues to coordinate with municipal clerks to ensure that accessibility problems uncovered during previous audits are resolved as quickly and cost-effectively as possible. Deadlines for submitting plans of action are set at 60 days from receipt of the report, and staff works with local election officials to ensure that problems are addressed in a timely manner. Staff also works with local election officials to ensure that all new polling locations are ADA-compliant before the change is finalized. Polling place accessibility surveys are required to be submitted for review as part of the process to change polling places. This work continues to take place on an ongoing basis.

In addition, staff arranged for the shipment of 96 grant-funded accessibility supplies to 5 municipalities in response to documented needs. Several accessibility-related items, such as

page magnifiers and signature guides, have been restocked due to continued demand, while the polling place signage inventory will continue to be liquidated.

C. Photo ID Law Public Outreach Meetings

Staff presented information and trained individuals about the photo ID law at an event aimed at the aging and disability communities On March 23, 2016. This presentation was made at the Wisconsin Coalition of Independent Living Centers annual conference. The public outreach program consisted of two main segments: an overview of the Photo ID Law and a question and answer session. G.A.B. resources concerning the photo ID law were provided to all attendees who also were informed of additional multimedia resources available on the agency's photo ID information site (<http://bringit.wisconsin.gov/>). In addition, staff has been invited to provide an update on the photo ID law to the Wisconsin Council on Physical Disabilities on April 28, 2016.

6. **Education/Training/Outreach/Technical Assistance**

Following this memorandum as Attachment 1 is a summary of information on core and special election administration training recently conducted by G.A.B. staff. Following the April Election, the training team and elections specialists are currently focusing on providing information related to the implementation of the photo identification requirement and other legislative changes for elections which will occur during the remainder of 2016, as well as lessons learned from the Spring Primary and Spring Election.

7. **GIS (Geographic Information Systems) Update**

Board staff continued to process changes to ward, school, supervisory, sanitary, or municipal boundaries that take place throughout the State of Wisconsin. Board staff is working more closely with other state agencies in acquiring these data sets as new legislation requires counties to submit ward, municipal, and supervisory district changes to the Legislative Technology Services Bureau (LTSB) twice a year. Acquiring data directly from LTSB greatly improves the efficiency and minimizes the burden on board staff to coordinate with the 72 different county land information offices.

Board staff continues to work with the State Agency Geospatial Information Committee (SAGIC) as well as with the Wisconsin Land Information Association (WLIA) to assist in state agency acquisition of local land information data. Board staff recently attended the annual WLIA conference to in an effort to stay apprised of the most recent changes among the land information community throughout Wisconsin as well as to improve relationship coordination in the acquisition of GIS data. Continued involvement with SAGIC as well as other land information groups throughout Wisconsin helps to facilitate and develop partnerships and more efficient data acquisition of spatial information. Accurate GIS data is essential to ensuring accurate ballot assignment within SVRS.

Below is a brief summary of annexations and incorporations which occurred in 2015:

- Annexations: 150 total (timeline = January 1st 2015 to December 31st 2015, based on effective date)

- Incorporations:
 - Town of Maine to Village of Maine: municipal-wide incorporation
 - Town of Windsor to Village of Windsor: municipal-wide incorporation

8. WisVote

A memorandum providing an update on the WisVote project is included in the Board materials as a separate agenda item.

The State of Wisconsin Data Center experienced a major outage impacting all state agency IT systems including WisVote and MyVote Wisconsin on April 1, 2016, the final day of in-person absentee voting prior to the Spring Election. The systems became unavailable around 9 am and became available by noon.

9. Voter Felon Audit

The Voter Felon Audit for the February 16, 2016 Spring Primary Election was conducted on April 14, 2016. The audit indicated there were six potential felons who voted. The audit information is currently awaiting Department of Corrections (DOC) staff review. Once reviewed by DOC, further staff review and municipal clerk review will be conducted before referrals are made to district attorneys.

10. G.A.B. Customer Service Center

The Elections Help Desk staff is supporting over 1,900 active WisVote users, the public, and election officials. The Help Desk is maintaining the two training environments utilized in the field to facilitate remote WisVote training and accessibility tablets utilized in polling place surveys. Staff is monitoring state enterprise network and data center changes and status, assisting with processing data requests, and processing voter verification postcards. Help Desk staff has been serving on various project teams such as the STAR project, MyVote Wisconsin and WisVote development and deployment teams and continue to maintain and update G.A.B. clerk contact and Listserve lists. Staff is processing lists of voters that registered in other states and notifying clerks of the cancelation. Staff is coordinating and assisting with upgrade projects initiated by the Department of Administration (DOA) Data Center, and administering G.A.B. Exchange email system. Help Desk staff is creating new clerk user credentials for the WisVote system and the WisVote learning Center as clerks request access.

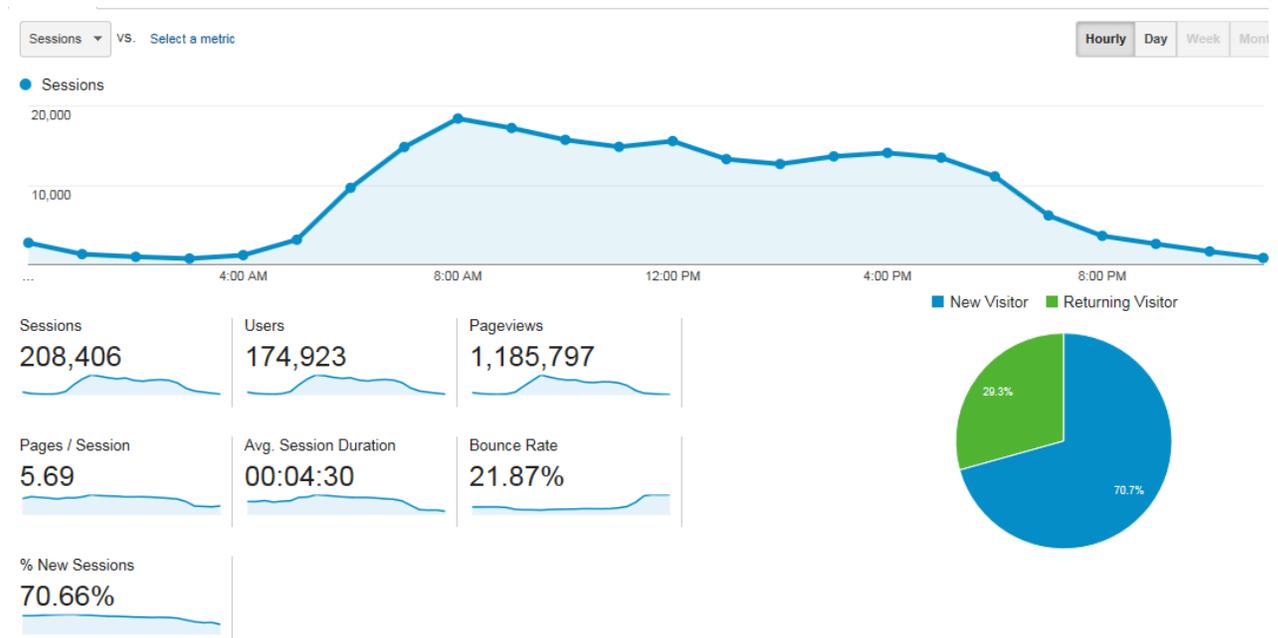
Help Desk staff assisted clerks with configuring and installing WisVote, CRM and WEDCS (GAB-190) on municipal computers. The Help Desk assisted clerks with setting up the Spring Election and Presidential Preference, running absentee labels and other WisVote tasks. The Help Desk continued to field a variety of calls from voters and the public, candidates and political committees, lobbyists, and public officials. On Election Day the Elections Help desk received over 1,550 calls from voters, clerks and chief inspectors.

G.A.B. SVRS Help Desk Call Volume
 (608-261-2028)

Front Desk Call
Volume
 (608-266-8005)

February 2016	4,184	1,302
March 2016	4,391	1,699
To April 15, 2016	3,645	n/a
Total Calls for Reporting Period	12,220	3,001

MyVote Statistics for Election Day April 5th include 208,406 visits by 174,923 unique users viewing 1,185,797 pages. High point was from 7:00 am to 8:00 am with 18,370 sessions. Over 52% accessed MyVote from a smart phone.



11. Voter Outreach Services

As part of the G.A.B.'s photo ID outreach efforts to voters, staff continues to make presentations to voter groups in Wisconsin. The approach is to talk primarily with audiences comprised of representatives from community organizations that work with voters. G.A.B. staff has found that it is most effective to focus outreach efforts on training representatives of voter organizations. The representatives then bring the information back to their organizations where they can train organization staff and volunteers who will be conducting outreach to voters. G.A.B. staff will be communicating directly with voter groups across the state later this year to inform them of our voter outreach efforts and our training opportunities.

Staff has also been working with vendors to update the Bring It to the Ballot public education and outreach campaign. As of late August 2015, all of the videos, TV and radio ads, and printed materials had been updated with new information about how to get a free state ID card for voting.

Additionally, the mobile version of the BringIt.wi.gov website for mobile devices was in final testing.

The Spring Election was the first high turnout election in which the photo ID requirement was in effect, and Board staff continued to field calls related to implementation of the requirement from both voters and election officials. While clerks reported that election inspectors seemed to be handling the photo ID process more efficiently after having experience with it during the Spring Primary, there is still some inconsistency in how the requirement is applied. Staff received some reports that inspectors were attempting to verify the current address with the photo ID, which is not proper under the law, and other inspectors were not taking the time to confirm that the voter's name and photo correctly appeared on the ID. Board staff did not receive as many reports of voters who claimed to have been turned away due to a lack of an acceptable photo ID as had been reported during the Spring Primary, hopefully indicating that inspectors were offering provisional ballots more consistently in those cases. Board staff will evaluate the most common issues and incorporate additional emphasis on them in future training of election officials and public information efforts.

12. EAC Standards Board

Elections Division Administrator Michael Haas and Village of Germantown Clerk Barbara Goeckner attended the 2016 meeting of the federal Elections Assistance Commission's Standards Board, as Wisconsin's state and local election official representatives. The meeting took place on April 14 – 15, 2016 in Carlsbad, California and included discussions regarding the ongoing effort to develop new voting equipment certification standards and other EAC initiatives and resources for election officials and voters. Division Administrator Haas was appointed to the Bylaws Committee and the Clearinghouse Committee of the Standards Board. The Clearinghouse Committee will provide input to the EAC regarding the resources it develops and makes available for the use of election officials and voters, principally on the agency's website which is being revamped in 2016. Clerk Goeckner was appointed to the USPS Committee, which will work with the U.S. Postal Service on issues related to the design and delivery of election mail.

13. Complaint Processing and Tracking

Elections Division staff has continued to process and resolve complaints related to the actions of local election officials. Numerous inquiries were received through the agency's website on and around the Spring Election. Typically staff resolved such complaints quickly by obtaining and providing information to the complaint. A status report regarding pending and resolved complaints will be included in the Board Members' meeting folders.

ATTACHMENT #1

GAB Election Division's Training Initiatives
3/2/2016 – 4/25/2016

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
WisVote Training	Online training in core WisVote functions – how to navigate the system, how to add voters, how to set up elections and print poll books.	Varies	New users of the WisVote application software.	Online	55
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years.	3 hours	All Municipal clerks are required to take the training; other staff may attend.	1	35
Chief Inspector	Instruction for new Chief Inspectors before they can serve as an election official for a municipality during an election.	3 hours	Election workers for a municipality.	10	350
Election Administration Training Webinar Series	Series of 8 - 12 programs designed to keep local government officers up to date on the administration of elections in Wisconsin.	45 – 120 minute webinar conference hosted and conducted by Elections Division staff.	County and municipal clerks, chief inspectors, poll workers, special registration deputies and school district clerks.	3/3/16: Election Observers & Troubleshooting the February Primary; 3/9/16: SB295 Overview; 3/23/16: Canvass Process	50 – 400 per webinar; posted to website for clerks to use on-demand.

ATTACHMENT #1

GAB Election Division's Training Initiatives
3/2/2016 – 4/25/2016

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Other	<ul style="list-style-type: none"> Board staff presented Voter ID Law, election administration and SVRS/WisVote status information to the Wisconsin County Clerks Association on March 8, 2016 in Madison. 				

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JUDGE VICTOR MANION
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the April 26, 2016 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been STAR Project implementation, financial services activity, procuring goods and services, contract sunshine administration, recruiting staff, communicating with agency customers and developing legislative and media presentations.

Noteworthy Activities

1. STAR Project

The State Transforming Agency Resources (STAR) Project is a statewide project that consolidated multiple outdated human resource, procurement and financial business IT systems into one efficient, transparent and modern enterprise-wide system.

The STAR system went live on October 1, 2015. As with all new computer systems, there have been some difficulties in transitioning to the new accounting structures and format. The most significant challenge thus far has been getting financial status summaries and notification when a payment rejects in the system. Staff continues to work through these issues with the State Controller's Office, the State Budget Office and the STAR experts.

In addition to learning the new accounting system, Release 2, the Human Resources (HR) component of the system went live in December. The new HR system includes a new payroll system, new paychecks and paystubs, new timesheets, new terminology, employee

self-service, and a single source for all HR functions for all of state government. There have been significant challenges with Release 2, but we continue to work through those issues with the Human Resources staff at DOA and the STAR experts.

2. Financial Services Activity

- Labor and ancillary costs of \$397.39 were incurred by G.A.B. staff while working on multiple ES&S voting equipment projects, and are being invoiced to the vendor per the cost recovery agreement.
- FY17 operating budget work has begun. Staff has analyzed FY16 expenditures to create recommendations for dividing shared funds between the new Elections and Ethics Commissions.
- FY17-19 biennial budget work has begun, with cost, revenue, and cash balance projections being calculated for both the state lobbying program and for the federal HAVA programs at this time. Financial staff are calculating and monitoring GPR salary savings from vacant and reduced positions, for purposes of fiscal year-end 2016 budget planning.
- Staff claimed reimbursements of \$210,881.48 for December, January, and February Federal Voting Assistance Program (FVAP) grant expenditures, coordinated the accounting for incoming wire transfers with DOA-Treasury staff, and prepared journal entries to record revenues receivable. Financial staff prepared the quarterly SF 425 Report due March 31 for this federal aid grant, reporting \$1,392,860.17 (72.5 percent) of the \$1,919,864 grant expended since its inception in March 2012.
- Journal entries were prepared and booked to properly allocate monthly interest earnings. Monthly DOA General Service Billing (GSB) charges were audited and payments processed. Journal entries were prepared to reclassify GSB charges to appropriate state and federal programs.
- A more detailed operating budget has been loaded into STAR to assist with budget projections for the remainder of the fiscal year.

3. Procurements

- As part of the April 5 Spring Election and Presidential Preference Vote, 10 temporary services staff were hired to assist in conducting accessibility audits of polling places throughout the state. A new purchase order was written to extend the Ethics IT service position to the end of the fiscal year.

4. Contract Sunshine

- Since the March Board meeting, the certification process for the January to March 2016 period has begun. The deadline for agencies to return their certifications is May 1.

5. Staffing

Currently, we are recruiting for several staff vacancies and have made significant progress in our efforts since the last Board meeting. However, there have been significant challenges in the recruitment efforts, but we continue to work on filling the vacant positions.

- On April 4, **Jennifer Johnson** was hired to fill an Office Operations Associate position in the Elections Training area.
- On the week of April 11, we conducted first round interviews for our vacant accountant and financial specialist positions.
- On April 18, **Marni Martinson** was hired to fill an Office Operations Associate position which serves as the agency Receptionist.
- In mid-April, the vacant attorney position was posted. Exams have been rated and we will begin conducting interviews for the vacant position within the next couple of weeks.
- In mid-April, the WisVote Elections Specialist position was posted and a rating panel has been identified to score applicant exams. That process should conclude the last week in April and interviews should begin in early May.

6. Communications Report

Since the March 1, 2016, Board meeting, the Public Information Officer (PIO) has engaged in the following communications activities in furtherance of the G.A.B.'s mission:

Spring Election: The PIO spent considerable time in March and April working with the news media and the public regarding the Spring Election and Presidential Preference Primary. The PIO arranged numerous interviews for Director Kennedy, Elections Division Administrator Haas, and gave several interviews when they were unavailable. Many of those interviews dealt with voter ID implementation and the G.A.B.'s Bring It to the Ballot public education campaign, as well as the high voter turnout at the election.

Voter ID Public Information Campaign: Following the February 1 relaunch of the campaign, the PIO continued to work with news media to get the message out about the campaign, which was distributed to Wisconsin Broadcasters Association member stations. Since the news conference, the Bring It website has had more than 102,500 visits and more than 92,000 unique visitors. The day before the election there were 14,267 visits and on Election Day there were 21,259 visits. There were news stories about the agency's lack of a

purchase of airtime for PSAs, either at market rates or through the Broadcasters Association's state contract and Board Members will likely hear comments from the public about that issue at the meeting. We are developing plans for a paid media campaign in the fall in the event the Legislature provides funding for it.

Online: The PIO managed regular updates to the agency website and has been planning for transition to websites for the new Elections and Ethics commissions. On Friday, April 1, the state of Wisconsin's servers experienced a major slowdown which affected public access to the MyVote, CFIS and Eye on Lobbying websites. During this time, the G.A.B.'s main website remained available and staff was able to communicate with clerks because the website is hosted through a private contractor. However, on the morning of Election Day, the G.A.B.'s main website and the Bring It to the Ballot microsite experienced problems because of heavy traffic, but were fixed by increasing the bandwidth to the servers. The PIO will be working with the Elections Supervisor on plans and alternatives for web hosting for the new commissions.

Media: Media inquiries and interview requests increased significantly before and after the Spring Election on April 5. Between February 19 and April 15, 2016 the PIO logged 139 media and general public phone calls and 313 media email contacts.

Public Records: The PIO continues to lead the agency's response to numerous public records requests received in recent months.

Other: The PIO has also worked on orientation for new Commissioners and has served on the agency's Transition Team, participating in three meetings with representatives of the Department of Administration.

7. Meetings and Presentations

During the time since the March 1, 2016, Government Accountability Board Meeting, Director Kennedy has been participating in a series of agency-related meetings and working with agency staff on several projects. The primary focus of the staff meetings has been on agency transition, litigation and spring election activities.

Considerable attention will continue to be devoted to preparation for events related to the presidential election. The Presidential Preference Vote and nonpartisan Spring election was held on April 5, 2016. Preliminary numbers indicate a turnout of 47.35 percent of eligible voters based on more than 2.1 million votes cast for presidential candidates.

There have been numerous telephone and email communications with our Department of Justice attorneys as well as outside counsel on agency-related litigation. This includes several court hearings which will be discussed in closed session. There were also numerous briefings on the status of the WisVote implementation.

On March 10 and April 18, 2016 Director Kennedy had teleconference meetings with Deputy DOA Secretary Cate Zeuske on transition issues. There was also an in-person meeting on March 31, 2016, when Kevin Kennedy and Sharrie Hauge met with Deputy DOA Secretary Cate Zeuske and staff from the Department of Administration for further discussion on the

transition from the Government Accountability Board to the Elections and Ethics Commissions. A more detailed report is found at agenda item M. for the April 26, 2016 G.A.B. meeting.

On March 8, 2016, Director Kennedy, Elections Division Administrator Mike Haas, Elections Supervisor Ross Hein, Training Coordinator Allison Coakley along with Elections Specialists David Buerger, Diane Lowe and Marianne Griffin participated in the County Clerks meeting in Madison. Ethics Specialist Kyle Kundert provided the County Clerks with an overview of the impact of the new campaign finance law and their responsibilities under the new law.

Elections Supervisor Ross Hein and Director Kennedy were subpoenaed to testify in a criminal preliminary hearing on March 8, 2016 in Jackson County. The preliminary hearing focused on charges brought against the Town of Cleveland clerk for misconduct in public office and electioneering related to his actions in the 2015 Spring election.

On March 16 2016, Elections Division Administrator Mike Haas, Ethics Division Administrator Jonathan Becker and Director Kennedy met with a group of high school students participating in the Senate Scholar Program.

On March 24, 2016, Director Kennedy and Voter Services Specialist Meagan McCord Wolfe held a media availability focusing on the voter ID law encouraging voters, particularly students, to be prepared for the Presidential Preference Vote and Spring Election.

On March 28, 2016 Director Kennedy led a team of agency staff to a meeting with representatives of the Department of Transportation's Division of Motor Vehicles (DMV) to discuss implementation of online voter registration as required by 2015 Wisconsin Act 261. The DMV was represented by DMV Administrator Kristina Boardman along with program, IT and legal staff. Elections Division Administrator Mike Haas, Elections Supervisor Ross Hein, Voter Services Specialist Meagan McCord Wolfe, Staff Counsel Nate Judnic, Elections Specialist Marianne Griffin and WisVote Technical Lead Sarah Whitt represented the agency. Along with GIS Specialist Zach Robinson, they form the core team members charged with implementing online voter registration.

The G.A.B. and DOT are required to file quarterly status reports with standing legislative committees describing the progress on online voter registration development. More information on this project is contained in the meeting materials found at agenda item F. for the April 26, 2016 G.A.B. meeting.

Director Kennedy, Staff Counsel Nate Judnic, Elections Division Administrator Mike Haas and Elections Supervisor Ross Hein participated in a series of teleconference meetings with representatives of the Electronic Information Center (ERIC) on March 28 and April 13, 2016.

On March 31, 2016 Director Kennedy was interviewed by MSNBC on voter ID and the spring primary. <http://www.msnbc.com/msnbc/desperate-times-democracy-wisconsin>

On April 1, 2016, Director Kennedy participated in the state agency Chief Counsel Meeting hosted by the Governor's legal staff.

On April 1 and 2, 2016, Elections Division Administrator Mike Haas and Director Kennedy participated in a symposium at the University of Wisconsin-Madison Law School, "Casting Votes, Counting Votes for Election 2016: Democracy and Law in Action." Director Kennedy was part of a panel presentation, Wisconsin: Forward, Backward, or Sideways? with attorneys Charles Curtis, Joshua Kaul, Rebecca Mason and Mike Wittenwyler – all of whom have sued the agency at some point.

Director Kennedy spent Election Day observing polling places in the city of Madison, the city of Middleton (Dane County), the village of Sauk City (Sauk County), the towns of Baraboo (Sauk County), Grant (Monroe County), Cleveland (Jackson County) and the village of Camp Douglas (Juneau County).

On April 6, 2016, Director Kennedy was interviewed by Hannah Flood, from Madison WMTV Channel 15 about the agency's observations of the April 5, Presidential Preference Vote and Spring Election. This led to a follow up interview on April 8 about ballot selfies and recent litigation challenging restrictions on taking a picture of a voted ballot and posting it on social media.

Elections Division Administrator Mike Haas participated in a meeting of the U.S. Elections Commission Standards Board in Carlsbad, California on April 13-16, 2016. This an advisory board of state and local election officials that provides input on voting equipment standards and other projects of the U.S. EAC.

An orientation for the legislative appointees to the Ethics Commission has been scheduled for April 25, 2016. The orientation will focus on duties of the new commission, recruitment of a commission administrator along with an overview of the statutory procedures and subject matter jurisdiction of the Ethics Commission.

Director Kennedy along with Elections Supervisor Ross Hein and Elections Specialist David Buerger will be attending a special workshop presented by the Election Center in Kansas City, Missouri from April 27 through April 29. The workshop focuses on preparations for the 2016 presidential election. Ross and David will also be taking courses offered in conjunction with workshop to maintain their CERA certification.

Delegated Authority

No opinions and orders were issued under the authority delegated to the Director and General Counsel. Chairperson Manian was consulted on a few occasions about potential issues related to local election administration. Elections Systems and Software (ES&S) has submitted two engineering change orders for approved voting equipment which will be reviewed before the April 26, 2016 meeting.

Looking Ahead

The final Government Accountability Board meeting is scheduled for Friday, June 10, 2016. The meeting will be held at the State Capitol beginning at 9:00 a.m.