

Meeting of the Board

Monday, May 10, 2010 - 9:30 A.M.

Agenda
Open Session

G.A.B. Conference Room

212 East Washington Avenue, Third Floor

Madison, Wisconsin

Monday, May 10, 2010

9:30 A.M.

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A. Call to Order	
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C. Signing of the Official Canvass of the April 6, 2010 Spring Election	
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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.

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N.	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 meeting for Wednesday, July 21 and Thursday, July 22, 2010 in Madison, Wisconsin beginning at 9:30 a.m. The location for the meeting has not been determined.

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

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



JUDGE WILLIAM EICH
Chair

KEVIN J. KENNEDY
Director and General Counsel

DRAFT
Not yet
approved by
the Board

Wisconsin Government Accountability Board

212 East Washington Avenue, Third Floor

Madison, Wisconsin

March 23, 2010 - 9:30 a.m.

March 24, 2010 - 9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Accept Evaluation of Wisconsin Election Data Collection System	2
B. Actions in response to U.S. Supreme Court decision in Citizens United	3
C. Approve changes to GAB 1.28 (Issue Ad Regulation)	4
D. Promulgation of GAB 1.90 (MCFL Corporations)	4

Present: Judge William Eich, Judge Gordon Myse, Judge Thomas Barland, Judge Thomas Cane, Judge Gerald Nichol, Judge Michael Brennan.

Staff present: Kevin Kennedy, Jonathan Becker, Nathaniel E. Robinson, Shane Falk, Michael Haas, Barbara Hansen, Sharrie Hauge, Tommy Winkler, and Reid Magney

A. Call to Order

Chairperson Eich called the meeting to order at 9:30 a.m.

B. Director's Report of Appropriate Meeting Notice

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

C. Approval of Minutes of Previous Meeting

MOTION: Approve the minutes of the January 14, 2010 meeting of the Government Accountability Board. Moved by Judge Barland, seconded by Judge Cane. Motion carried unanimously.

D. University of Wisconsin Department of Political Science Presentation on Evaluation of Wisconsin Election Data Collection Grant

Elections Division Administrator Nat Robinson introduced University of Wisconsin Department of Political Science Professors Barry Burden, David Cannon and Ken

Mayer and graduate student Stephane Lavertu, who presented the 2008 Wisconsin Election Data Collection System's Program Evaluation Report to the Board.

The report describes the G.A.B.'s successful use of a \$2 million U.S. Election Administration grant to develop the Wisconsin Election Data Collection System. By spending less than budgeted, the G.A.B. was able to leverage grant funds to accomplish other tasks related to election data collection and clerk training.

Discussion by Board members, staff and the report's authors.

By consensus, the Board accepted the report with gratitude.

E. Public Comment

1. **Attorney Mike B. Wittenwyler** of Madison, representing Godfrey & Kahn S.C., commended the Board staff on its recommendations regarding the U.S. Supreme Court decision in the *Citizens United* case. He questioned the Board's need to proceed with the administrative rule defining the scope of regulated activity, GAB 1.28 (Issue Ad Regulation).
2. **Mike McCabe** of Madison, representing the Wisconsin Democracy Campaign, said the Board staff has developed a sensible response to the *Citizens United* case decision, and urged the Board to proceed with GAB 1.28.
3. **Ardis Cerny** of Pewaukee addressed concerns about early voting and voter identity theft. She urged the Board to allow registered voters to request that their local clerk require them to show a photo ID.
4. **Mary Ann Hanson** of Brookfield discussed her concerns about Retro HAVA checks and the fact that 70,000 voters continue to be non-matches. She suggested that local clerks need to do Retro HAVA checks.
5. **Ginny Graham** of Waukesha commented that she is getting resistance to her efforts to get municipal clerks to select poll workers from lists provided by the political parties, as required by law.
6. **Annette Kuglich** of Waukesha commented on the need for fair election administration. She said she found disturbing similarities between the Board's five-year election administration plan and the agendas of progressive organizations.
7. **Diane Hermann-Brown** of Sun Prairie appeared on behalf of the City of Sun Prairie to urge the Board members to visit polling places during the Spring Election. She said clerks appreciated the G.A.B.'s extended hours leading up to the elections

F. Report on Impact of Citizens United v. Federal Election Commission

(Presented by Jonathan Becker and Shane Falk)

Jonathan Becker and Shane Falk made a presentation to the Board about the impact of the U.S. Supreme Court decision in *Citizens United v. Federal Election Commission*, which struck down the federal ban on corporate independent expenditures.

Board staff proposed several motions to bring Wisconsin into compliance with the decision, which provide for as much disclosure and transparency as possible within the agency's statutory authority.

Discussion.

MOTION: Adopt a policy statement providing that the Government Accountability Board will not enforce the §11.38(1)(a)1., Wis. Stats., prohibition on corporate independent expenditures (disbursements) for political purposes. This policy statement shall be made widely public and distributed to all District Attorneys, in coordination and cooperation with the Wisconsin Department of Justice.

MOTION: Staff is directed to request an Advisory Opinion from the Wisconsin Attorney General regarding the impact of *Citizens United* as to enforcement of ch. 11, Wis. Stats., specifically §11.38(1)(a)1., Wis. Stats.

MOTION: Adopt staff's interim policy regarding registration, disclosure and disclaimer procedures for a corporation, or association organized under ch. 185 or 193, Wis. Stats., wishing to make independent expenditures (disbursements) for a political purpose in Wisconsin as set out at pages 10 to 13 of the March 23, 2010 G.A.B. Meeting materials.

MOTION: Staff shall prepare, for consideration at May 2010 Board meeting, proposed emergency and permanent rules codifying a policy regarding registration, disclosure and disclaimer procedures for a corporation, or association organized under ch. 185 or 193, Wis. Stats., wishing to make independent expenditures (disbursements) for a political purpose in Wisconsin.

MOTION: Staff shall continue working with the Legislature to develop legislation to address the implications of *Citizens United*.

All motions moved by Judge Cane, seconded by Judge Barland. Motions carried unanimously.

G. Administrative Rules

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

Shane Falk made a presentation regarding changes to GAB 1.28, which expands the definition of a political purpose as permitted by the *WRTLII* decision. He noted that the *Citizens United* decision does not change the need to adopt the rule, only that spending by corporations is now included.

Discussion.

MOTION: Approve revisions to GAB 1.28 in the rule analysis section and reaffirm the text of the rule. Pursuant to §227.19(4)(b)3m., staff shall resubmit GAB 1.28 to the Legislature with the amended rule analysis. Staff shall continue all other steps necessary to complete promulgation of GAB 1.28. Moved by Judge Cane, seconded by Judge Nichol. Motion carried unanimously.

Chairman Eich called a lunch recess at 12:13 p.m.

The Board reconvened at 12:45 p.m.

4. Proposed GAB 1.90 – Regulation of Nonprofit Corporations Organized Solely for Political Activity (MCFL Corporations)

Shane Falk presented motions to the Board to regulate nonprofit corporations organized solely for political activity.

Discussion. Judge Barland suggested a more descriptive name than MCFL Corporations. Jonathan Becker suggested “non-business corporation.”

MOTION: Pursuant to §§5.05(1)(f), 227.11(2)(a), 227.14(4m), 227.15(1), and 227.16-17, Wis. Stats., the Board formally approves the attached Notice of Proposed Order Adopting Rule, Notice of Submittal to Legislative Council Clearinghouse, and Notice of Hearing for the creation of ch. GAB §1.90, Wis. Adm. Code, and directs staff to proceed with promulgation of the rules.

MOTION: Staff shall take all other steps necessary to complete promulgation of the rules creating ch. GAB §1.90, Wis. Adm. Code.

MOTION: Staff shall revise Form GAB-1, as necessary, to include MCFL corporations as an option for registration.

MOTION: Formally withdraw the four informal MCFL opinions upon publication and official effective date of ch. GAB §1.90.

All motions moved by Judge Nichol, seconded by Judge Cane. Motions carried unanimously.

3. Status Report on Pending Administrative Rules

A written report was included in the Board materials.

H. Review of Approval of Engineering Changes to Approved Electronic Voting Systems

Shane Falk made a presentation to the Board regarding problems with voting systems approved in the past that are now subject to upgrades. Because of parts supply issues, voting equipment manufacturers often need to use slightly different components when they make repairs. In addition, due to the nature of these electronic voting systems, periodic and ongoing hardware, firmware, and software upgrades are likely to occur.

The issue is whether each of these minor engineering changes requires approval by the Board.

Discussion.

MOTION: Approve interim policy for application and approval of voting systems modifications to systems previously approved for use in Wisconsin as set out at pages 65 to 69 of the March 23, 2010 G.A.B. Meeting materials.

MOTION: Pursuant to §5.05(1)(e), Wis. Stats., and his role as agency head and chief state election official, the Government Accountability Board delegates authority to its Director and General Counsel to accept, review, and exercise discretion to approve applications for voting systems modifications to systems previously approved for use in Wisconsin. The Director and General Counsel shall consult with the Board Chair to determine whether Board members should be polled or a special meeting conducted before action is taken. The Director and General Counsel shall also report, at the Board meeting immediately following action on this delegated authority, the specifics for the action taken, the basis for taking the action, and the outcome of that action.

MOTION: Staff shall prepare, for consideration at a future Board meeting, proposed administrative rules codifying a policy for application and approval of voting systems modifications to systems previously approved in Wisconsin.

All motions moved by Judge Cane, seconded by Judge Nichol. Motions carried unanimously.

I. Legislation

1. Summary of Recent Legislative Activity

Kevin Kennedy provided an update on recent legislative activity, including the omnibus election bill, which includes many technical changes requested by the Board, and the online voter registration bill, neither of which have been introduced yet. The Board also discussed two bills introduced in response to the *Citizens United* decision.

2. Legislative Status Report

The Legislative Status Report was included in the Board materials.

J. Staff Report on Retroactive HAVA Checks

Nat Robinson introduced Sarah Whitt, SVRS IT Functional Lead, who presented a report on retroactive HAVA checks run on voters who registered between January 1, 2006, and August 5, 2008. As required by law, Board staff compared voter records in the Statewide Voter Registration System with records from the Wisconsin Department of Transportation or the Social Security Administration. Of the 777,561 records checked, 89.4 percent showed a match. Voter registration data for more than 70,000 additional voters was updated. Approximately 70,000 non-matches remain. The Board and staff discussed reasons for the non-matches and strategies for recontacting non-matches.

K. Director’s Report

Judge Eich, reflecting on the upcoming end of his term on the Board, thanked the staff for their service, noting that during his career, he has never encountered a staff that is so uniformly accomplished.

Division Administrator Nat Robinson presented the Elections Division report. He asked the Board for approval to apply for the next round of HAVA funding from the federal government.

MOTION: That the Board authorize staff to apply for \$1,285,090 dollars in Federal Fiscal Year (FFY) 2010 Requirements Payments. Moved by Judge Myse, second by Judge Brennan. Motion carried unanimously.

Division Administrator Jonathan Becker presented the Ethics and Accountability Division Report. He reported on the Campaign Finance Information System: that it experienced fewer problems during the filing of the January 2010 Continuing reports; however, staff is concerned about the scalability of CFIS. The Division of Enterprise Technology has evaluated the system and identified a number of ways it can be improved. Staff believes that DET can build a replacement system for a reasonable cost.

Office of the Director and General Counsel

Chief Administrative Officer Sharrie Hauge updated the Board on the ongoing performance audit of federal HAVA funds by the U.S. Election Assistance Commission, as well as recent developments with the Contract Sunshine program.

L. Closed Session

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

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

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

Motion carried.

Hearing no objection, the Chairman called a recess at 2:45 p.m. The Board reconvened in closed session beginning at 3 p.m. and recessed for the day at 4:20 p.m.

On Wednesday, March 24, 2010, the Board reconvened in closed session at 9 a.m. until 10:55 a.m., when the Chairman called a recess. The Board reconvened in open session at 11:08 a.m.

M. Dialogue with Representative Jeff Smith

Representative Jeff Smith, Chairman of the Assembly Committee on Elections, met with the Board to discuss the Wisconsin Voter Protection Act, SB 640 and AB 895. He said the Act implements the federal Military and Overseas Voter Empowerment Act, modernizes voter registration procedures by merging information from the Department of Transportation with the statewide voter list, improves the absentee voting process, and protects voters from intimidation and deceptive practices on Election Day.

Discussion. Representative Smith said he and Senator Coggs have strong support from the Assembly and Senate leadership on the bills.

The Board returned to closed session at 11:28 a.m.

Summary of Significant Actions Taken in Closed Session:

- A. Litigation: Two pending matters considered.
- B. Investigations: Four pending matters considered and six matters closed.
- C. Requests for Advice: One pending matter considered and one matter closed.
- D. Enforcement Actions: Two matters closed.

####

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m. Monday, May 10, 2010 at the G.A.B. offices, 212 East Washington Avenue, Madison, Wisconsin.

March 23 and 24, 2010 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

April 19, 2010

March 23 and 24, 2010 Government Accountability Board meeting minutes certified by:

Jud Thomas Barland, Board Secretary

May 10, 2010

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Policy: Approval of Voluntary Photo I.D. Policy

Introduction and Recommendations:

Ms. Ardis Cerny submitted the attached written request for the Board to consider staff's policy prohibiting a voluntary photo identification practice for registered electors. (Exhibit A—noted on top right hand corner.) After a thorough review of the statutes and noting that elector photo identification has failed to be enacted as law in Wisconsin (neither mandatory or voluntary has been adopted,) staff issued a March 18, 2010 Memorandum to all clerks prior to the Spring Election reaffirming longstanding Board (and State Elections Board) interpretation of Wisconsin statutes and Board policy prohibiting elector photo identification without authorizing statutes.

Despite staff having informed Ms. Cerny that her efforts were not authorized by Wisconsin statutes, she apparently proceeded with promoting such an effort. In addition, despite staff having informed all clerks that such a practice was not authorized by Wisconsin Statutes, Ms. Cerny noted on her website that a clerk had complied with the practice on the April 6, 2010 election. In light of this, Board consideration and approval of a policy is warranted.

Staff recommends that the Board approve staff's attached policy and rationale, in its entirety, which prohibits voluntary elector photo identification. In addition, staff recommends that the Board direct staff to formalize a current informal policy regarding procedures for addressing instances of potential elector identify theft.

Background:

On February 15, 2010, Ms. Ardis Cerny contacted staff regarding two questions, one of which sought confirmation that poll lists contained a box that could be checked thereby requiring electors to show photo identification before receiving their ballot and whether interested

electors could make such a request of their clerks. On February 22, 2010, staff counsel responded to this question in the negative, noting that current Wisconsin statutes do not authorize such a practice, but also that SVRS is not programmed in such a way to permit this practice.

Ms. Cerny apparently proceeded with creating a “Protect Your Identity, Protect Your Vote” memo promoting the practice. (Exhibit B—noted on top right hand corner.) In addition, she created an “ID Required Notation” card to be completed by electors and filed with their clerks. (Exhibit C—noted on top right hand corner.) Several clerks contacted staff upon their receipt of such cards, completed by electors from their jurisdictions. The clerks inquired as to whether staff was aware of this effort, whether staff had sanctioned the effort, and the clerks sought direction on processing these cards, if staff had sanctioned the practice. Staff provided direction to these clerks rejecting the practice, but recognized the need to clarify this issue in order to promote uniform Election Day practices across the State. Staff issued its March 18, 2010 Memorandum to all clerks, documenting the policy prohibiting a practice of elector voluntary photo identification requirements by use of the “ID Required Notation” on poll lists. (Exhibit D—noted on top right hand corner.)

Ms. Cerny raised an objection to staff’s March 18, 2010 Memorandum at the Board’s March 23-24, 2010 Board meeting in the public comment section.

Ms. Cerny’s web site (We’re Watching Wisconsin Elections) noted that at the April 6, 2010 Spring Election, a “test clerk” complied with an elector’s voluntary photo identification request and a “test voter” had to show an “I.D.” in order to vote. Furthermore, the web site promotes making continued requests of local clerks to institute electors’ voluntary photo identification procedures. (Exhibit E—noted on top right hand corner.)

Following the March 23-24, 2010 Board meeting, Ms. Cerny requested that staff’s policy be considered by the Board at the May 10, 2010 meeting. A formal written request was made by Ms. Cerny and the final revised version is included with this Memorandum. In her written submission, Ms. Cerny notes that it is not against the law for an election official to ask a citizen to show identification if that person specifically demanded it. Ms. Cerny states: “This is a falsehood!” Further, Ms. Cerny notes that the Election Day Manual specifically states that an “attempt to compel voters to provide photo identification would be in direct violation of Wisconsin Law.” She states: “This policy is a lie!” Finally, she acknowledges that the G.A.B. has general authority and the responsibility for administration of the election laws, but then states that “felonious policies do not fall into this category.”

Ms. Cerny has previously been informed that the Legislative and Executive branches of Wisconsin government have yet to enact a law that requires photo identification for registered electors. Any such measures that have passed the Legislature in previous legislative sessions were vetoed by the Governor. In addition, 2009 Assembly Bill 814 and 2009 Senate Bill 350 were introduced in the most recent Legislative session that would have permitted optional photo identification, much like what Ms. Cerny requests; however, this legislation was not even passed by one house of the Legislature. These bills illustrate the significant statutory changes that are required to implement voluntary elector photo identification. Staff has included 2009 SB 350 with this Memorandum for reference. (Exhibit F—noted on top right hand corner.)

The current status of the SVRS also does not permit accommodating a use as Ms. Cerny requests. Implementation of such a policy would require retooling SVRS, revision of manuals, retraining of SVRS users, and retraining election officials, all at a significant fiscal impact.

Analysis:

A. Voluntary Photo Identification of Registered Voters

A full legal analysis of this policy is set forth in the staff's March 18, 2010 Memorandum included herein. Staff will not repeat the legal analysis, but in light of Ms. Cerny's comments in her written submission to the Board, staff will provide some additional analysis.

The Board has indirectly addressed photo identification requirements for registration and voting several times. The Board has relied upon the status of current statutes, which do not authorize an elector photo identification requirement for registration, but especially not for voting. Section 6.79, Wis. Stats., governs recording electors at the polls. This statute only authorizes election officials to verify that the name and address provided by the person are the same as the person's name and address on the poll list. §6.79(2)(a), Wis. Stats. For registered electors appearing on the poll list, this is done verbally and no further proof of identification is required by statute. However, if the poll list indicates that proof of residence under §6.34, Wis. Stats., is required, the official shall require the elector to provide proof of residence and shall verify that the name and address on the identifying document submitted is the same as the name and address shown on the registration list. Nowhere does §6.79, Wis. Stats., authorize the use of a photo identification before an elector may obtain a ballot. In fact, Legislative history speaks directly against reading such a requirement into this statute. In addition, the Board's rule making authority is set forth in §5.05(1)(f), Wis. Stats., and while this statute does allow the Board to promulgate rules under Chapter 227, Wis. Stats., the Board may only do so for the purpose of interpreting or implementing the laws regulating the conduct of elections. The Board's rule making authority does not permit the Board to make new law, but rather only allows the Board the authority to interpret existing law. As discussed briefly above, measures to institute photo identification for voting have not been enacted into law. In this context, Ms. Cerny is incorrect when she asserts that staff's March 18, 2010 Memorandum relies upon "felonious" policies.

Pursuant to §5.05(7), Wis. Stats., the Board is statutorily required to conduct regular information and training meetings for local election officials and these administrative meetings "shall be designed to explain the election laws and forms and rules of the board, **to promote uniform procedures and to assure that clerks and other officials are made aware of the integrity and importance of the vote of each citizen.**" Furthermore, §7.08(3)(b), Wis. Stats., mandates that the election manuals prepared by the Board shall emphasize the fact that elections officials should help, not hinder, electors in exercising their voting rights. Wisconsin does not currently have any statute that requires or even authorizes election officials to demand photo identification before an elector may obtain a ballot. The Election Day Manual states that an action to compel an elector to provide photo identification is contrary to Wisconsin law. This is clear, easily understandable, and establishes a uniform policy for local election officials throughout the State. Therefore, this policy complies with the statutory mandates of §§5.05(7) and 7.08(3)(b), Wis. Stats.

In practice, the "ID Required" notation on poll lists literally means, "identifying document required." This poll list notation is only applicable to first-time registrants who have registered by mail without proof of residence. §6.34(2), Wis. Stats. This specific watermark notation on SVRS poll lists comes from the Accenture software, which was designed to implement the Federal HAVA first time voter registration requirements. As discussed in staff's March 18, 2010 Memorandum, §6.34, Wis. Stats., defines what is required for proof of residence. Of note, an "identifying document" used to establish proof of an elector's residence is limited to

any one of eleven documents specifically proscribed in §6.34(3)(a), Wis. Stats., and which meet the requirements of §6.34(3)(b), Wis. Stats. The “ID Required” notation on poll lists has a specific singular purpose prescribed by statute and staff’s March 18, 2010 Memorandum clarified this for local election officials, satisfying the mandates of §5.05(7), Wis. Stats. Sections 6.79 and 6.34, Wis. Stats., do not specifically authorize election officials to use the “ID Required” notation as a prompt to demand photo identification before issuing ballots, even if electors voluntarily request them to do so. The “ID Required” notation in SVRS and on the poll lists was not created for this use, which would result in significant administrative issues, i.e. how will the election officials know who is required to produce an “identifying document” and who is required to produce a photo identification? Another administrative complexity would also arise after the election, when the clerk updates SVRS. Since the “ID Required” notation was originally created to address someone providing an “identifying document” to complete their registration, clerks will have difficulty determining when or whether to close this prompt in SVRS.

Ms. Cerny argues that since citizens show their photo identifications on a daily basis and she advocates doing so voluntarily in the election context, she has no intent to create chaos at the polls. This may be true for her and staff appreciates that viewpoint. However, the Board is charged with the administration of all election laws and consistently does so in a uniform manner across the entire state, as is required by §5.05(7), Wis. Stats. While Ms. Cerny may feel that showing her photo identification to obtain her ballot is not an imposition to her, or similarly to any one like her who may request voluntarily to be required to show photo identification, the fact of the matter remains that this is a politically charged debate involving constitutional issues. There are many other registered electors that would find offense at being required to show a photo identification to vote absent a statutory requirement to do so, especially if their names are already on the official registration list. Until statutory provisions prescribe a photo identification requirement, such electors may be confused, intimidated or at the very least, raise objections to witnessing a photo identification process at the polls, even if it is someone else in line who is being subjected to the request. This could result in a greater disruption of the polls on Election Day.

Finally, without statutory requirements, uncertainty for election officials may also create additional confusion at the polls. Wisconsin statutes do not currently require photo identification in order to register or vote. If an election official mistakenly demanded photo identification from someone who did not request to be subjected to this requirement, that official could have violated the law. Furthermore, under the circumstances of using the “ID Required” notation on the poll list, a first time registrant only needs to provide an “identifying document,” not a photo identification. There is no distinction for Ms. Cerny’s proposed alternate use of the “ID Required” notation and no way to inform election officials on the poll list.

B. Procedures for Addressing Potential Elector Identity Theft

Staff recognizes that there are sporadic instances of an elector appearing at a poll, only to be told that they already voted that day. Most often, these incidents have been determined to be election official error, having mistakenly marked an elector on the poll list as having voted. However, in rare instances, staff has received information that there was a potential elector identity theft. Most recently, this may have occurred at two separate polling places in Green Bay during the April 6, 2010 Spring Election. This does not occur with any regularity or significant frequency; however, staff has always taken such allegations seriously.

Staff has long advised clerks of an informal policy to address potential elector identity thefts. When such a situation has presented itself to staff, clerks are advised of the following steps:

1. Check to see if there was a mistake by an election official, by verifying and cross-referencing the poll lists. If an error is discovered, correct it, note it on the GAB104, and allow the voter to vote a regular ballot.
2. If the poll books match and no error is immediately discovered, allow the second person to vote a challenged ballot.
3. If a challenged ballot is being issued because no error was immediately discovered, the election officials should inform the chief inspector, who shall then contact the clerk and police to investigate the matter. Contacting the clerk and police immediately allows for a timely and more comprehensive investigation (second voter can be questioned further; closer in time to first vote so election officials may be able to assist with a description; etc.)
4. Regardless of the resolution of the matter on Election Day or after, note all activity on the GAB104 to preserve the information.
5. Finally, notify the G.A.B. of the incident as quickly as possible.

While these potential incidents occur on a sporadic basis, this informal policy used by the Board staff properly balances preventing and detecting election fraud, while at the same time protecting electors' constitutional right to vote. This informal policy also is an appropriate response to the limited extent of occurrence of this issue and does not cause the type of disruption or confusion at the polls as a voluntary elector photo identification would.

Staff recommends that the Board specifically adopt this informal policy regarding procedures for potential elector identity theft. In addition, staff recommends that the Board direct the revisions of manuals and training materials as necessary.

Proposed Motions:

1. **MOTION:** Approve staff's March 18, 2010 policy memorandum (Exhibit D) prohibiting voluntary voter photo identification for registered electors, particularly by use of the "ID Required" notation on SVRS poll lists.
2. **MOTION:** Direct staff to formalize its informal policy regarding procedures for potential elector identity theft, to include a clerk communication and revision of manuals and training materials as necessary.

To: The Government Accountability Board
From: Ardis Cerny
Date: April 25, 2010
Re: Protecting Your Vote From Identity Theft

Gentlemen,

At the previous G.A.B. meeting on March 23, 2010, I gave public comment on the issue of voter identity theft; in short, someone steals your vote by using your name and address.

At that time, I told you about a man in Waukesha County who was denied his constitutional right to vote because someone had already voted using his identity. Since then, we have evidence of two other cases of voter identity theft discovered during an election recall in Green Bay in the past two weeks. The case is under investigation.

Judges, I am asking you to be pro-active and take care of this looming problem of identity theft. It is in your power to do so and it would not be a complicated matter to accomplish.

The software used for the SVRS already has the notation "I.D. Required" built into it. This notation is just to the left of the voter's name. Citizens who wish to protect their votes could request of their municipal clerk that this notation be placed in front of their names on the list. When the poll worker asks for their I.D. at the polls they will voluntarily show it.

I have already had this notation placed in front of my name, but other citizens who have gone to their municipal clerks asking for this notation have been told that it would be against the law for an election official to ask the citizen to show their I.D. This is a falsehood!

On page 25 of the G.A.B. Election Day Manual, there is a G.A.B. POLICY, which tells election officials that an "attempt to compel voters to provide Photo I.D. would be in direct violation of Wisconsin Law."

What law is this in reference to? I have searched the state statutes and I cannot find this law. This law does not exist. This policy is a lie!

I have discussed this with G.A.B. counsel, Mr. Shane Falk; his reply to me is included below along with all of the state statutes he referenced in his letter. The fact of the matter is that this policy is still erroneous; none of these state statues substantiates the claim made in the policy.

In a letter dated March 18, 2010, from Mr. Falk to the municipal clerks (also included in this letter) in regards to citizens coming into their offices and requesting this notation, he sites:

S.S. 5.05 and 6.36: 5.05(1) 

(1) General authority. The government accountability board shall have the responsibility for the administration of chs. 5 to 12, other laws relating to elections and election campaigns, subch. III of ch. 13, and subch. III of ch. 19. *GAB has the authority to administer state laws. I totally agree, felonious policies do not fall into this category.*

S.S.6.34: 6.34 

6.34 Proof of residence required.

This chapter grants specific authority to the G.A.B. to maintain the SVRS list. It explains that the "notation" is meant for first time registrants who did not have proper proof of residence at the time they register. This is great, but it is in your power to grant that this notation be used for a secondary use as a tool for citizens to protect their voter identity.

S.S.5.35 and 7.37: The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

Citizens show their I.D.s on a daily basis, this will be voluntary. We are not trying to create chaos at the polls we are simply trying to protect our votes from identity theft.

6.36(1)(c): 6.36(1)(c) 

(c) The list shall be designed in such a way that the municipal clerk or board of election commissioners of any municipality and any election official who is authorized by the clerk or executive director of the board of election commissioners may, by electronic transmission, add entries to or change entries on the list for any elector who resides in, or who the list identifies as residing in, that municipality and no other municipality.

It is the municipal clerk's job to take requests from the electors in regards to changes on the SVRS (State Voter Registration) list.

Gentlemen:

I request that the members of the Government Accountability Board have this erroneous policy, "attempt to compel a voters to provide Photo I.D. would be in direct violation of Wisconsin Law," in the Election Day Manual be stricken from any and all booklets, manuals, training programs, any official materials in writing or on-line and immediately send notice to all municipal clerks and election officials in the state that this policy is erroneous and is in fact, not based on state statute.

I would further like the judges to approve of this "protect your voter identity" proposal and notify the clerks that citizens who wish to use the I.D. REQUIRED notation on the SVRS have the right to do so.

Respectfully yours,
Ardis Cerny

A-3

Letter from Shane Falk to Ardis Cerny on Feb. 22, 2010

Ms. Cerny,

Division Administrator Robinson forwarded me your below email for a response. In addition, our PIO, Reid Magney, updated you on Friday, indicating that I would respond. You left a message for me this morning and we were able to speak by telephone, while you were away from home.

As we discussed on the phone today, Division Administrator Robinson's initial email response to your request for an optional photo i.d. requirement was accurate. Under current law, the only time the notation "ID Required" will appear on a poll list is for a first time registrant who has registered by mail without proof of residence. This is found in Sec. 6.34(2), Wis. Stats. The notation on the poll book is to alert the inspectors that some form of "identifying document" must be provided by the elector. The types of acceptable "identifying documents" are found in Sec. 6.34(3), Wis. Stats. As I explained on the phone today, the Statewide Voter Registration System (SVRS) is structured specifically to treat this type of Sec. 6.34(2), Wis. Stats., registration in this manner. The "ID Required" notation on the polls is, in practice, how we enforce Sec. 6.34(2), Wis. Stats. I have attached a sample poll list with such a designation for a person named "Clara E. Adams." There is one single purpose for this "ID Required" notation in the left column. Once the elector provides an identifying document, the inspectors note it and the clerk closes that request item in SVRS. Once closed, it will not appear again, as the statute has been fulfilled.

You note below and also mentioned on the phone that there is no law specifically prohibiting you from using the "ID Required" designation for each election. However, as I reemphasized, there is nothing in the law currently that specifically authorizes you to do so either. As we discussed, the G.A.B. policy currently does not require photo identification each election for registered voters. In addition, SVRS doesn't provide way to specifically address your request. As you know, SB-350 was introduced, which does address the optional voter identification requirement. I have attached it for your review. It isn't currently law. In addition, after reviewing the bill, you can more likely appreciate just how many statute sections would need to be changed to accommodate optional voter identification for each election. It would also require a retooling of SVRS to accommodate that function.

Currently, the law does not authorize nor require optional voter identification for each and every election, once an elector is properly registered. The law is as described above and below and the "ID Required" notation in SVRS is used to enforce the requirements of Sec. 6.34(2), Wis. Stats., nothing more. The purpose of the "ID Required" notation is singular in nature. As we discussed on the telephone, Secs. 5.35(5) and 7.37(2), Wis. Stats., provide the clerks and inspectors with authority to preserve order at the polls and keep electors free from interference or distractions. As much as possible, the G.A.B. attempts to apply the election statutes uniformly across the state and as such, the "ID Required" notation on poll lists is restricted to those electors that may be subject to Sec. 6.34(2), Wis. Stats., and no others. To use it in any other fashion could result in clerk, inspector and elector confusion before and after the polls, as well as at the polls.

You indicated that you had already talked to your clerk and that the clerk would alter SVRS to require you to produce an identifying document at each election. First, that is contrary to G.A.B. policy and procedures. Second, the clerk would have to ignore other G.A.B. policies and procedures to allow your name to continue with "ID Required" on the poll list, as such designation is supposed to be closed once the elector produces proof of residence. As discussed on the phone and herein, this is not the purpose of the "ID Required" notation on the poll list and in SVRS.

I hope you find the attached helpful.

Shane W. Falk
 Staff Counsel
 Wisconsin Government Accountability Board
 212 E. Washington Avenue, Third Floor
 PO Box 7984
 Madison, WI 53707-7984
 Office: 266-8005
 Direct: 266-2094
 Shane.Falk@wisconsin.gov

SHANE FALK'S REFERENCED STATE STATUTES from letter to Ardis Cerny on Feb. 22, 2010:

5.05(1) 
(1) General authority. The government accountability board shall have the responsibility for the administration of chs. 5 to 12, other laws relating to elections and election campaigns, subch. III of ch. 13, and subch. III of ch. 19. Pursuant to such responsibility, the board may:

5.05(15) 
(15) Registration list. The board is responsible for the design and maintenance of the official registration list under s. 6.36. The board shall require all municipalities to use the list in every election and may require any municipality to adhere to procedures established by the board for proper maintenance of the list.

6.34(2) 
(2) Except as authorized in ss. 6.29 (2) (a) and 6.86 (3) (a) 2., upon completion of a registration form prescribed under s. 6.33, each elector who is required to register under s. 6.27, who is not a military elector or an overseas elector and who registers after the close of registration under s. 6.29 or 6.86 (3) (a) 2., shall provide an identifying document that establishes proof of residence under sub. (3). Each elector who is required to register under s. 6.27 who is not a military elector or an overseas elector who registers by mail, and who has not voted in an election in this state shall, if voting in person, provide an identifying document that establishes proof of residence under sub. (3) or, if voting by absentee ballot, provide a copy of an identifying document that

establishes proof of residence under sub. (3). If the elector registered by mail, the identifying document may not be a residential lease.

6.34(3) (a) 

(a) An identifying document used to establish proof of an elector's residence under sub. (2) shall contain the information required under par. (b) and is limited to one of the following:

6.34(3) (a) 1. 

1. A current and valid operator's license issued under ch. 343.

6.34(3)(a)2. 

2. A current and valid identification card issued under s. 343.50.

6.34(3)(a)3. 

3. Any other official identification card or license issued by a Wisconsin governmental body or unit.

6.34(3)(a)4. 

4. An official identification card or license issued by an employer in the normal course of business that contains a photograph of the cardholder or license holder, but not including a business card.

6.34(3)(a)5. 

5. A real property tax bill or receipt for the current year or the year preceding the date of the election.

6.34(3)(a)6. 

6. Except as provided in sub. (2), a residential lease.

6.34(3)(a)7. 

7. A university, college, or technical college fee or identification card that contains a photograph of the cardholder. A card under this subdivision that does not contain the information specified in par. (b) shall be considered proof of residence if the university, college, or technical college that issued the card provides a certified and current list of students who reside in housing sponsored by the university, college, or technical college to the municipal clerk prior to the election showing the current address of the students and if the municipal clerk, special registration deputy, or inspector verifies that the student presenting the card is included on the list.

6.34(3)(a)8. 

8. A utility bill for the period commencing not earlier than 90 days before the day registration is made.

6.34(3)(a)9. 

9. A bank statement.

6.34(3)(a)10. 
10. A paycheck.

6.34(3)(a)11. 
11. A check or other document issued by a unit of government.

6.34(3)(b) 
(b) The identifying documents prescribed in par. (a) shall contain all of the following in order to be considered proof of residence:

6.34(3)(b)1. 
1. A current and complete name, including both the given and family name.

6.34(3)(b)2. 
2. A current and complete residential address, including a numbered street address, if any, and the name of a municipality.

6.34(3)(c) 
(c) Identifying documents specified in par. (a) which are valid for use during a specified period must be valid on the day that an elector makes application for registration in order to constitute proof of residence.

5.35(5) 
(5) Activities restricted. No polling place may be situated so as to interfere with or distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

7.37(2) 
(2) Preserve order. The inspectors shall possess full authority to maintain order and to enforce obedience to their lawful commands during the election and the canvass of the votes. They shall permit only one person in a voting booth at a time and shall prevent any person from taking notice of how another person has voted, except when assistance is given under s. 6.82. They shall enforce s. 5.35 (5) and prevent electioneering and distribution of election-related material from taking place in violation of ss. 12.03 and 12.035. If any person refuses to obey the lawful commands of an inspector, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any law enforcement officer to remove the person from the voting area or to take the person into custody.

LETTER TO MUNICIPAL CLERKS FROM SHANE FALK, March 18, 2010 (S.S. referenced above.)

State of Wisconsin\Government Accountability Board

JUDGE WILLIAM EICH Chair KEVIN J. KENNEDY Director and General Counsel 212 East Washington Avenue, 3rd Floor Post Office Box 7984
Madison, WI 53707-7984 Voice (608) 266-8005 Fax (608) 267-0500 E-mail: gab@wisconsin.gov http://gab.wi.gov **MEMORANDUM**

DATE: March 18, 2010
TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission
FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board
SUBJECT: Voter Initiated Photo I.D. Requirement

Background

The Government Accountability Board (G.A.B.) has received inquiries regarding an optional "Photo ID" requirement at the request of any elector. In addition, at least one clerk has provided the G.A.B. with an "ID REQUIRED NOTATION on State Voter Registration List" card, which purports to assert that the signor agrees to have the clerk alter SVRS to include the notation "ID REQUIRED" on the poll list. This card purports to assert that the signor agrees to be required to produce a "photo ID" before receiving a ballot.

Discussion

Pursuant to Sec. 5.05(1), Wis. Stats., only the Government Accountability Board is charged with the general authority and responsibility for the administration of Chapters 5-12 of the Wisconsin Statutes. This authority to administer elections includes ch. 6, Subchapter II, Wis. Stats., involving registration and poll lists. Furthermore, Sec. 5.05(15), Wis. Stats., grants specific authority to the G.A.B. and only to the G.A.B. for the design and maintenance of the official registration list under Sec. 6.36, Wis. Stats. This specific grant of authority permits the G.A.B. to require any municipality to adhere to procedures established by the G.A.B. for proper maintenance of the list.

Under current law, the only time the notation "ID Required" will appear on a poll list is for a first-time registrant who has registered by mail without proof of residence. This is found in Sec. 6.34(2), Wis. Stats. The notation on the poll book is to alert the inspectors that some form of "identifying document" must be provided by the elector. The types of acceptable "identifying documents" are found in Sec. 6.34(3), Wis. Stats., one of which is a driver's license, but that is not the exclusive "identifying document" that may be used as proof of residence.

The Statewide Voter Registration System (SVRS) is structured specifically to treat this type of Sec. 6.34(2), Wis. Stats., registration in this manner. The "ID Required" notation on the polls is, in practice, how election officials enforce Sec. 6.34(2), Wis. Stats. There is one single purpose for this "ID Required" notation in the left column of a poll list, for first time registrants who registered by mail, but have not yet provided proof of residence. Once the elector provides an identifying document to establish proof of residence, the inspectors 2

note it and the clerk closes that request item in SVRS. Once closed, it will not appear again, as the statute has been fulfilled.

There is nothing in the current statutes that specifically authorizes a clerk to use SVRS in the fashion requested by these "ID REQUIRED NOTATION on State Voter Registration List" cards. In fact, using this "ID Required" notation in SVRS for such a purpose would dramatically alter the ability to identify electors who truly must establish proof of residence. Uniformity is required in this situation to avoid municipal, county, or state exposure to equal protection or other lawsuits.

At present, neither G.A.B. policy nor state statutes require photo identification, or any type of identification, each election for registered voters. Neither clerks nor electors, though well-intended as they may be, may circumvent the statutes or G.A.B. policy by requesting an "ID REQUIRED" notation on a poll list. In addition, SVRS does not provide a way to specifically address such a request. While SB-350 and AB-814 were introduced in the Legislature, which do address the optional voter identification requirement, neither has actually passed the Legislature. Until such a measure becomes law, the State statutes and G.A.B. policy remain in effect. Reviewing these bills, one begins to appreciate just how many statute sections would need to be revised to accommodate optional voter identification for each election. It would also require a retooling of SVRS to accommodate that function.

Summary

Currently, the law does not authorize nor require optional voter identification for each and every election, once an elector is properly registered. The law is as described above, and the "ID Required" notation in SVRS is used only to enforce the requirements of Sec. 6.34(2), Wis. Stats., nothing more. The purpose of the "ID Required" notation is singular in nature. Pursuant to the authority granted to the G.A.B. and its resultant policy on this issue, clerks shall not honor any "ID REQUIRED NOTATION on State Voter Registration List" card or any other such request.

In responding to these requests from electors, clerks may inform electors of the G.A.B. policy and may also rely upon Secs. 5.35(5) and 7.37(2), Wis. Stats., which provide the clerks and inspectors with authority to preserve order at the polls and keep electors free from interference or distractions, if necessary. It is the responsibility of the G.A.B. to apply the election statutes and election administration rules and regulations uniformly and consistently throughout the state. As such, the "ID Required" notation on poll lists is restricted to those electors that may be subject to Sec. 6.34(2), Wis. Stats., and no others. To use it in any other fashion is a violation of State statutes and G.A.B. policy and therefore, expressly prohibited.

For questions about this clarification, please contact Staff Counsel Shane Falk at (608) 266-2094, or at Shane.Falk@wi.gov. Thank you.

cc: Kevin J. Kennedy

Director and General Counsel
Government Accountability Board

Shane W. Falk

Staff Counsel

Michael R. Haas

Staff Counsel

Diane Lowe

Lead Elections Specialist

PROTECT YOUR IDENTITY, PROTECT YOUR VOTE

Do you realize that right now, in the state of Wisconsin, it is extremely easy to steal another citizen's vote? I could get up early in the morning on Election Day, go to municipalities with the names and addresses of any women living there, give their information, receive the ballots these women would have gotten and vote in their place. It's as easy as that. No questions asked!

This, in fact, did happen to a gentleman in Waukesha County. He went to vote late in the day. He was told he had already voted!! The poll workers refused to give him a ballot and he was furious! How would you feel if you were denied your constitutional right to vote?

We have discovered a way to take care of this problem! The "We're Watching Wisconsin Elections Campaign," a group of Waukesha and Milwaukee County women, have uncovered a little known fact: that on the Statewide Voter Registration System a notation "I.D. REQUIRED" can be placed before the voter's name requiring the poll workers to ask the voter to show their photo ID before giving them a ballot. The SVRS, the Statewide Voter Registration System list, is the same list the poll worker uses to check off your name when you vote at the polls. When you are a registered voter in the state of Wisconsin, your name automatically goes on the SVRS.

How do you get this notation placed before your name?

Citizens must go in person to their local election official's office and request that the notation be placed before their name. Your election official could be the municipal clerk, city clerk, town clerk; the title depends on what your community has assigned to the person responsible for the administration of elections.

Download the attached "Protect Your Vote" Form, fill it out, and take it, along with your photo I.D. to your election official. Request that the ID REQUIRED notation be put before your name on the Statewide Voter Registration List. Every time you vote, ask the poll worker to keep the notation in front of your name.

State Statutes that Defend our Position:

In State Statute 6.34(2)(3), it does say that this notation is to be used for "first time registrants who have registered by mail who still need to show proof of residence" ***but it does not say it is against the law to use it for another purpose.*** We want to use this notation for an additional purpose, that of protecting our votes from identity theft.

There is a Government Accountability Board policy, NOT A STATE LAW, in the Election Day Manual (Page 25), which states an "attempt to compel voters to provide Photo ID would be in direct violation of Wisconsin Law." *We can't find the law and even if it does exist, no one is being compelled to show their ID, we are doing it voluntarily.*

G.A.B. attorneys have also referred us to State Statutes 5.35(5) and 7.37(2) which provide clerks with the authority to preserve order at the polls. They say that this notation would cause confusion and chaos. I just do not see this happening. People are used to showing their I.D.s on a daily basis and it only takes a second to show it to a poll worker.

The SVRS list is accessible to your local election clerk who is responsible for making any changes to the list at the request of the voter: name changes, address changes, etc. This is explained in Wisconsin State Statute 6.36(1)(c). The clerk has a mandate to make changes to the SVRS at the request of the citizen.

I had a phone conversation with Shane Falk, the attorney for the G.A.B. I asked him if there was a law forbidding us to do this. He replied that **there is not a law** against this, only a board policy. We are doing nothing wrong. This is a voter's rights issue, the right to protect our own votes against identity theft, which is an ever present danger in today's world. Our current system is so vulnerable to theft that it defies logic. Please join me in this effort.

I am not an attorney, so I invite you to investigate the state statutes and have a discussion with your clerk. Be pleasant but firm. Please let me know how you do. If you have any questions don't hesitate to contact me.
Ardis Cerny: protectyourvoteproject@gmail.com

“ID REQUIRED” NOTATION on State Voter Registration List

Attn: _____
Local Clerk’s Name and Title

Date: _____

Please enter the notation ID REQUIRED to the left of my name on the State Voter Registration List to indicate to the poll worker that she/he has my permission to require me to produce my photo ID before issuing me a ballot.

Thank You

Voter’s Signature

Address Phone Number

“ID REQUIRED” NOTATION on State Voter Registration List

Attn: _____
Local Clerk’s Name and Title

Date: _____

Please enter the notation ID REQUIRED to the left of my name on the State Voter Registration List to indicate to the poll worker that she/he has my permission to require me to produce my photo ID before issuing me a ballot.

Thank You

Voter’s Signature

Address Phone Number

State of Wisconsin\Government Accountability Board

Exhibit D-1

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: March 18, 2010

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission

FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

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In responding to these requests from electors, clerks may inform electors of the G.A.B. policy and may also rely upon Secs. 5.35(5) and 7.37(2), Wis. Stats., which provide the clerks and inspectors with authority to preserve order at the polls and keep electors free from interference or distractions, if necessary. It is the responsibility of the G.A.B. to apply the election statutes and election administration rules and regulations uniformly and consistently throughout the state. As such, the "ID Required" notation on poll lists is restricted to those electors that may be subject to Sec. 6.34(2), Wis. Stats., and no others. To use it in any other fashion is a violation of State statues and G.A.B. policy and therefore, expressly prohibited.

For questions about this clarification, please contact Staff Counsel Shane Falk at (608) 266-2094, or at Shane.Falk@wi.gov. Thank you.

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

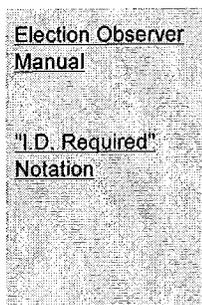
Shane W. Falk
Staff Counsel

Michael R. Haas
Staff Counsel

Diane Lowe
Lead Elections Specialist

"We're Watching..."

Home Legislation The G.A.B. Election Observer Project Poll Worker Project

Poll-worker Project:

**PROTECT YOUR IDENTITY,
PROTECT YOUR VOTE!!!**

IT WORKED!!!!
**AT THE APRIL 6TH ELECTION,
 OUR ORIGINAL
 "TEST CLERK"
 COMPLIED WITH THIS REQUEST
 AND
 OUR "TEST VOTER" HAD TO SHOW THEIR
 I.D. IN ORDER TO VOTE!!**

**CONTINUE TO ASK YOUR ELECTIONS CLERKS
 TO INDICATE THAT I.D. IS REQUIRED IN ORDER FOR YOU TO
 VOTE!!
 IT DOESN'T HURT TO KEEP ASKING!!!**

The "We're Watching Wisconsin Elections" Campaign, a group of Waukesha and Milwaukee County women have uncovered a little known fact! A notation can be placed before your name on the voter rolls that requires the poll-workers to ask you to show your I.D.! In this current environment of identity theft, showing your I.D. in order to vote is a must for the honest citizens of our state.

You can go to your local election officials and request that the notation be placed before your name. Download the "Protect Your Vote" form, fill it out, take it to your election officials and request that the ID REQUIRED notation be put before your name on the State Voter Registration List.

There is no law against your doing this!

There is a Government Accountability Board *policy*, NOT A STATE LAW that states "an attempt to compel voters to provide photo I.D. would be in direct violation of Wisconsin Law".

We can't FIND the law and even if it does exist, you wouldn't be compelled to show your I.D., you would be doing it voluntarily!

E-2

Currently, in our state, an unscrupulous person can go into a polling place, give a local citizen's name and address, and if that name is on the voter list, that person would be given a ballot! The local citizen could come into the polling place later on and he would be denied his constitutional right to vote because someone else has already voted using his name. It's as easy as that to commit vote fraud!

We have a way to protect our own votes and this notation on the State Voter Registration List is that way, so print out the form, take it to your municipal clerk and request that they put the notation "Voter I.D. Required" next to your name!!!



[PROTECT_YOUR_VOTE_FORM.pdf](#)



[PROTECT_YOUR_IDENTITY.docx](#)

If you have questions about anything on our website, please contact us at:

www.protectyourvoteproject@gmail.com

The "We're Watching...Wisconsin Elections" Campaign is a group of unaffiliated citizens following issues affecting Wisconsin Elections.



2009 SENATE BILL 350

October 14, 2009 – Introduced by Senators KANAVAS, CARPENTER, LAZICH, HOPPER, DARLING, LEIBHAM and SCHULTZ, cosponsored by Representatives KRAMER, PETERSEN, DAVIS, KNODL, VOS, ZIPPERER, HUEBSCH, TOWNSEND, STRACHOTA, GUNDERSON and J. OTT. Referred to Committee on Labor, Elections and Urban Affairs.

1 **AN ACT** *to renumber* 6.79 (3); *to renumber and amend* 6.87 (4) and 6.97 (3);
2 *to amend* 5.35 (6) (a) 4a., 6.29 (1), 6.33 (1), 6.79 (2) (a) and (d), 6.79 (3) (title),
3 6.82 (1) (a), 6.86 (1) (ac), 6.86 (1) (ar), 6.86 (3) (a) 1., 6.869, 6.87 (3) (d), 6.875 (6)
4 (c) 1., 6.88 (3) (a), 6.97 (title), 6.97 (1) and (2), 6.97 (4), 7.08 (1) (c), 7.08 (8) (title),
5 7.52 (3) (a) and 10.02 (3) (form) (a); and *to create* 6.345, 6.36 (2) (d), 6.79 (3) (b),
6 6.79 (7), 6.87 (4) (b), 6.965 and 6.97 (3) (a) and (c) of the statutes; **relating to:**
7 an optional identification requirement for voting in elections.

Analysis by the Legislative Reference Bureau

With certain limited exceptions, before being permitted to vote at any polling place, an elector currently must provide his or her name and address. If the elector is not registered, the elector must provide a specified form of proof of residence in order to register. If an elector is not able to present any required proof of residence, as an alternative, current law permits another qualified elector who resides in the same municipality to corroborate the elector's registration information. In addition, an elector other than a military elector or an overseas elector, as defined by federal law, who registers by mail and who has not voted in an election in this state must provide one of the forms of identification specified by federal law, or a copy thereof if voting by absentee ballot, in order to be permitted to vote. Corroboration may not be substituted for this identification requirement, but an elector who cannot provide

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the required identification may cast a provisional ballot. The municipal clerk or board of election commissioners must determine whether electors casting provisional ballots are qualified to vote by 4 p.m. on the day after an election.

With certain limited exceptions, this bill permits any elector, at the time of registration, to elect to be required to provide identification in order to vote in an election. The bill also permits a registered elector to elect to be required to provide identification in order to vote by appearing in person at the office of the municipal clerk or board of election commissioners of the municipality where the elector resides. The elector must sign a statement making the election and provide identification.

Under the bill, the permissible types of identification are: 1) a valid Wisconsin driver's license issued by the Department of Transportation (DOT); 2) a valid, current identification card issued by a U.S. uniformed service; or 3) a valid Wisconsin identification card issued by DOT. With certain limited exceptions, if an elector decides to be subject to an identification requirement, the bill requires the elector to enclose a copy of his or her identification when voting an absentee ballot by mail. Under the bill, if an elector who votes at a polling place has elected to be subject to the identification requirement and fails to provide identification, the elector may vote provisionally. If an elector who votes by absentee ballot has elected to be subject to the identification requirement and fails to enclose a copy of the identification with his or her ballot, the ballot is treated as a provisional ballot. A provisional ballot is marked by the poll workers, who immediately contact the municipal clerk or board of election commissioners. The elector may then provide the required identification either at the polling place before the closing hour or at the office of the clerk or board. If the elector does not provide the required identification to the clerk or board by 4 p.m. on the day following the election, the person's vote is not counted.

The bill provides that an elector who elects to be subject to an identification requirement may revoke the election by appearing at the office of the municipal clerk or board of election commissioners of the municipality where he or she resides and filing a written revocation request. Under the bill, an election to be subject to an identification requirement or a revocation of an election must be filed at least 31 days before the election at which it initially applies.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 SECTION 1. 5.35 (6) (a) 4a. of the statutes is amended to read:
- 2 5.35 (6) (a) 4a. Instructions prescribed by the board for electors for whom
- 3 identification is required under s. 6.345 or for whom proof of residence under s. 6.34
- 4 is required under s. 6.55 (2).

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1 **SECTION 2.** 6.29 (1) of the statutes is amended to read:

2 6.29 (1) No names may be added to a registration list for any election after the
3 close of registration, except as authorized under this section or s. 6.55 (2) or 6.86 (3)
4 (a) 2. Any person whose name is not on the registration list but who is otherwise a
5 qualified elector is entitled to vote at the election upon compliance with this section,
6 if the person complies with all other requirements for voting at the polling place.

7 **SECTION 3.** 6.33 (1) of the statutes is amended to read:

8 6.33 (1) The board shall prescribe the format, size, and shape of registration
9 forms. All forms shall be printed on cards and each item of information shall be of
10 uniform font size, as prescribed by the board. The municipal clerk shall supply
11 sufficient forms to meet voter registration needs. The forms shall be designed to
12 obtain from each applicant information as to name; date; residence location;
13 citizenship; date of birth; age; the number of a valid operator's license issued to the
14 elector under ch. 343 or the last 4 digits of the elector's social security account
15 number; whether the applicant has resided within the ward or election district for
16 at least 10 days; whether the applicant elects to be subject to an identification
17 requirement under s. 6.345 (1); whether the applicant has been convicted of a felony
18 for which he or she has not been pardoned, and if so, whether the applicant is
19 incarcerated, or on parole, probation, or extended supervision; whether the applicant
20 is disqualified on any other ground from voting; and whether the applicant is
21 currently registered to vote at any other location. The form shall include a space for
22 the applicant's signature and the signature of any corroborating elector. The form
23 shall include a space to enter the name of any special registration deputy under s.
24 6.26 or 6.55 (6) or inspector, municipal clerk, or deputy clerk under s. 6.55 (2) who
25 obtains the form and a space for the deputy, inspector, clerk, or deputy clerk to sign

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1 his or her name, affirming that the deputy, inspector, clerk, or deputy clerk has
2 accepted the form. The form shall include a space for entry of the ward and
3 aldermanic district, if any, where the elector resides and any other information
4 required to determine the offices and referenda for which the elector is certified to
5 vote. The form shall also include a space where the clerk may record an indication
6 of whether the form is received by mail, a space where the clerk may record an
7 indication of the type of identifying document submitted by the elector as proof of
8 residence under s. 6.34, whenever required, and a space where the clerk, for any
9 applicant who possesses a valid voting identification card issued to the person under
10 s. 6.47 (3), may record the identification serial number appearing on the voting
11 identification card. Each county clerk shall obtain sufficient registration forms for
12 completion by an elector who desires to register to vote at the office of the county clerk
13 under s. 6.28 (4).

14 **SECTION 4.** 6.345 of the statutes is created to read:

15 **6.345 Optional identification requirement. (1)** Any elector may, at the
16 time of registration, elect to be required to present identification whenever the
17 elector votes at an election.

18 **(2)** Any elector who is registered to vote may, by appearing in person at the
19 office of the municipal clerk or board of election commissioners of the municipality
20 where the elector resides, elect to be required to present identification whenever the
21 elector votes at an election. The municipal clerk or board of election commissioners
22 shall require an elector who makes a request under this subsection to present
23 identification and sign a request on a form prescribed by the government
24 accountability board.

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1 **(3)** Except as provided in ss. 6.79 (7) and 6.87 (4) (b), if an elector has elected
2 to be required to present identification under this section, the elector may not vote
3 in an election unless the elector presents identification.

4 **(4)** An elector who files an election under sub. (1) or (2) may, by appearing
5 personally at the office of the municipal clerk or board of election commissioners of
6 the municipality where the elector resides, file a written revocation of the election
7 on a form prescribed by the government accountability board.

8 **(5)** An election or revocation under this section becomes effective on the 31st
9 day before the next election occurring in the municipality after the election is filed,
10 or if filed later than the 31st day before the next election, on the 31st day before the
11 2nd succeeding election occurring in the municipality after the election is filed.

12 **(6)** In this section, “identification” means any of the following:

13 (a) A valid operator’s license issued to the elector under ch. 343.

14 (b) A valid identification card issued to the elector under s. 343.50.

15 (c) A valid, current identification card issued to the elector by a U.S. uniformed
16 service.

17 **SECTION 5.** 6.36 (2) (d) of the statutes is created to read:

18 **6.36 (2) (d)** The list shall contain, next to the name of each elector, an indication
19 of whether the elector has elected to be required to provide identification under s.
20 6.345.

21 **SECTION 6.** 6.79 (2) (a) and (d) of the statutes are amended to read:

22 **6.79 (2) (a)** Unless information on the poll list is entered electronically, the
23 municipal clerk shall supply the inspectors with 2 copies of the most current official
24 registration list or lists prepared under s. 6.36 (2) (a) for use as poll lists at the polling
25 place. Except as provided in ~~sub.~~ subs. (6) and (7), each ~~person~~ elector, before

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1 receiving a serial number, shall state his or her full name and address and, if the poll
2 list indicates that the elector has elected to be subject to an identification
3 requirement under s. 6.345, present to the officials a valid operator's license issued
4 to the elector under ch. 343, a valid, current identification card issued to the elector
5 by a U.S. uniformed service, or a valid identification card issued to the elector under
6 s. 343.50. The officials shall verify that the name and address provided stated by the
7 person elector are the same as the person's elector's name and address on the poll list.

8 (d) If the poll list, indicates that proof of residence under s. 6.34 is required and
9 any document provided by the elector under par. (a) does not constitute proof of
10 residence under s. 6.34, the officials shall require the elector to provide proof of
11 residence. If proof of residence is provided, the officials shall verify that the name
12 and address on the document submitted as proof of residence provided is the same
13 as the name and address shown on the registration list. If proof of residence is
14 required and not provided, or if the elector does not present a license or identification
15 card under par. (a), whenever required, the officials shall offer the opportunity for
16 the elector to vote under s. 6.97.

17 **SECTION 7.** 6.79 (3) (title) of the statutes is amended to read:

18 6.79 (3) (title) ~~REFUSAL TO GIVE NAME AND ADDRESS~~ PROVIDE NAME, ADDRESS,
19 LICENSE, OR IDENTIFICATION CARD.

20 **SECTION 8.** 6.79 (3) of the statutes is renumbered 6.79 (3) (a).

21 **SECTION 9.** 6.79 (3) (b) of the statutes is created to read:

22 6.79 (3) (b) If the poll list indicates that the elector has elected to be subject to
23 an identification requirement under s. 6.345 and identification under sub. (2) is not
24 provided by the elector, or if the name or any photograph appearing on the document
25 that is provided cannot be verified by the officials, the elector shall not be permitted

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1 to vote, except as authorized under sub. (7), but if the elector is entitled to cast a
2 provisional ballot under s. 6.97, the officials shall offer the opportunity for the elector
3 to vote under s. 6.97.

4 **SECTION 10.** 6.79 (7) of the statutes is created to read:

5 **6.79 (7) LICENSE SURRENDER.** If an elector is required to provide identification
6 under s. 6.345 and the elector receives a citation or notice of intent to revoke or
7 suspend an operator's license from a law enforcement officer in any jurisdiction that
8 is dated within 60 days of the date of an election and the elector is required to
9 surrender his or her operator's license issued to the elector under ch. 343 at the time
10 the citation or notice is issued, the elector may present an original copy of the citation
11 or notice in lieu of an operator's license under ch. 343. In such case, the elector shall
12 cast his or her ballot under s. 6.965.

13 **SECTION 11.** 6.82 (1) (a) of the statutes is amended to read:

14 **6.82 (1) (a)** When any inspectors are informed that an elector is at the entrance
15 to the polling place who as a result of disability is unable to enter the polling place,
16 they shall permit the elector to be assisted in marking a ballot by any individual
17 selected by the elector, except the elector's employer or an agent of that employer or
18 an officer or agent of a labor organization which represents the elector. ~~The~~ If the
19 elector is required to provide identification under s. 6.345, except as authorized in
20 s. 6.79 (7), the individual selected by the elector shall present to the inspectors a valid
21 operator's license issued to the elector under ch. 343, a valid, current identification
22 card issued to the elector by a U.S. uniformed service, or a valid identification card
23 issued to the elector under s. 343.50 and, if the license or identification card does not
24 constitute proof of residence under s. 6.34, shall also provide proof of residence under
25 s. 6.34 for the assisted elector, whenever required, and all other information

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1 necessary for the elector to obtain a ballot under s. 6.79 (2). The inspectors shall issue
2 a ballot to the individual selected by the elector and shall accompany the individual
3 to the polling place entrance where the assistance is to be given. If the ballot is a
4 paper ballot, the assisting individual shall fold the ballot after the ballot is marked
5 by the assisting individual. The assisting individual shall then immediately take the
6 ballot into the polling place and give the ballot to an inspector. The inspector shall
7 distinctly announce that he or she has “a ballot offered by (stating person’s name),
8 an elector who, as a result of disability, is unable to enter the polling place without
9 assistance”. The inspector shall then ask, “Does anyone object to the reception of this
10 ballot?” If no objection is made, the inspectors shall record the elector’s name under
11 s. 6.79 and deposit the ballot in the ballot box, and shall make a notation on the poll
12 list: “Ballot received at poll entrance”.

13 **SECTION 12.** 6.86 (1) (ac) of the statutes is amended to read:

14 6.86 (1) (ac) Any elector qualifying under par. (a) may make written application
15 to the municipal clerk for an official ballot by means of facsimile transmission or
16 electronic mail. Any application under this paragraph shall contain a copy of the
17 applicant’s original signature. An elector requesting a ballot under this paragraph
18 shall return with the voted ballot a copy of the request bearing an original signature
19 of the elector as provided in s. 6.87 (4) (a).

20 **SECTION 13.** 6.86 (1) (ar) of the statutes is amended to read:

21 6.86 (1) (ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not
22 issue an absentee ballot unless the clerk receives a written application therefor from
23 a qualified elector of the municipality. The clerk shall retain each absentee ballot
24 application until destruction is authorized under s. 7.23 (1). Except as authorized
25 in s. 6.79 (7), if an elector is required to provide identification under s. 6.345 and the

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1 elector applies for an absentee ballot in person at the clerk's office, the clerk shall not
2 issue the elector an absentee ballot unless the elector presents a valid operator's
3 license issued to the elector under ch. 343, a valid, current identification card issued
4 to the elector by a U.S. uniformed service, or a valid identification card issued to the
5 elector under s. 343.50. Notwithstanding s. 343.43 (1) (f), the clerk shall make a copy
6 of the document presented by the elector and shall enclose the copy in the certificate
7 envelope.

8 **SECTION 14.** 6.86 (3) (a) 1. of the statutes is amended to read:

9 6.86 (3) (a) 1. Any elector who is registered and who is hospitalized, may apply
10 for and obtain an official ballot by agent. The agent may apply for and obtain a ballot
11 for the hospitalized absent elector by presenting a form prescribed by the board and
12 containing the required information supplied by the hospitalized elector and signed
13 by that elector and ~~any other elector residing in the same municipality as the~~
14 ~~hospitalized elector, corroborating the information contained therein. The~~
15 ~~corroborating elector shall state on the form his or her full name and address. Except~~
16 as authorized in s. 6.87 (4) (b), if the elector is required to provide identification under
17 s. 6.345, the agent shall present the identification required under sub. (1) (ar).
18 Notwithstanding s. 343.43 (1) (f), the clerk shall make a copy of the document
19 presented by the agent and shall enclose the copy in the certificate envelope.

20 **SECTION 15.** 6.869 of the statutes is amended to read:

21 **6.869 Uniform instructions.** The board shall prescribe uniform instructions
22 for absentee voters. The instructions shall include information concerning the
23 procedure for correcting errors in marking a ballot and obtaining a replacement for
24 a spoiled ballot. The procedure shall, to the extent possible, respect the privacy of
25 each elector and preserve the confidentiality of each elector's vote. For electors who

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1 are subject to an identification requirement under s. 6.345, the instructions shall
2 include information regarding the identification that is required under s. 6.86 (1) (ar)
3 or the copy of the identification that is required under s. 6.87 (4).

4 **SECTION 16.** 6.87 (3) (d) of the statutes is amended to read:

5 6.87 (3) (d) A municipal clerk may, if the clerk is reliably informed by an absent
6 elector of a facsimile transmission number or electronic mail address where the
7 elector can receive an absentee ballot, transmit a facsimile or electronic copy of the
8 absent elector's ballot to that elector in lieu of mailing under this subsection if, in the
9 judgment of the clerk, the time required to send the ballot through the mail may not
10 be sufficient to enable return of the ballot by the time provided under sub. (6). An
11 elector may receive an absentee ballot under this subsection only if the elector has
12 filed a valid application for the ballot under s. 6.86 (1). If the clerk transmits an
13 absentee ballot under this paragraph, the clerk shall also transmit a facsimile or
14 electronic copy of the text of the material that appears on the certificate envelope
15 prescribed in sub. (2), together with instructions prescribed by the board. The
16 instructions shall require the absent elector to make and subscribe to the
17 certification as required under sub. (4) (a) and to enclose the absentee ballot in a
18 separate envelope contained within a larger envelope, that shall include the
19 completed certificate. The elector shall then affix sufficient postage unless the
20 absentee ballot qualifies for mailing free of postage under federal free postage laws
21 and shall mail the absentee ballot to the municipal clerk. Except as authorized in
22 s. 6.97 (2), an absentee ballot received under this paragraph shall not be counted
23 unless it is cast in the manner prescribed in this paragraph and in accordance with
24 the instructions provided by the board.

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1 **SECTION 17.** 6.87 (4) of the statutes is renumbered 6.87 (4) (a) and amended to
2 read:

3 6.87 (4) (a) Except as otherwise provided in s. 6.875, the elector voting absentee
4 shall make and subscribe to the certification before one witness who is an adult U.S.
5 citizen. The absent elector, in the presence of the witness, shall mark the ballot in
6 a manner that will not disclose how the elector's vote is cast. The elector shall then,
7 still in the presence of the witness, fold the ballots so each is separate and so that the
8 elector conceals the markings thereon and deposit them in the proper envelope. If
9 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that
10 the elector conceals the markings thereon and deposit the ballot in the proper
11 envelope. ~~If proof of residence is required, Except as authorized in par. (b) and~~
12 ~~notwithstanding s. 343.43 (1) (f), if the elector is required to provide identification~~
13 ~~under s. 6.345, the elector shall enclose a copy of the identification in the envelope.~~
14 ~~If proof of residence under s. 6.34 is required and the document enclosed by the~~
15 ~~elector under this paragraph does not constitute proof of residence under s. 6.34, the~~
16 elector shall also enclose proof of residence under s. 6.34 in the envelope. Proof of
17 residence is required if the elector is not a military elector or an overseas elector, as
18 defined in s. 6.34 (1), and the elector registered by mail and has not voted in an
19 election in this state. If the elector requested a ballot by means of facsimile
20 transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the
21 envelope a copy of the request which bears an original signature of the elector. The
22 elector may receive assistance under sub. (5). The return envelope shall then be
23 sealed. The witness may not be a candidate. The envelope shall be mailed by the
24 elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.
25 If the envelope is mailed from a location outside the United States, the elector shall

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1 affix sufficient postage unless the ballot qualifies for delivery free of postage under
2 federal law. Failure to return an unused ballot in a primary does not invalidate the
3 ballot on which the elector's votes are cast. Return of more than one marked ballot
4 in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an
5 electronic voting system in a primary which is marked for candidates of more than
6 one party invalidates all votes cast by the elector for candidates in the primary.

7 **SECTION 18.** 6.87 (4) (b) of the statutes is created to read:

8 6.87 (4) (b) If the absentee elector is required to provide identification under
9 s. 6.345 and the elector has received a citation or notice of intent to revoke or suspend
10 an operator's license from a law enforcement officer in any jurisdiction that is dated
11 within 60 days of the date of the election and the elector is required to surrender his
12 or her operator's license issued to the elector under ch. 343 at the time the citation
13 or notice is issued, the elector may enclose a copy of the citation or notice in lieu of
14 an operator's license under ch. 343 if the elector is voting by mail, or may present an
15 original copy of the citation or notice in lieu of an operator's license under ch. 343 if
16 the elector is voting at the office of the municipal clerk.

17 **SECTION 19.** 6.875 (6) (c) 1. of the statutes is amended to read:

18 6.875 (6) (c) 1. Upon their visit to the home or facility under par. (a), the
19 deputies shall personally offer each elector who has filed a proper application for an
20 absentee ballot the opportunity to cast his or her absentee ballot. If an elector is
21 present who has not filed a proper application for an absentee ballot, the 2 deputies
22 may accept an application from the elector and shall issue a ballot to the elector if
23 the elector is qualified, the elector presents identification, whenever required under
24 s. 6.345. and the application is proper. The deputies shall each witness the
25 certification and may, upon request of the elector, assist the elector in marking the

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1 elector's ballot. All voting shall be conducted in the presence of the deputies. Upon
2 request of the elector, a relative of the elector who is present in the room may assist
3 the elector in marking the elector's ballot. No individual other than a deputy may
4 witness the certification and no individual other than a deputy or relative of an
5 elector may render voting assistance to the elector.

6 **SECTION 20.** 6.88 (3) (a) of the statutes is amended to read:

7 6.88 (3) (a) Except in municipalities where absentee ballots are canvassed
8 under s. 7.52, at any time between the opening and closing of the polls on election day,
9 the inspectors shall, in the same room where votes are being cast, in such a manner
10 that members of the public can hear and see the procedures, open the carrier
11 envelope only, and announce the name of the absent elector or the identification
12 serial number of the absent elector if the elector has a confidential listing under s.
13 6.47 (2). When the inspectors find that the certification has been properly executed,
14 the applicant is a qualified elector of the ward or election district, and the applicant
15 has not voted in the election, they shall enter an indication on the poll list next to the
16 applicant's name indicating an absentee ballot is cast by the elector. They shall then
17 open the envelope containing the ballot in a manner so as not to deface or destroy the
18 certification thereon. The inspectors shall take out the ballot without unfolding it
19 or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
20 the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If
21 the poll list indicates that proof of residence under s. 6.34 is required and no proof
22 of residence is enclosed or the name or address on the document that is provided is
23 not the same as the name and address shown on the poll list, or if the elector is
24 required to provide identification under s. 6.345 and no copy of the identification is
25 enclosed or the name on the document that is provided cannot be verified by the

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1 inspectors, the inspectors shall proceed as provided under s. 6.97 (2). The inspectors
2 shall then deposit the ballot into the proper ballot box and enter the absent elector's
3 name or voting number after his or her name on the poll list in the same manner as
4 if the elector had been present and voted in person.

5 **SECTION 21.** 6.965 of the statutes is created to read:

6 **6.965 Voting procedure for electors presenting citation or notice in**
7 **lieu of license.** Whenever any elector is allowed to vote at a polling place under s.
8 6.79 (7) by presenting a citation or notice of intent to revoke or suspend an operator's
9 license in lieu of an operator's license issued to the elector under ch. 343, the
10 inspectors shall, before giving the elector a ballot, write on the back of the ballot the
11 serial number of the elector corresponding to the number kept at the election on the
12 poll list or other list maintained under s. 6.79 and the notation "s. 6.965." If voting
13 machines are used in the municipality where the elector is voting, the elector's vote
14 may be received only upon an absentee ballot furnished by the municipal clerk which
15 shall have the notation "s. 6.965" written on the back of the ballot by the inspectors
16 before the ballot is given to the elector. If the municipal clerk receives an absentee
17 ballot from an elector who presents a citation or notice, or copy thereof, under s. 6.87
18 (4) (b), the clerk shall enter a notation on the certificate envelope "Ballot under s.
19 6.965, stats." Upon receiving the envelope, the inspectors shall open and write on
20 the back of the ballot the serial number of the elector corresponding to the number
21 kept at the election on the poll list or other list maintained under s. 6.79 and the
22 notation "s. 6.965." The inspectors shall indicate on the poll list or other list
23 maintained under s. 6.79 the fact that the elector is voting by using a citation or
24 notice in lieu of a license. The inspectors shall then deposit the ballot. The ballot
25 shall then be counted under s. 5.85, or under s. 7.51 or 7.52.

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1 **SECTION 22.** 6.97 (title) of the statutes is amended to read:

2 **6.97 (title) Voting procedure for individuals not providing required**
3 **proof of residence or identification.**

4 **SECTION 23.** 6.97 (1) and (2) of the statutes are amended to read:

5 **6.97 (1)** Whenever any individual who is required to provide proof of residence
6 under s. 6.34 in order to be permitted to vote appears to vote at a polling place and
7 cannot provide the required proof of residence, the inspectors shall offer the
8 opportunity for the individual to vote under this section. Whenever any individual
9 who is required to provide identification under s. 6.345 appears to vote at a polling
10 place and does not present identification, the inspectors or the municipal clerk shall
11 similarly offer the opportunity for the individual to vote under this section. If the
12 individual wishes to vote, the inspectors shall provide the elector with an envelope
13 marked "Ballot under s. 6.97, stats." on which the serial number of the elector is
14 entered and shall require the individual to execute on the envelope a written
15 affirmation stating that the individual is a qualified elector of the ward or election
16 district where he or she offers to vote and is eligible to vote in the election. The
17 inspectors shall, before giving the elector a ballot, write on the back of the ballot the
18 serial number of the individual corresponding to the number kept at the election on
19 the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". If voting
20 machines are used in the municipality where the individual is voting, the
21 individual's vote may be received only upon an absentee ballot furnished by the
22 municipal clerk which shall have the corresponding number from the poll list or
23 other list maintained under s. 6.79 and the notation "s. 6.97" written on the back of
24 the ballot by the inspectors before the ballot is given to the elector. When receiving
25 the individual's ballot, the inspectors shall provide the individual with written

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1 voting information prescribed by the board under s. 7.08 (8). The inspectors shall
2 indicate on the list the fact that the individual is required to provide proof of
3 residence or identification under s. 6.345 but did not do so. The inspectors shall
4 notify the individual that he or she may provide proof of residence or identification
5 to the municipal clerk or executive director of the municipal board of election
6 commissioners. The inspectors shall also promptly notify the municipal clerk or
7 executive director of the name, address, and serial number of the individual. The
8 inspectors shall then place the ballot inside the envelope and place the envelope in
9 a separate carrier envelope.

10 (2) Whenever any individual who votes by absentee ballot is required to
11 provide proof of residence in order to be permitted to vote and does not provide the
12 required proof of residence under s. 6.34, the inspectors shall treat the ballot as a
13 provisional ballot under this section. Whenever any individual who is required to
14 provide identification under s. 6.345, other than an individual who is exempted
15 under s. 6.87 (4), votes by absentee ballot and does not enclose a copy of the
16 identification specified in s. 6.86 (1) (ar), the inspectors shall similarly treat the
17 ballot as a provisional ballot under this section. Upon removing the ballot from the
18 envelope, the inspectors shall write on the back of the absentee ballot the serial
19 number of the individual corresponding to the number kept at the election on the poll
20 list or other list maintained under s. 6.79 and the notation "s. 6.97". The inspectors
21 shall indicate on the list the fact that the individual is required to provide proof of
22 residence or a copy of the identification specified in s. 6.86 (1) (ar) but did not do so.
23 The inspectors shall promptly notify the municipal clerk or executive director of the
24 municipal board of election commissioners of the name, address, and serial number
25 of the individual. The inspectors shall then place the ballot inside an envelope on

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1 which the name and serial number of the elector is entered and shall place the
2 envelope in a separate carrier envelope.

3 **SECTION 24.** 6.97 (3) of the statutes is renumbered 6.97 (3) (b) and amended to
4 read:

5 6.97 (3) (b) Whenever the municipal clerk or executive director of the municipal
6 board of election commissioners is informed by the inspectors that a ballot has been
7 cast under this section, the clerk or executive director shall promptly provide written
8 notice to the board of canvassers of each municipality, special purpose district, and
9 county that is responsible for canvassing the election of the number of ballots cast
10 under this section in each ward or election district. The municipal clerk or executive
11 director then shall determine whether each individual voting under this section is
12 qualified to vote in the ward or election district where the individual's ballot is cast.
13 If the elector is required to provide a license or identification card or copy thereof
14 under s. 6.79 (2) or 6.87 (4) and fails to do so, the elector bears the burden of correcting
15 the omission by providing the license or identification card or copy thereof at the
16 polling place before the closing hour or at the office of the municipal clerk or board
17 of election commissioners no later than 4 p.m. on the day after the election. The
18 municipal clerk or executive director shall make a record of the procedure used to
19 determine the validity of each ballot cast under this section. If, prior to 4 p.m. on the
20 day after the election, the municipal clerk or executive director determines that the
21 individual is qualified to vote in the ward or election district where the individual's
22 ballot is cast, the municipal clerk or executive director shall notify the board of
23 canvassers for each municipality, special purpose district and county that is
24 responsible for canvassing the election of that fact.

25 **SECTION 25.** 6.97 (3) (a) and (c) of the statutes are created to read:

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1 6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1)
2 or (2) because the elector does not provide a license or identification card or copy
3 thereof under s. 6.79 (2) or 6.87 (4) later appears at the polling place where the ballot
4 is cast before the closing hour and provides the license or identification card, the
5 inspectors shall remove the elector's ballot from the separate carrier envelope, shall
6 note on the poll list that the elector's provisional ballot is withdrawn, and shall
7 deposit the elector's ballot in the ballot box. If the inspectors have notified the
8 municipal clerk or executive director of the board of election commissioners that the
9 elector's ballot was cast under this section, the inspectors shall notify the clerk or
10 executive director that the elector's provisional ballot is withdrawn.

11 (c) A ballot cast under this section by an elector for whom a valid license or
12 identification card or copy thereof is required under s. 6.79 (2) or 6.87 (4) shall not
13 be counted unless the municipal clerk or executive director of the board of election
14 commissioners provides timely notification that the elector has provided a valid
15 license or identification card or copy thereof under this section.

16 **SECTION 26.** 6.97 (4) of the statutes is amended to read:

17 6.97 (4) Whenever a board of canvassers receives timely notification from the
18 municipal clerk or executive director of the board of election commissioners under
19 sub. (3) (b) that an individual who has voted under this section is qualified to vote
20 in the ward or election district where the individual's ballot is cast, the board of
21 canvassers shall promptly reconvene and, if the ballot cast by the individual is
22 otherwise valid, shall count the ballot and adjust the statements, certifications and
23 determinations accordingly. If the municipal clerk or executive director transmits
24 returns of the election to the county clerk or board of election commissioners, the
25 municipal clerk or executive director shall transmit to the county clerk or board of

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1 election commissioners a copy of the amended returns together with all additional
2 ballots counted by each board of canvassers.

3 **SECTION 27.** 7.08 (1) (c) of the statutes is amended to read:

4 7.08 (1) (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1),
5 6.345, 6.40 (1) (a), 6.47 (1) (am) 2. and (3), 6.55 (2), and 6.86 (2) to (3). All such forms
6 shall contain a statement of the penalty applicable to false or fraudulent registration
7 or voting through use of the form. Forms are not required to be furnished by the
8 board.

9 **SECTION 28.** 7.08 (8) (title) of the statutes is amended to read:

10 7.08 (8) (title) ELECTORS VOTING WITHOUT PROOF OF RESIDENCE OR IDENTIFICATION
11 OR PURSUANT TO COURT ORDER.

12 **SECTION 29.** 7.52 (3) (a) of the statutes is amended to read:

13 7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier
14 envelope only, and, in such a manner that a member of the public, if he or she desired,
15 could hear, announce the name of the absent elector or the identification serial
16 number of the absent elector if the elector has a confidential listing under s. 6.47 (2).
17 When the board of absentee ballot canvassers finds that the certification has been
18 properly executed and the applicant is a qualified elector of the ward or election
19 district, the board of absentee ballot canvassers shall enter an indication on the poll
20 list next to the applicant's name indicating an absentee ballot is cast by the elector.
21 The board of absentee ballot canvassers shall then open the envelope containing the
22 ballot in a manner so as not to deface or destroy the certification thereon. The board
23 of absentee ballot canvassers shall take out the ballot without unfolding it or
24 permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the
25 board of absentee ballot canvassers shall verify that the ballot has been endorsed by

SENATE BILL 350**SECTION 29**

1 the issuing clerk. If the poll list indicates that proof of residence is required and no
2 proof of residence is enclosed or the name or address on the document that is provided
3 is not the same as the name and address shown on the poll list, or if the elector is
4 required to provide a copy of identification under s. 6.87 (4) and no copy of the
5 identification is enclosed or the name on the document cannot be verified by the
6 canvassers, the board of absentee ballot canvassers shall proceed as provided under
7 s. 6.97 (2). The board of absentee ballot canvassers shall mark the poll list number
8 of each elector who casts an absentee ballot on the back of the elector's ballot. The
9 board of absentee ballot canvassers shall then deposit the ballot into the proper
10 ballot box and enter the absent elector's name or poll list number after his or her
11 name on the poll list.

12 **SECTION 30.** 10.02 (3) (form) (a) of the statutes is amended to read:

13 10.02 (3) (form) (a) Upon entering the polling place and before being permitted
14 to vote, an elector shall state his or her name and address. If an elector is not
15 registered to vote, an elector may register to vote at the polling place serving his or
16 her residence if the elector provides proof of residence or the elector's registration is
17 verified by another elector of the same municipality where the elector resides. If an
18 elector has elected to be subject to an identification requirement under s. 6.345 (1),
19 and any proof of residence provided by the elector does not constitute identification,
20 the elector shall also present a valid Wisconsin operator's license, a valid, current
21 identification card issued to the elector by a U.S. uniformed service, or a valid
22 Wisconsin identification card unless the elector is exempted from this requirement.
23 Where ballots are distributed to electors, the initials of 2 inspectors must appear on
24 the ballot. Upon being permitted to vote, the elector shall retire alone to a voting
25 booth or machine and cast his or her ballot, except that an elector who is a parent or

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1 guardian may be accompanied by the elector's minor child or minor ward. An
2 election official may inform the elector of the proper manner for casting a vote, but
3 the official may not in any manner advise or indicate a particular voting choice.

4 **SECTION 31. Initial applicability.**

5 (1) This act first applies with respect to voting at the 2011 spring primary
6 election.

7 **SECTION 32. Effective date.**

8 (1) This act takes effect on January 1, 2011.

9 (END)

State of Wisconsin \ Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, 3rd Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of May 10, 2010

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel

Prepared and Presented by:
Michael Haas, Staff Counsel

SUBJECT: Implementation of Impartial Justice Act

On April 29, 2010, Governor Doyle signed into law 2009 Act 216, a trailer bill to 2009 Act 89, the Impartial Justice Bill, which had been signed into law on December 1, 2009. Board staff had initiated the trailer legislation to clarify several provisions related to the administration of the original Act, including its applicability to candidates for Wisconsin Supreme Court Justice in the 2011 Spring Election. This memorandum provides an outline regarding significant provisions of the Impartial Justice Act, and the status of the Board's implementation of the Act. No additional Board action is required at this time. The terms "Impartial Justice Act" or "the Act" in this memorandum refer to the current statutory provisions created by 2009 Act 89, as amended by 2009 Act 216.¹

Summary of Impartial Justice Act

The Impartial Justice Act established a voluntary public financing program for campaigns for the office of Wisconsin Supreme Court Justice. The trailer bill clarified that, for purposes of the 2011 Supreme Court election, the initial effective date of the Act is May 1, 2010. The Act establishes a Democracy Trust Fund ("the Fund"), from which eligible candidates may receive public financing. The Fund receives money first from voluntary taxpayer contributions, using the "check-off" box on Wisconsin income tax returns, and from general state revenue if there is a shortfall in the amount of funds needed to cover the public financing obligations established in the Act. Also, the unencumbered balance remaining in the existing Wisconsin Elections Campaign Fund reserved for Supreme Court candidates is transferred into the Democracy Trust Fund as of May 1, 2010. The Government Accountability Board is delegated the responsibility and authority to administer and enforce the Act, except for administration of the Fund, which is delegated to the State Treasurer.

¹ This memorandum borrows heavily from a summary of the Impartial Justice Act included in a Department of Justice court brief authored by Assistant Attorney General Thomas C. Bellavia. The authors acknowledge and appreciate his assistance.

Candidates are free to choose whether to participate in the public funding program or to conduct privately-financed campaigns. Candidates who choose to receive public funding must agree to comply with all requirements of the Act, including strict limitations on private fund-raising activity and campaign spending. To qualify to participate in the Fund, candidates must file an application with the Board and must collect qualifying contributions of \$5 to \$100 each from at least 1,000 contributors in an aggregate amount of \$5,000 to \$15,000 during the public financing qualifying period. The qualifying period runs from July 1 in the year prior to the applicable Supreme Court election until the first Tuesday in January, which is the last day for filing nomination papers for the Spring Election.

Candidates may also raise private seed money contributions during the exploratory and qualifying periods. The exploratory period begins the day after the Spring Election in the year prior to a Supreme Court election and ends on July 1 of the same year, except that the exploratory period for the 2011 Supreme Court election begins on May 1, 2010. During the exploratory and qualifying periods a participating candidate may receive seed money contributions of up to \$100 each from Wisconsin electors and up to \$5,000 of personal funds, for a maximum total of \$5,000 in seed money contributions. Therefore, the maximum amount of private funds that may be legally raised and spent by a participating candidate is \$20,000. Any seed money or qualifying contributions exceeding that total must be transferred to the Board and are deposited into the Democracy Trust Fund.

After the deadline for filing nomination papers, a qualifying candidate may not receive any additional private contributions during the course of the campaign. An eligible candidate may make disbursements from seed money contributions and a candidate's personal contributions only during the exploratory period and qualifying period. Qualifying contributions other than a candidate's personal contributions may be spent throughout the campaign. Campaign spending by a participating candidate is limited to the total amount of the public financing benefit received by that candidate plus the total qualifying and seed money contributions received by the candidate.

Upon the Board's determination that a candidate has become eligible to participate in the Fund (by the candidate certifying to the Board that the candidate has complied with and will comply with all requirements of the Act, and by confirmation that the candidate has received the requisite qualifying contributions), the candidate receives the public financing benefit. The public financing benefit is a grant issued by the State Treasurer in the form of a line of credit from the Democracy Trust Fund. Participating candidates who qualify for the Spring Primary receive an initial grant of \$100,000 for use in the primary election campaign, and candidates qualifying for the Spring Election receive an additional grant of \$300,000.

In addition to these initial grants, the Act requires the State Treasurer to provide participating candidates with matching funds, up to a total of three times the initial grant, upon the occurrence of certain triggering events. The matching funds are issued when (1) a non-participating, privately-funded opponent's campaign expenditures exceed 5% above the initial public grant (\$105,000 in the Primary and \$315,000 in the Spring Election); or (2) aggregate independent expenditures against a participating candidate exceed 120% of the initial public grant (\$120,000 in the primary and \$360,000 in the spring election. No matching funds are provided to a participating candidate if either of these triggering events does not occur.

The intent of the matching funds is to provide participating candidates some assurance that sufficient funds will be available to conduct a viable campaign in a competitive election. In doing so, the matching funds provide an incentive for participation in the Fund, and thereby support the Act's goals of reducing the potential for electoral corruption and increasing the amount of speech in Supreme Court races.

To facilitate administration and enforcement of the Act, participating and non-participating candidates and independent committees must comply with certain reporting requirements. Participating candidates must comply with record-keeping and reporting requirements related to seed money and qualifying contributions. Records of a participating candidate's seed money contributions, qualifying contributions and disbursements must be provided to the Board on either the 15th or the last day of the month, whichever comes first, that immediately follows the receipt of the contribution or making of the disbursement, except that records need only be furnished by the last day of the month in July, August, and September.

Non-participating candidates who receive contributions or make expenditures exceeding the matching fund threshold must file a report with the Board itemizing all such contributions and disbursements, and must continue to file such reports after each \$1,000 of such contributions received or expenditures made. If those reportable events occur more than six weeks prior to the primary, then the non-participating candidate must make the report on the immediately following 15th or last day of the month, except in July, August, and September, when reports must be furnished only by the last day of the month. If the reportable event occurs within six weeks of the primary or after, the report must be made within 24 hours after the contribution is received or the expenditure is made.

Individuals or committees that make independent expenditures exceeding \$1,000 with respect to a candidate for the office of Justice must file reports with the Board on the 15th or last day of the month following the expenditure, whichever occurs earlier, and must continue to file reports after each additional \$1,000 of expenditures are made or obligated. These reporting requirements for non-participating candidates and independent expenditures form the basis for determining the availability of matching funds to participating candidates.

The Act also reduces the maximum contribution to a non-participating candidate (other than from a self-contribution) from \$10,000 to \$1,000. Finally, violations of the Act are subject to various civil and criminal penalties, including repayment of the public financing grant, civil forfeitures up to 10 times the amount of any illegal contribution or disbursement, and felony prosecution for intentionally accepting illegal contributions or knowingly providing false information to the Board.

Implementation of Impartial Justice Act

Board staff has begun the process of implementing the Impartial Justice Act by drafting forms for use by participating candidates and other educational materials. The exploratory period for the 2011 Supreme Court election began on May 1, 2010, and the public financing qualifying period begins on July 1, 2010. Staff is also consulting with the State Treasurer's office to coordinate efforts regarding implementation of the Act.

Attached is a draft Application form for use by candidates seeking to participate in the Democracy Trust Fund. Also attached are a draft set of guidelines for participating candidates, non-participating candidates, and independent committees outlining relevant provisions of the Act. Staff will continue to provide information and forms to these interested parties as well as to the public.

These documents are for the Board's information and no action is required at this time.

Wisconsin Impartial Justice Act and Democracy Trust Fund

Overview of Statutory Provisions

The Democracy Trust Fund (“the Fund”) was created by 2009 Act 89 and 2009 Act 216 (collectively, “the Impartial Justice Act” or “the Act”). The Impartial Justice Act established a voluntary public financing program for campaigns for the office of Wisconsin Supreme Court Justice. For qualifying candidates, the Act provides public financing grants in return for the candidate abiding by strict fundraising and expenditure restrictions.

The amount of the grants are \$150,000 for candidates qualifying for a Spring Primary, and \$300,000 for candidates qualifying for the Spring Election. In addition, participating candidates are awarded matching funds in the event that an opposing, non-participating candidate or independent individuals or committees exceed contributions or expenditures above certain threshold amounts in opposition to the participating candidate.

The Impartial Justice Act took effect on May 1, 2010. The Democracy Trust Fund is administered and enforced by the Government Accountability Board, except that public financing grants are issued to participating candidates as a line of credit by the State Treasurer.

This summary is intended to provide guidance to candidates for the office of Supreme Court Justice as either a participating or nonparticipating candidate in the Democracy Trust Fund, and to individuals and committees interested in engaging in independent expenditures to expressly advocate the election or defeat of a candidate for Supreme Court Justice. This Summary is not intended as legal advice or as a substitute for consulting the Wisconsin Statutes or any other applicable rules or procedures of the Government Accountability Board (“the Board”).

A. Selected Definitions

- 1) “Election campaign period” means the period beginning on the day after the Spring Primary election or the day on which a primary election would be held, if required, and ending on the day of the succeeding Spring Election. §11.501(3), Stats.
- 2) “Eligible candidate” means a candidate for the office of Supreme Court Justice who has an opponent who has qualified to have his or her name certified for placement on the ballot at the Spring Primary or Spring Election, and who qualifies for a public financing benefit by collecting the required number of qualifying contributions, making all required reports and disclosures, and being certified by the Board as in compliance with the provisions of the Act. §11.501(4), Stats.

- 3) “Excess qualifying contribution amount” means the amount of qualifying contributions accepted by a candidate beyond the number or dollar amount of contributions required to qualify a candidate for a public financing benefit. §11.501(6), Stats.
- 4) “Exploratory period” means the period beginning after the date of a Spring Election in the year prior to an election for Supreme Court Justice and ending on the first day of the public financing qualifying period (June 1) for said Justice position. **However**, the exploratory period applicable to the 2011 election for Supreme Court Justice begins on May 1, 2010. §11.501(7), Stats.; Section 10(1) Nonstatutory provisions of 2009 Wisconsin Act 216.
- 5) “Nonparticipating candidate” means a candidate who does not apply for a public financing benefit or who is otherwise ineligible or fails to qualify for the public financing benefit. §11.501(11), Stats.
- 6) “Primary election campaign period” means the period beginning on the day after the deadline for filing nomination papers for the office of Supreme Court Justice and ending on the day of the Spring Primary election for that office or the day on which the Primary election would be held, if required. §11.501(13), Stats.
- 7) “Public financing benefit” means a benefit provided to an eligible candidate for the office of Supreme Court Justice from the Democracy Trust Fund and pursuant to the provisions of the Impartial Justice Act. §11.501(14), Stats.
- 8) “Public financing qualifying period” means, for each election for the office of Supreme Court Justice, the period beginning on July 1st of the year immediately preceding the year of that election and ending on the day of the deadline for filing nomination papers for that office, the first Tuesday in January. §11.501(15), Stats.
- 9) “Qualifying contribution” means a contribution in an amount of not less than \$5 nor more than \$100 made to a candidate by a Wisconsin elector during the public financing qualifying period, and which is acknowledged by written receipt identifying the contributor. §11.501(16), Stats.
- 10) “Seed money contribution” means a contribution in an amount of not more than \$100 made to a candidate by a Wisconsin elector during the exploratory period or the public financing qualifying period, or a contribution made to a candidate consisting of personal funds of that candidate in an amount not to exceed \$5,000 during the exploratory or public financing qualifying periods. §11.501(17), Stats.

B. Private Fundraising

- 1) **Participating candidates:** Excluding qualifying contributions, a participating candidate may raise up to \$5,000 in private seed money contributions, consisting of contributions not exceeding \$100 or up to \$5,000 in personal funds of the candidate, during the exploratory and public financing qualifying periods (for the 2011 Election, from May 1, 2010 until January 4, 2011). §11.508, Stats.

To become eligible for a public financing benefit, a candidate must receive qualifying contributions (\$5 to \$100 contributions) from at least 1,000 separate contributors in an aggregate amount of between \$5,000 and \$15,000 during the qualifying period (from July 1 to the first Tuesday in January). §11.502(2), Stats.

The maximum amount of private funds that may be legally raised and spent by a participating candidate is \$20,000 (up to \$5,000 in seed money contributions and up to \$15,000 in qualifying contributions). §§11.502(2), 11.506(1), 11.508(1), 11.505, Stats. Any seed money or qualifying contributions exceeding that aggregate total must be transferred to the Government Accountability Board and are deposited into the Democracy Trust Fund. §11.509, Stats. In addition, a candidate who accepts a public financing benefit during a primary election campaign period may not accept private contributions during the election campaign period. §11.505, Stats.

Participating candidates may not accept an anonymous contribution exceeding \$5. Any anonymous contribution exceeding \$5 shall be donated to the common school fund or to a charitable organization. §11.12(2), Stats. A participating candidate may not accept more than \$25 in cash from any contributor, or cash from all sources in a total amount greater than one-tenth of 1 percent of the public financing benefit or \$500, whichever is greater. §11.506(6), Stats.

- 2) **Nonparticipating candidates:** A nonparticipating candidate may accept contributions from private sources throughout any applicable election period, up to a maximum amount of \$1,000 per contributor during any campaign. §§11.26(1)(am), 11.522(1), Stats. Nonparticipating candidates are not limited in the total amount of contributions or expenditures. However, the Act retains limitations on the amount of contributions that nonparticipating candidates may receive from political committees, which is based on the total amount of seed money contributions, qualifying contributions, and initial public financing grants for the Spring Primary and Spring Election that a participating candidate for the same office obtains. A nonparticipating candidate may not accept more than 65 percent of this expenditure limitation for participating candidates in the form of contributions from all political committees required to file campaign finance reports, including political party and legislative campaign committees. §§11.26(9)(a), 11.511(7)(a). A nonparticipating candidate may not accept more

than 45 percent of this expenditure limitation for participating candidates in the form of contributions from all political committees other than political party and legislative campaign committees. §§11.26(9)(b), 11.511(7)(a)

C. Spending Restrictions

- 1) **Participating candidates:** A participating candidate may not make or authorize total disbursements, from the first day of the exploratory period to the date of the Spring Election, in excess of the maximum seed money contributions, qualifying contributions, and any applicable public financing benefits and matching funds. 11.511(7)(a), Stats. Seed money contributions and contributions from a participating candidate's personal funds may not be spent after the close of the qualifying period. §§11.507(2), 11.508(2), Stats.
- 2) **Nonparticipating candidates:** A nonparticipating candidate is not subject to any limit on campaign spending under the Act.

D. Public Financing Benefit

An eligible candidate must file an application with the Board, including a sworn statement that the candidate has complied and will comply with all requirements of the Impartial Justice Act throughout the campaign. An application may be filed no later than the day after the deadline for filing nomination papers. §11.502, Stats.

The Board shall certify the eligibility of a candidate for a Spring Primary election public financing benefit if the candidate files the required application and receives the requisite qualifying contributions (see B.1 above). To qualify for a public financing benefit for the Spring Election, the candidate must file a second application certifying that the candidate complied with the Act's provisions during the Primary election and will continue to do so during the election campaign period. §11.503(1), Stats.

The public financing benefit for the primary election campaign period is \$100,000. §11.511(2), Stats. If there is no primary, a candidate may not receive the public financing benefit for the primary election campaign period. §11.511(4), Stats. The public financing benefit for the Spring Election campaign period is \$300,000. §11.511(3), Stats. An eligible candidate who does not encumber or spend some portion of the benefit for the campaign shall return any unencumbered portion to the Board within 30 days after the Primary or Spring Election in which the candidate participated. §11.511(6), Stats. However, if the candidate remains eligible for the Spring Election public financing benefit, any unencumbered balance of the public financing benefit received for the primary

campaign period may be used in the Spring Election campaign period. §11.511(5g), Stats.

Each eligible participating candidate shall receive from the State Treasurer separate lines of credit for the public financing benefits payable to the candidate for the primary and election campaign periods. The lines of credit may be used by the candidate to finance any lawful disbursements during the respective campaign periods to further the candidate's election. A line of credit may not be used to repay a loan. §11.511(1), Stats.

E. Matching Funds

A participating candidate receives a supplemental public grant, upon the occurrence of one of two triggering events. A supplemental grant is provided when (1) a non-participating, privately-funded opponent's campaign expenditures exceed 5% above the initial grant for the applicable period (\$105,000 in the Primary Election and \$315,000 in the Spring Election); and/or (2) aggregate independent expenditures against the participating candidate exceed 120% of the initial public financing grant (\$120,000 in the Primary Election and \$360,000 in the Spring Election). §§11.512(2), 11.513(2), Stats.

The amount of the first supplemental grant is equal to the total excess disbursement amount made or obligated to be made by an opposing candidate. A participating candidate may be granted an amount up to a maximum amount equal to three times the applicable public financing benefit for either the Primary or Spring Election periods. A participating candidate may also be granted an amount equal to the total excess disbursements made or obligated to be made by aggregate independent disbursements, up to a maximum amount equal to three times the applicable public financing benefit for either the Primary or Spring Election. §§11.512(2), 11.513(2), Stats.

F. Recordkeeping and Reporting

- 1) **Participating candidates:** A participating candidate must acknowledge each qualifying contribution by a receipt to the contributor which contains the contributor's name and home address. No later than the 15th or the last day of the month which immediately follows the receipt of the qualifying contribution, whichever comes first, the candidate must file a copy of the receipt with the Board, except that during July, August, and September a copy must be filed only by the last day of the month. §11.502(4), Stats.

In addition to regular campaign finance reports, participating candidates must furnish complete financial records, including records of seed money contributions, qualifying contributions, and disbursements to the Board on the 15th or the last day of the month that immediately follows the receipt of the contribution or the making of the disbursement, whichever comes first, except that during July, August, and September records must be filed only by the last day of the month. §11.506(2), Stats.

A participating candidate who receives a public financing benefit shall maintain records of all contributions received by the candidate of more than \$5 but less than \$50, which shall contain the full name of the contributor and the contributor's home address, and, if the contributor's aggregate contributions exceed \$50 for the campaign, the contributor's principal occupation and name and address of the contributor's place of employment. §11.506(3), Stats. Failure to record or provide this information shall disqualify a contribution from being used as a qualifying contribution. §11.506(4), Stats.

- 2) **Nonparticipating candidates:** In addition to other campaign finance reports required by law, a nonparticipating candidate who receives contributions or makes or obligates to make disbursements in an amount exceeding 5% greater than the applicable public financing benefit shall file a report with the Board itemizing the total contributions received and disbursements made or obligated to be made as of the date of the report. A nonparticipating candidate shall file additional reports after the candidate receives each additional \$1,000 of contributions or makes or obligates to make each additional \$1,000 of disbursements. The Board transmits copies of the report to all candidates for the same office at the same election. §11.512(1), Stats.

The deadline for filing the reports depends upon the timing in the campaign period. If the contributions are received or disbursements are made or obligated to be made more than six weeks prior to the date of the Primary Election, the reports shall be made on the next 15th or last day of the month, except in July, August, and September, when the reports must be filed only by the last day of the month. If the contributions are received or disbursements are made or incurred within six weeks of the Primary Election, the reports shall be filed within 24 hours. §11.512(1), Stats.

- 3) **Independent disbursements:** Any person making, or becoming obligated to make, an independent disbursement in excess of \$1,000 with respect to a candidate for the office of Supreme Court Justice at a Spring Primary or Spring Election, shall file a notice of the disbursement or obligation to make a disbursement with the Board. Such reports shall be filed on the 15th or last day of the month that immediately follows the date of the disbursement or obligation to make the disbursement, whichever comes first. However, when such

disbursements or obligations are made within six weeks of the Primary or Spring Election, such reports shall be filed within 24 hours after each independent expenditure is made or is obligated to be made. Additional reports shall be filed after each additional \$1,000 of disbursements are made or incurred. §11.513(1), Stats.

G. Penalties for Violations

- 1) **Participating candidates:** A participating candidate who receives a public financing benefit and violates the requirements of the Act shall repay to the Board the amount obligated from the Democracy Trust Fund for the campaign period for which the candidate received the benefit. §11.51(4), Stats.

A participating candidate who accepts contributions exceeding the allowable private contributions, or makes disbursements exceeding the total allowable private contributions and public financing benefits may be required to forfeit up to 10 times the amount by which the contributions or disbursements exceed the allowable amounts. §11.517(1) and (2), Stats.

If a participating candidate or agent of such a candidate knowingly accepts more contributions or makes disbursements exceeding the total amounts permitted by the Act, the candidate may be prosecuted as a Class G felon. §11.518(1)

Any person who knowingly provides false information to the Board in connection with the receipt or disbursement of a public financing benefit, or who knowingly conceals or withholds information from the Board, is guilty of a Class G felony. §11.518(2).

For additional information, please contact the Ethics and Accountability Division of the Wisconsin Government Accountability Board at 608-266-8005.

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Board Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Jonathan Becker, Administrator of the Ethics and Accountability Division

SUBJECT: Settlement Offer Guidelines for Illegal Corporate Contributions

Section 11.38 (1) (a), Stats., prohibits a corporation from making a political contribution for any purpose. For each violation of this prohibition, a corporation may be subject to a forfeiture of \$500 plus 6 times the amount of the illegal contribution. §§11.38 (4) and 11.60 (1) and (3), Stats.

A campaign committee is prohibited from accepting a corporate contribution. §11.38 (1) (b), Stats. A committee that receives a corporate contribution must either “return such funds to the contributor or donate the funds to the common school fund or a charitable organization, at the treasurer’s option. §11.38 (6), Stats. The campaign is also subject to a \$500 forfeiture.

Staff recommends that the Board adopt the following standard forfeiture schedule for illegal corporate contributions:

- **Receiving Committee:**

1. Forfeit the amount of the illegal contribution by returning the contribution to the contributor or by donating it to a charity or the common school fund. (*GAB recommends donating to charity or common school fund*).
2. Pay a forfeiture equal to 150% of the amount of the illegal contribution, up to a maximum of \$500.

- **Corporation Making an Illegal Contribution:**

1. Forfeit double the amount of the illegal contribution if the contribution **has not** been returned to the contributor by the recipient (meaning, the recipient donated the contribution to a charity or the common school fund.)
2. If the recipient chooses to return the contribution to the contributor, forfeit 3 times the amount of the illegal contribution.
3. If the original settlement offer under #1 or #2 has not been paid or payment plan arranged within 30 days, the amount of the initial settlement offer may be doubled.

- **Referral to Dept. of Justice (DOJ)**

1. If a settlement offer has not been accepted and forfeitures paid within 45 days, refer matter to DOJ to pursue via court action.

If there are extenuating circumstances, such as a recipient having returned the contribution on its own within a short time period, or exacerbating circumstances, such as multiple violations, staff will return to the Board for direction.

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JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: May 10, 2010

TO: Members, Wisconsin Government Accountability Board

FROM: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Campaign Finance Overview Manuals

In preparation for the upcoming fall election, staff has revised and created campaign finance overview manuals and filing handbooks that inform candidates of important registration and reporting requirements established in Chapter 11, *Wisconsin Statutes*. The manuals guide candidates through the registration process, inform them of the need to file campaign finance reports, give an overview of the major provisions in campaign finance law, and direct them to a specific report filing handbook that provides detailed instructions on how the candidate must complete and file his or her campaign finance report.

Included in your materials is a copy of the Campaign Finance Overview for State Candidates manual. A similar manual for local candidates and four filing handbooks were also created by staff and are available upon request for your review. This manual is for informational purposes only. No action is required.

CAMPAIGN FINANCE OVERVIEW STATE CANDIDATES

May 2010



**Wisconsin Government
Accountability Board**

212 E. Washington Ave, 3rd Floor
P.O. Box 7984
Madison, WI 53707-7984

Phone: 608-266-8005
Fax: 608-267-0500
E-mail: gabcfis@wi.gov
Website: <http://gab.wi.gov>

I. REGISTRATION REQUIREMENTS

Who is Required to Register

Under Wisconsin campaign finance law, a candidate for election to public office must register with the appropriate filing officer. A candidate for state office:

Governor,
Lieutenant Governor,
Attorney General,
Secretary of State,
State Treasurer,
State Superintendent of Public Instruction,
Justice of the Supreme Court,
Court of Appeals Judge,
Circuit Court Judge,
State Senator,
Representative to the Assembly,
District Attorney;

must register with the Wisconsin Government Accountability Board in Madison as soon as the individual decides to become a candidate. Candidates for any local elective office in a county, city, town, village, or school district, must register with the clerk of the county, city, town, village, or school district as soon as the individual decides to become a candidate.

A candidate must file a campaign registration statement (GAB-1) at the point he/she forms the intent to become a candidate and before circulating nomination papers, receiving contributions or spending money on the campaign. Registration statements are filed using the Wisconsin Government Accountability Board website (<http://cfis.wi.gov/>). The minimum amount of money needed to open an account can be deposited at a financial institution and a post office box can be rented before registration. These receipts and expenses must be reported on the first campaign finance report.

After filing the registration statement, a candidate may begin receiving and disbursing campaign funds. The campaign's financial activities must be reported to the Government Accountability Board on campaign finance reports (GAB-2S), *unless the committee has claimed an exemption from filing finance reports*. These reports will disclose the candidate's campaign receipts, expenditures, incurred obligations and loans.

Completing a Registration Statement

Registration statements are now completed electronically via the Internet using the Campaign Finance Information System (CFIS). The website address is <http://cfis.wi.gov>. Seven items of information are required on a campaign registration statement (GAB-1). When any of this information changes, an amendment to the registration statement must be filed with the Government Accountability Board within **ten days** of the change. This amendment is also filed online and a paper copy does not need to be sent to the Government Accountability Board.

Item 1. Candidate and Candidate Committee Information

This section must be completed by all candidates and candidate committees. It contains the information identifying the candidate and committee, party affiliation (*if any*), office sought (including branch and district number), and date of the election.

There are two types of candidate campaign committees: personal campaign committee and support committee. A personal campaign committee is organized by the candidate to promote the candidate's declared candidacy for a specific office. A support committee is one organized on behalf of the possible candidacy of a person, with that person's consent. A candidate with a personal campaign committee cannot authorize a support committee. A person who authorizes a support committee must adopt the support committee as his or her personal campaign committee when the person becomes a candidate. ***Note: You must register as a personal campaign committee to appear on the ballot.***

Item 2. Political Committee Information (Non Candidates Only)

This section must be completed by political committees other than candidate committees. Candidate committees do not complete this section.

Item 3. Campaign Treasurer

The treasurer for the candidate or political committee must be listed in Item 3. The candidate can serve as the campaign treasurer. It is important that the treasurer's name, complete address, e-mail address, and telephone numbers be provided on the registration statement and be kept current. **All notices and forms for campaign finance reports will be sent to this person at the address given in this section.** Failure to keep this information current may result in the committee being penalized for failure to file necessary reports.

Item 4. Principal Officers of the Committee and Other Custodians of Books and Accounts

If the committee has officers besides the treasurer, they should be listed in Item 4.

Item 5. Depository Information

All registrants must have a single campaign depository account in which all contributions are deposited and from which all disbursements are made. Candidates claiming exemption from filing finance reports may use a personal checking account, i.e., they may commingle campaign money with personal funds. A separate account must be opened if the candidate (committee) exceeds the exemption limits. All account information must be provided on the GAB-1 whether the account is a personal or separate campaign account. If the registrant maintains additional accounts for investment purposes, including savings account, certificates of deposit, money market, or a safe deposit box, they should be listed on a separate sheet of paper and attached to the registration statement. Candidates running for more than one elected office are only allowed one primary campaign depository account. All contributions and all disbursements for all offices must be run through the one account.

To open the campaign account, it may be necessary to complete a request for Employer Identification Number (EIN) using form SS4. This form should be available from your financial institution or from an IRS office or website <http://www.irs.gov/charities/political/index.html>.

Item 6. Certification

The candidate and committee treasurer must sign and send to the Government Accountability Board the original registration statement of a personal campaign committee or a support committee certifying that the information is true, correct, and complete, and that the committee is the only committee authorized to act on the candidate's behalf.

Item 7. Exemption From Filing Campaign Finance Reports

Registrants who are eligible for an exemption from filing campaign finance reports should complete this section. The exemption requirements are explained in Section II of this manual.

Amending a Registration Statement

When any of the information reported on the registration statement changes, the statement must be amended by filing a new GAB-1. The GAB-1 must be amended and submitted to the GAB within 10 days of the change. Candidates updating their registration using the Campaign Finance Information System do not need to send a paper copy of the amended GAB-1 to the Government Accountability Board. Candidates that do not amend their registration in CFIS are required to send the amended paper copy to the Government Accountability Board and check the "yes" box at the top of the form to indicate that it is an amendment.

Penalty For Not Filing a Registration Statement

Failure to file the original registration statement by the deadline for filing nomination papers prevents a candidate's name from appearing on the ballot. If a required statement or amendment is not filed on time, the registrant may be subject to a fine.

II. EXEMPTION FROM FILING CAMPAIGN FINANCE REPORTS

Eligibility

Candidates may be eligible for an exemption from filing campaign finance reports if campaign finance activity is low enough to meet **all** of the following criteria:

1. The candidate anticipates that his or her campaign will not accept contributions, make disbursements, or incur loans and other obligations in an aggregate amount exceeding \$1,000 in a calendar year; **AND**
2. The candidate anticipates that her or his campaign will not accept any contribution or cumulative contributions from a single source (other than the candidate) exceeding \$100 in a calendar year; **AND**
3. The candidate or treasurer must sign and date the request for exemption on the campaign registration statement.

Candidates on exemption may receive up to \$1,000 in a calendar year, and may spend up to \$1,000 in the same calendar year. The candidate's contributions do count toward the total receipts of \$1,000 or less in a calendar year. The \$100 limit on contributions from a single source does not apply to contributions from a candidate's personal funds for his or her own campaign.

Financial Records During Exemption

When a candidate is exempt, s/he is not required to file any campaign finance reports (GAB-2). However, the candidate or treasurer is required to keep financial records adequate to meet the requirements of campaign finance law. Records must be kept of all contributions to the candidate's committee and of all expenditures.

A candidate who is exempt from filing campaign finance reports may use a personal account as the campaign depository. Account information must be provided on the GAB-1. A separate campaign depository account is not required for candidates claiming exemption.

Revoking Exemption

If a decision is made at a later date to exceed the \$1,000 limit on contributions or disbursements, or to raise more than \$100 from a single source during a calendar year, the candidate must amend her or his campaign registration statement immediately, by checking the box: *"This registrant is no longer eligible to claim exemption."*

The candidate is then required to file campaign finance reports beginning with the next regular report. The first report must cover all financial activity from January 1 of the current year, through the cutoff date of the required report. The candidate may also need to list all committee contributions received in the current campaign period to monitor aggregate committee limits.

III. MAJOR PROVISIONS OF CAMPAIGN FINANCE LAW

Contribution Limits

The contribution limits established by state statute determine the maximum amount of contributions (cash, loans, and in-kind contributions combined) that an individual or committee can give or receive over a campaign period. These limits depend on the office sought by the candidate and the identity of the contributor. A candidate or committee may not accept contributions that exceed the applicable limit.

Definition of Campaign for Calculating Contribution Limits

For purposes of calculating contribution limits, a candidate's campaign **begins** on the date a new candidate is required to file a registration statement, i.e., the date she or he decides to become a candidate. The campaign begins for a continuing candidate on either July 1 (candidates participating in the April election) or January 1 (candidates participating in the November election). The campaign period includes both the primary and general election. The usual campaign period for an Assembly candidate is two years (January 1 odd-numbered year through December 31 of the even-numbered year).

In the case of a candidate at the September primary or November general election, the campaign **ends** on either December 31 following the election. In the case of a candidate at the spring primary or election, the campaign ends on June 30 following the election. The campaign of a candidate at a special primary or election ends on the last day of the month following the month in which the primary or election is held. *Example: Special Election on April 20 – campaign ends on May 31.*

A candidate with debt from a previous election may have more than one open campaign period. A candidate for a future election, that has debt from a past election, may start raising money for the future election prior to receiving sufficient funds to retire the debt. If a candidate has multiple campaign periods open and has carried contributions from one campaign back to offset debt from a prior campaign period, they must clearly identify which contributions are being used to retire past debt and also retire that amount of debt. Contributions used for retiring debt, are subject to the contribution limits of the campaign in which the debt was incurred.

Individual Contribution Limits

The individual contribution limits for candidates for statewide office vary. Candidates for state senate may not receive more than \$1,000 from a single individual over the campaign period. Candidates for representative to the assembly may not receive more than \$500 from a single individual over the campaign period. In addition to the limits for a specific office, **an individual may not contribute more than \$10,000 in a calendar year to any combination of Wisconsin candidates or political committees.**

Committee Contribution Limits

The committee contribution limits for candidates for statewide office vary. Candidates for state senator may not receive more than \$1,000 from a single political committee unless the committee is a political party or a legislative campaign committee. Candidates for representative to the assembly may not receive more than \$500 from a single committee unless the committee is a political party or a legislative campaign committee.

Cumulative Committee Contribution Limits

There are two different cumulative committee contribution limits. One applies to all political committees excluding political party committees. The second applies to all political committees including political party committees. These are commonly referred to as the 45% and 65% limits because they are found by calculating 45% or 65% of the statutory spending limits for a particular office. Section 11.31 Wis. Stats., lists the spending limits for elective office. These spending limits are only for calculating aggregate committee contribution limits, unless the candidate files an application for a grant from the Wisconsin Election Campaign Fund (WECF).

The limit on the cumulative amount of contributions that can be received from all political committees excluding political party committees or legislative campaign committees is calculated by taking 45% of the total spending limit for the candidate's office. Contributions from other candidate's personal campaign committees, political action committees, and grants from the Wisconsin Election Campaign Fund (WECF) count against this contribution limit.

The limit on the cumulative amount of contributions that a candidate may receive from all committees including political party committees is calculated by taking 65% of the total

spending limit. Contributions from all political committees, including political party committees and legislative campaign committees, and grants from the Wisconsin Election Campaign Fund (WECF) count against this contribution limit.

Exclusions from Contribution Limits

Contributions used to pay legal fees and other expenses incurred in connection with a recount or petitions to recall an officer are not subject to contribution limits. In order to qualify for this exclusion, recall expenses must occur before the recall primary or election is ordered, or in contesting or defending the order. Contributions used to pay recount or recall expenses must be reported on the regular campaign finance reports. Both the contributor and the candidate should indicate which contributions are being used for this purpose.

In-Kind Contributions

An in-kind contribution is any good, service or property offered to the candidate's campaign free of charge or at less than the usual cost, or payment of a registrant's obligations for such goods, services or property. For example, if a campaign worker purchases stamps that are used for a mailing and is not reimbursed for the cost of the stamps, the value of the stamps is an in-kind contribution to the candidate's campaign from that campaign worker. When an individual is paid to work on behalf of a candidate by a political committee or some other individual, the payment for those services is an in-kind contribution to the candidate's campaign. If a political committee or individual offers to provide food and beverages for a fundraiser at less than the ordinary market price, the difference between the ordinary market price and the cost to the campaign is an in-kind contribution from the political committee or individual.

The candidate or campaign treasurer must agree to accept an in-kind contribution before it is given. Before making an in-kind contribution to a candidate, the contributor is required to notify an authorized person from the candidate's campaign and obtain either oral or written consent to the contribution. If the contributor does not know the actual value of the contribution, a good faith and reasonable estimate of the fair market value should be provided. (For more information see G.A.B.1.20 Wis. Administrative Code).

An in-kind contribution received by the campaign committee is reported by the committee as both a receipt and expenditure. This procedure allows the campaign to disclose the receipt of the contribution on its campaign finance report along with cash contributions received and track year to date and campaign period totals. Then, in order to keep the committee's cash balance accurate, the amount of the in-kind is reported as an expenditure. The two entries offset each other and do not affect the cash balance.

If an estimate of the value of an in-kind contribution is the only value available at the time the candidate is required to file a report, the committee must report the estimated value of the contribution. When the actual value of the estimated in-kind contribution is known, the actual amount is reported as a contribution and an expenditure on the campaign finance report.

In-kind contributions are subject to the same itemization thresholds and the same contribution limits as cash contributions. Cash contributions and in-kind contributions from a single contributor are added together for the purposes of determining compliance with contribution limits and the year-to-date amount for a specific contributor. When a political communication is

provided as an in-kind contribution, the disclaimer must identify the committee receiving the contribution.

Prohibited Contributions

Certain contributions are prohibited by Wisconsin law. A candidate's campaign may not accept the following types of contributions:

1. Anonymous contributions of more than \$10;
2. Contributions in cash of more than \$50;
3. Contributions given in the name of someone other than the contributor (these are laundered contributions);
4. Contributions from cooperatives or corporations;
5. Contributions in excess of the limits set by law.

A candidate should not accept contributions over \$25 from organizations that have not registered. If the candidate's campaign is notified that a contribution was received from an unregistered organization, the candidate must return the contribution, and not accept any additional contributions from that organization unless the organization registers with the appropriate filing officer. To determine if a committee is registered, you can search by the committee's name by clicking on the "View Registrants" link on the home page of the Campaign Finance Information System (CFIS) and entering the committee's name in the Candidate/Committee Name field.

Registered lobbyists are prohibited from making campaign contributions to state candidates for partisan state office except between June 1 and the day of the general election in the year of the candidate's election. Contributions cannot be given during this period if the legislature is in session. For further information on lobbyist contributions, visit the lobbying portion of the Government Accountability Board's website (<http://gab.wi.gov>) or contact a G.A.B. Ethics and Accountability Division staff member.

Returned Contributions

Any contribution you return to the donor after depositing it in the campaign account must be reported as a disbursement from the campaign as a returned contribution to the contributor. Any contribution returned to the donor uncashed within 15 days of receipt has not been accepted and does not get reported.

Contributions Transferred through Conduits

A conduit is any individual, committee or group that receives contributions from individuals, deposits those contributions in a financial institution, and then transfers the contributions to a candidate or political committee selected by the original contributor. The conduit may not exercise any discretion over the amount or ultimate recipient of the contributions. A conduit is required to register with the Wisconsin Government Accountability Board.

When a conduit transfers contributions, it writes a single check for the total amount of all individual contributions designated for that committee. It is required to provide a transmittal letter with the check. This letter must identify the organization as a conduit, and list the

individual contributors, the amount of each individual's contribution, and the date the individual authorized their contribution (see G.A.B. 1.855 Wis Admin Code).

Contributions transferred through conduits are reported as contributions received from the individuals listed in the transmittal letter. These contributions are reported under the individual's name in. They are subject to itemization on the same basis as other individual contributions.

Loan Guarantees

When a campaign committee borrows money from a financial institution and the loan is guaranteed by individuals, the amount of the guarantee must be considered a contribution from the guarantor until the loan is repaid. If more than one person guarantees a loan, the amount of a loan is assigned to the guarantors in equal shares in the proportion that the guarantors bear to the total amount guaranteed, unless a different share is specified in the loan instrument. When a payment is made to the lending institution which reduces the unpaid balance of the loan, the amount of the guarantee assigned to each guarantor is reduced in equal shares in the proportion that the number of guarantors bears to the amount repaid, unless a different share is specified in the loan instrument. The outstanding amount of a guarantee and the total contributions to the campaign by a guarantor may not exceed the individual contribution limit for the guarantor.

A bank loan to a candidate, the proceeds of which the candidate loans to the committee, is a personal contribution (loan) from the candidate. This type of loan is reported as a contribution from the candidate to the committee.

Joint Fundraisers

Any candidate, political party committee, or legislative campaign committee may solicit contributions for and conduct a joint fundraising effort or program in coordination with one or more named candidates. The candidate(s) or committee(s) conducting the joint fundraiser must prepare a written escrow agreement signed by the candidate(s) or committee(s). The agreement shall specify the percentage of the proceeds to be distributed to each candidate and/or committee by the joint fundraising effort or program.

All solicitations or communications related to joint fundraising efforts or programs shall include information identifying the candidates and/or committees participating and the percentage of the proceeds to be distributed to each. No disclaimer is required on these communications if the communication contains the information described above.

All contributions received and disbursements made by the joint fundraiser shall be received and disbursed through a separate depository account. The separate depository account shall be identified in the escrow agreement.

The committee(s) conducting the joint fundraising effort or program are required to register by filing a Supplemental Schedule of Joint Fund Raising Effort or Program (GAB-2JF). The joint fundraiser must prepare a campaign finance report (GAB-2) covering contributions received and disbursements made in connection with the joint fundraiser. A copy of this report must be provided to each committee that receives any of the proceeds no later than 15 days after the proceeds are transferred to the candidate or campaign treasurer.

Candidates are required to include a copy of this report and the escrow agreement with their campaign finance report for the period in which the contributions are received and the disbursements are made. In addition, candidates are required to itemize in the appropriate schedules of the campaign finance report the percentage of the proceeds and disbursements applicable to the candidate. These amounts are added to the totals reported in each schedule.

IV. ATTRIBUTION STATEMENTS ON POLITICAL LITERATURE (DISCLAIMERS)

Disclaimers

Every communication which is paid for by political funds must contain a disclaimer or attribution statement identifying the source of the funds paying for the communication. This includes every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication paid for by political funds. Also, it includes items such as T-shirts, bumper stickers and yard signs. The disclaimer must use the words "Paid for by" (abbreviations shall not be used for this language) followed by the name of the committee or group making the payment or assuming responsibility for the communication and the name of the treasurer or other authorized agent of the committee. When the communication is being paid for through an in-kind contribution, it must bear the disclaimer of the recipient campaign committee. Abbreviations may not be used for the name of a candidate or campaign committee.

No disclaimer is required on 1) personal correspondence not reproduced by machine for distribution, 2) a single personal item which is not reproduced or manufactured by machine or other equipment, 3) nomination papers even if the papers contain biographical information, 4) pins, buttons, pens, balloons, nail files and similar small items on which a disclaimer cannot be conveniently printed, or 5) envelopes which have campaign committee identification printed on them. Disclaimers must be included on each separate page of a political communication, including letterhead and enclosures.

Formats for Disclaimers

When a communication is paid for by a candidate without a committee, or paid for by an individual, the disclaimer should read:

"Paid for by Mary Smith."

When the communication is paid for by the campaign committee of a candidate or by a political committee, the disclaimer should read:

"Paid for by Friends of Mary Smith for Mayor, James Jones, Treasurer."

"Paid for by the Committee for Votes, John Jones, Treasurer."

When the communication is provided as an **in-kind** contribution to the campaign committee of a candidate, the disclaimer should read:

"Paid for by Friends of Mary Smith for Mayor, James Jones, Treasurer."

or

"Paid for by John Doe as an in-kind contribution to Friends of Mary Smith for Mayor, James Jones, Treasurer."

V. CAMPAIGN FINANCE REPORTS (GAB-2S)

Campaign finance reports must be filed by all registrants that are not exempt from filing reports. Committees must continue to file periodic reports until termination of their registration. These reports must be filed with the Government Accountability Board when due. Reports must be filed to the state in the Campaign Finance Information System on or before the due date to be considered timely filed. A paper copy of the report should be mailed to the **Government Accountability Board, P.O. Box 7984, Madison, WI 53707-7984**. Reports must be postmarked on or before the filing due date in order to be considered filed timely.

Types of Reports

Candidates must file a pre-primary and a pre-election report due 8 days before the primary or general election. Candidates for local office whose names do not appear on the primary ballot are not required to file a pre-primary report. However, candidates for state nonpartisan office whose names do not appear on a primary ballot are required to file a pre-primary report. Candidates that lose in the primary or general election must continue to file reports until they are eligible for, and request, termination of their committee. Candidates must also file continuing reports in January and July of each year until they terminate their registration.

The Government Accountability Board will send a notice of the filing requirements and filing instructions to both the candidate and treasurer before each filing deadline. The notice of filing requirement identifies the type of report to be filed and the period of time covered by the report. Failure to receive a notice does not excuse the committee from filing the report on time. E-mail notices and reminders to file are also sent to all candidates that provide an e-mail address when they register their campaign with the Government Accountability Board. *Every candidate is strongly encouraged to provide an e-mail address when registering.*

Information Required

The information listed on the campaign finance report discloses the financial activity of the candidate's campaign. The law requires disclosure of income, disbursements, and incurred obligations. In addition, disclosure is required for loan guarantees and for estimated in-kind contributions. Committee treasurers must exercise diligence in acquiring and furnishing the contributor information required on the receipts schedules. Under current state law, treasurers and candidates are required to make a "good faith effort" to obtain all information required on the reports. For all contributors giving over \$20, you must disclose the individual's name and address. If the individual's year-to-date total exceeds \$100, you must also provide the occupation, name and address of the principal place of employment.

24 Hour Reporting - (Special Report of Late Contribution)

Candidates for state offices must report contributions of \$500 or more **received** in the 14-day period before the primary or election within 24 hours of receipt. A special report of late contribution (GAB-3) must be filed (1) for any contribution of \$500 or more, or (2) for contributions from a single source totaling \$500 or more **received** after the closing date of the

pre-primary or pre-election report and before the primary or election is held. Contributions of \$500 or more from the candidate to his or her own campaign are included in this reporting requirement. The report must be filed within 24 hours of **receiving** the contributions. Also, the contribution must be reported on the next full campaign finance report.

Electronic Filing

All committees with receipts of \$20,000 or more during a campaign period are required to file an electronic and paper copy of their report. A biennium is a 2-year period running from January 1 of an odd-numbered year through December 31 of the next even-numbered year. If a committee has filed a report electronically in the past, it must continue to file all subsequent reports electronically. *Every committee is urged to file electronically.*

Committees not filing electronically may print a copy of the Campaign Finance Report GAB-2S or GAB-2Sa from the CFIS Website (<http://cfis.wi.gov> [forms]), or contact our office to request a copy be mailed to you.

How to Complete GAB -2S Campaign Finance Reports

There are four ways to file a campaign finance report:

- On paper using the GAB-2S form,
- Using the online screens in the Campaign Finance Information System (“CFIS”),
- Using the CFIS upload templates, or
- Using a new GAB-2 Excel workbook with schedules that may be found on the Government Accountability Board’s website at <http://cfis.wi.gov>. Please click on the “Forms” link under Campaign Finance Information. This template resembles the older EB-2 excel workbook that many committees used in the past, but it differs in some detail.

If you choose to use this new Excel spreadsheet, you should e-mail your completed document to Board staff at gabcfis@wi.gov and we will upload the information contained in the spreadsheet into CFIS for you.

Every committee must use one of the specified, approved forms. A committee that chooses to use the new Excel template with schedule detail must use the template approved by the Government Accountability Board, not an older version. **If your template does not match any fields listed in this document, you are using the wrong template.** Please contact the GAB for the correct form.

For detailed instructions on how to complete and file the campaign finance report, the following “How To” manuals should be referenced:

Paper filers:

Refer to the “How to File a Paper GAB-2S” filing handbook.

Electronic Filers using Data Entry Screens:

Refer to the “How to File a GAB-2S using the CFIS Data Entry Screens” filing handbook.

Electronic Filers using Upload in CFIS:

Refer to the “How to File a GAB-2S using the Upload feature in CFIS” filing handbook.

Electronic Filers using GAB-2 Excel:

Refer to the “How to File a GAB-2S using the GAB-2 Excel Workbook” filing handbook.

Reporting Receipts

In preparing to report receipts on a campaign finance report, please remember the following:

1. Receipts of \$20 or less, including contributions from individuals and other income, such as interest and refunds, are reported as unitemized receipts. However, the candidate’s own records must record and be able to show all campaign receipts.
2. A single contribution or cumulative contributions from the same person totaling more than \$20 must be itemized.
3. A single contribution or cumulative contributions from the same person exceeding \$100 is an itemized contribution requiring not only the contributor’s name and address, but also the contributor’s occupation and the name and address of his or her principal place of employment.
4. Contributions from individuals received through a conduit are reported as receipts. They are treated in the same manner as other individual contributions.
5. Each individual contributor’s name, address, date and amount of contribution must be entered separately for each transaction.
6. A contribution given from a joint checking account should be reported as a contribution from the individual that signed the check. If any part of the amount on the check is intended to be contributed by the other owner of the account, that amount must be clearly indicated on the check or in some other writing which accompanies the check. *Note: If the amount is divided, each individual must be itemized separately.*
7. Receipts from raffles, auctions, garage sale, and other similar fundraising events are individual contributions and must be entered as a receipt.
8. Contributions received from a sole proprietorship or partnership are reported as individual contributions. (corporations and associations are not allowed to contribute).
9. All contributions from political committees, regardless of the amount, must be itemized and entered as a receipt from the contributing committee. The full name and address of the registrant, the date and amount of the contribution are required.
10. In-kind contributions such as political posters, lawn signs, and other items are reported at their fair market value at the time of contribution. These contributions are reported as both a receipt and an expenditure. As a receipt, they are entered as a contribution type of “in-kind”, with the appropriate information about the contributor. This offsetting entry procedure is necessary because an in-kind contribution is treated as if cash was given, and then used to buy the item contributed.
11. A loan from an individual is considered a contribution. It must be reported as a contribution and as a loan. Payments on the loan should be reported as expenditures and the cumulative amount paid in a reporting period is also reported. **THE LOAN ADDED TO OTHER CONTRIBUTIONS FROM THE SAME INDIVIDUAL CANNOT EXCEED THE APPLICABLE INDIVIDUAL CONTRIBUTION LIMIT.** Loans from political committees are considered contributions and are reported.
12. Contributions returned from other registrants, refunds, interest income and loans from commercial lenders are also reported as money received by the campaign.

Reporting Expenditures

In preparing Schedule 2 of the campaign finance report, the treasurer should remember the following:

1. All expenditures totaling \$20 or less are unitemized expenditures that can be lumped together and reported as an unitemized total.
2. An expenditure that exceeds \$20 in amount or value is an itemized expenditure requiring the name and address of the person or business to whom it was made and the date and amount of the payment.
3. The specific political purpose of an expenditure must be reported. Please remember that the purpose of campaign finance reports is to inform the public. The descriptions should provide a person, perhaps unfamiliar with the intricacies of campaigning, with information on the nature of the expenditure and how it relates to the political process. For example, if food has been purchased for a fundraiser or for a party for workers, give the purpose as “food for fundraiser” or “food for party for campaign workers.” Do not write “food” only. If T-shirts are purchased for resale by the committee, give the purpose as “campaign T-shirts for resale,” not “T-shirts” only.
4. The receipt of an in-kind contribution is also reported as an in-kind expenditure and either itemized or unitemized, depending on the amount.
5. Expenditures from a petty cash fund must be supported by receipts. They are reported as payments to the vendors and are itemized or unitemized expenditures depending on the amount.
6. Payments made on loans and incurred obligations are reported as expenditures. The cumulative amount paid to each creditor is reported.
7. All financial institution service charges should be listed as itemized or unitemized expenditures depending on the amount.
8. The giver of an in-kind contribution itemizes the contribution, regardless of the amount. The itemization must include the name and address of the registrant on whose behalf the disbursement (in-kind contribution) is made, the name and address of the person or business to whom the payment is made, the date and amount of the disbursement.
9. Contributions to other political registrants should be reported and must be itemized regardless of the amount transferred. The itemization must list the name and address of the registrant receiving the contribution, the date and amount of the contribution.
10. All expenditures other than from the petty cash fund must be made by check.
11. A letter should be sent to the GAB within 5 days of donating money to a charitable organization, the Common School Fund, Wisconsin Election Campaign Fund, or any other government entity. The letter should include the date of the donation, the name of the organization, and shall provide an explanation to the GAB of why the funds were not retained by the committee. See 11.65 *Wis. Stats.*

Reporting Incurred Obligations

1. Incurred obligations are to be reported when an enforceable agreement has been reached. If the exact amount of the obligation has not yet been defined then the amount of the obligation must be estimated. Although the committee may not have received a bill, the amount recorded should be a good faith estimate of the amount owed.
2. Each obligation must be carried forward on subsequent reports until the obligation has been reduced to zero.

Reporting Loans

It is important to remember the following information concerning the recording and reporting of loans:

1. A loan from an individual or a political committee is reported as a contribution (personal loan).
2. A loan from a financial institution is reported as other income and as a loan.
3. Each payment on a loan must be reported as an expenditure. The cumulative amount of the payments made on a loan is also reported.

VI. TERMINATION OF REGISTRATION AND REPORTING REQUIREMENTS

A candidate may terminate its registration if it meets the following requirements:

1. Determines that all financial activity will stop, and that she or he will no longer receive contributions, make disbursements, or incur obligations; and
2. Files a termination campaign finance report showing that all incurred obligations have been paid or satisfied, and that the cash balance has been reduced to zero; and,
3. Completes a request for termination in Schedule 4 (Termination Request).

A candidate that is exempt from filing campaign finance reports need not file a termination report.

A candidate may not terminate his or her registration before a primary or election in which he or she is a candidate. If a candidate loses a primary, he or she may terminate before the election.

Disposal of Residual Funds

A candidate may dispose of remaining funds when terminating by:

1. Returning money to contributors in amounts that are not more than the contributor's original contribution (note: the candidate or treasurer may choose which contributors to refund. You *are not required* to prorate and return a portion to all contributors); or
2. Donating money to any tax-exempt charitable organization, the Common School Fund, Wisconsin Election Campaign Fund, or any other government entity; or
3. Transferring money to another registrant within the permitted contribution limit; or
4. Using any combination of the above.

Prior to making these disbursements, make sure the committee does not have any pending fees or settlement offers.

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

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

Introduction and Recommendations:

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

In *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to engage in independent disbursements and strengthened the ability of the government to require disclosure and disclaimer of the independent disbursements. At the Board's meeting on March 23-24, 2010, the Board directed staff to return to the May 10, 2010 meeting with an emergency rule to address the implications of the *Citizens United* decision. In addition, the Board directed staff to promulgate a permanent rule, as well. An emergency rule is needed to create GAB §1.91, Wis. Adm. Code, as a result of Legislative inaction and in light of the elections this year.

Pursuant to s. 227.24, Wis. Stats., the Government Accountability Board has the authority to issue an emergency rule that is effective upon publication in the Wisconsin State Journal. Attached to this Memorandum is the proposed Notice of Order of The Government Accountability Board (Emergency Rule Order Creating GAB 1.91, Wis. Adm. Code). The Board is required to make an emergency finding, which is included in the attached Notice of Order. If the Board approves the Notice of Order, it will be published in the Wisconsin State Journal and effective immediately. Thereafter, a public hearing must be held within 45 days.

The work to complete a permanent rule cannot begin until the staff publishes a Statement of Scope in the register and 10 days thereafter the Board approves the State of Scope. Attached to this Memorandum is the proposed Statement of Scope.

Staff recommends that the Board approve the proposed Emergency Rule Order and direct the staff to publish it. In addition, staff recommends that the Board schedule a public hearing to occur within 45 days of the anticipated publication date of the Emergency Rule Order. Finally, staff recommends that the Board approve the Statement of Scope and direct staff to continue with promulgation of a permanent rule.

Analysis:

Staff has reviewed voluminous commentary on the *Citizens United* decision, including legislative activities at the Federal and State level in the wake of the decision. Federal legislation has been introduced, the DISCLOSE Act, in an attempt to address the broadened category of persons eligible to make independent expenditures in Federal elections. Iowa has already passed legislation to address the complexities of implementing the decision in the campaign finance arena. Staff worked with the Wisconsin Legislature regarding potential statutory changes and discussed Chapter 11, Wis. Stats., enforcement issues with the Wisconsin Department of Justice.

The Board should note that the Wisconsin Legislature has adjourned for this session and, absent a special session, will not be in session again until January 2011. This is well after the September Primary and November General Election. The Legislature adjourned without taking legislative action in response to *Citizens United*. In light of *Citizen United's* broad expansion of persons eligible to make independent expenditures in elections, the Board directed staff to promulgate emergency and permanent rules to provide direction to persons with respect to the requirements of Chapter 11 and campaign finance statutes. Staff submits the attached Emergency Rule Order and State of Scope for the Board's consideration.

The Emergency Rule Order interprets a number of statutory provisions in Chapter 11, Wis. Stats., and provides direction to persons making independent expenditures with respect to registration, reporting, and disclaimer requirements. The Emergency Rule Order does not treat persons making independent expenditures as a full political action committees or individuals for the purposes of registration and reporting. In *Citizens United*, the Supreme Court suggested that persons wishing to make independent expenditures should not have to create a completely separate political action committee in order to engage in independent expenditure political speech. However, the Supreme Court did clearly favor disclosure and disclaimer regulation for these persons and the Emergency Rule Order captures as much disclosure as is possible without additional enabling legislation.

The Emergency Rule Order does not establish any corporate shareholder consent disclosure requirements. A member of the Board had requested a rule with provisions requiring disclosure of corporate shareholder consent; however, upon staff's review of Chapter 11, Wis. Stats., and research of the Board's rule-making authority, such corporate shareholder consent provisions are not possible at this time. Currently, there are no enabling provisions of Chapter 11, Wis. Stats., that provide for interpretation by the Board that could result in rules on corporate shareholder consent for independent expenditures. The Board should know that the Senate did pass 2009 Senate Bill 540, which would have created a statutory requirement for any corporation making independent expenditures to have prior shareholder consent; however, the companion bill in the Assembly, 2009 Assembly Bill 812, was not adopted and this will not become law. Attempts were made by the Legislature to amend 2009 Senate Bill 43 (known as

the issue ad bill) in such a fashion to address the implications of *Citizens United*, but these attempts were not actually introduced and likely would have treated persons making independent expenditures too much like a committee under Chapter 11, Wis. Stats.

The Emergency Rule Order requires disclosure of any independent disbursement and contributions made specifically for a political purpose. “Contribution” is defined in the current statutes in such a way that it is restricted to donations specifically intended (“made for”) a political purpose. This makes disclosure less complete because a person may receive donations intended for other purposes, but later use that same donation for a political purpose and make independent expenditures. The Emergency Rule Order would not require disclosure of the original sources of independent expenditures, if those original sources were not contributions—donations “made for” a political purpose. If a statutory provision provided that a contribution included a donation “used for” political purposes, perhaps then the Board could have adopted a rule that would have required reporting all original sources funds used for an independent expenditure. Federal tax law likely limits the ability of any nonprofit corporation in a practical sense from accepting too many donations for political purposes or making too many independent expenditures, as a nonprofit may lose that nonprofit status if the majority of its activity is political. Such a situation would result in the loss of the ability of donors to the nonprofit organization to deduct any donations from the donors tax base.

Proposed Motions:

1. **MOTION:** Pursuant to §§5.05(1)(f), 227.11(2)(a) and 227.24, Wis. Stats., the Board approves the attached Notice of Order of the Government Accountability Board (Emergency Rule Order Creating GAB 1.91, Wis. Adm. Code) and directs the staff to publish it.
2. **MOTION:** Pursuant to § 227.24(4), Stats., the staff shall schedule a public hearing to occur within 45 days of the anticipated publication date of the Notice of Order of the Government Accountability Board (Emergency Rule Order Creating GAB 1.91, Wis. Adm. Code).
3. **MOTION:** Pursuant to §§5.05(1)(f), 227.11(2)(a), and 227.135, Wis. Stats., the Board formally approves the attached Statement of Scope for the creation of ch. GAB §1.91, Wis. Adm. Code.

NOTICE OF ORDER OF THE GOVERNMENT ACCOUNTABILITY BOARD

The Wisconsin Government Accountability Board proposes an order to adopt an emergency rule to create s. GAB 1.91, Wis. Adm. Code, relating to organizations making independent disbursements.

STATEMENT OF EMERGENCY FINDING:

The Government Accountability Board creates s. GAB 1.91, Wis. Adm. Code, relating to organizations making independent disbursements. The rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions for independent disbursements or making independent disbursements.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists as a result of the United States Supreme Court decision *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010). Within the context of ch. 11, Stats, the rule provides direction to organizations receiving contributions for independent disbursements or making independent disbursements.

The Board adopts the legislature's policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify registration, reporting and disclaimer requirements for organizations receiving contributions for independent disbursements or making independent disbursements so that the campaign finance information is available to voters. The rule must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statutes Interpreted: ss. 11.01(4) and (18m), 11.05, 11.055, 11.06, 11.09, 11.10, 11.12, 11.14, 11.16, 11.19, 11.20, 11.21(16), 11.30, 11.38, 11.513, Stats.
2. Statutory Authority: ss. 5.05(1)(f) and 227.11(2)(a), Stats.
3. Explanation of agency authority: Express rule-making authority to interpret the provisions of statutes the Board enforces or administers is conferred on it pursuant to s. 227.11(2)(a), Stats. In addition, s. 5.05(1)(f), Stats., provides that the Board may promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.

In *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to engage in independent expenditures and strengthened the ability of the

government to require disclosure and disclaimer of the independent expenditures. Pursuant to s. 5.05(1), the Board has the responsibility for the administration of campaign finance statutes in ch. 11, Stats. Rules promulgated by the Board will ensure the proper administration of the campaign finance statutes and properly address the application of *Citizens United v. FEC*.

4. Related statute(s) or rule(s): ch. 11, Stats., and ch. GAB 1, Wis. Adm. Code.
5. Plain language analysis: Within the context of ch. 11, Stats, the proposed order will provide direction to organizations receiving contributions for independent disbursements or making independent disbursements following the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010). The proposed rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions or making independent disbursements.
6. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the FEC provides rules at 11 CFR 109.10, which regulate persons who are not a committee and make independent expenditures. An independent expenditure statement and reports quarterly are required for any person making independent expenditures in excess of an aggregate \$250.00 in a calendar year. If a person makes an independent expenditure of \$10,000.00 or more, an independent expenditure statement and report must be filed within 48 hours of the expenditure. Any person making an independent expenditure of \$1,000.00 or more within 20 days of an election must file an independent statement and report within 24 hours of the expenditure. The independent expenditure statement must include the identity of the person making the expenditure, any contributions received in excess of \$200.00, and the candidate benefitted by the expenditure. In addition, a disclaimer is required for any communication resulting from an independent expenditure.
7. Comparison with rules in adjacent states:

Section 5/9-1.5, Ill. Adm. Code, defines “expenditure” generally and to include an electioneering communication regardless of whether the communication is made in concert or cooperation with, or at the request, suggestion or knowledge of a candidate, a candidate’s authorized local political committee, a State political committee, or any of their agents. Sections 5/9-1.7 and 1.8, Ill. Adm. Code, define local and State political committees to include a candidate, individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which accept contributions or make expenditures on behalf of or in opposition to a candidate and exceeding an aggregate of \$3,000.00 in any 12 month period. Persons making independent expenditures in Illinois are by definition committees and subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin.

Chapter 351—4.27 of the Iowa Administrative Code sets forth requirements for registration and reporting of independent expenditures and it applies to any person, other than a candidate or registered committee, that makes one or more independent expenditures in excess of \$100.00 in the aggregate. 351—4.27, Iowa Adm. Code. A person subject to filing an independent expenditure statement must identify the person making the expense and for whom it benefits. 351—4.27(2), Iowa Adm. Code. There is no requirement to file a statement of organization registering a committee or public disclosure reports. 351—4.27(7), Iowa Adm. Code. A disclaimer on communications is required. 351—4.27(6), Iowa Adm. Code.

Michigan statutes regulate independent expenditures, but the administrative rules do not specifically address them. Michigan Statutes s. 169.208 provides a definition for an “independent committee,” which upon exceeding \$500.00 in contributions or expenditures is subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin.

Minnesota statutes regulate independent expenditures, but the administrative rules do not specifically address them.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes and federal case law.
9. Analysis and supporting documentation used to determine effect on small businesses: The rule may have a minimal effect on small businesses that will participate in receiving contributions or making independent disbursements. The economic impact of this effect is minor. Businesses may have a filing fee of \$100.00, if the amount of aggregate independent disbursements made in any year exceeds \$2,500.00.
10. Effect on small business: The creation of this rule may have a minimal effect on small businesses as explained above.
11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 266-2094; Shane.Falk@wisconsin.gov

FISCAL ESTIMATE: The creation of this rule has minimal fiscal effect. There may be additional registrants filing reports with the Board and potentially additional enforcement actions that may require staff action. The extent of this potential fiscal impact is undetermined.

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

TEXT OF PROPOSED RULE:

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss. 5.05(1)(f), 227.11(2)(a) and 227.24, Stats., the Government Accountability Board hereby adopts an emergency rule creating GAB 1.91, Wis. Adm. Code, interpreting ch. 11, Stats., as follows:

SECTION 1. GAB 1.91 is created to read:

1.91 Organizations Making Independent Disbursements

(1) In this section:

- (a) "Contribution" has the meaning given in s. 11.01(6), Stats.
- (b) "Disbursement" has the meaning given in s. 11.01(7), Stats.
- (c) "Filing officer" has the meaning given in s. 11.01(8), Stats.
- (d) "Incurred obligation" has the meaning given in s. 11.01(11), Stats.
- (e) "Person" includes the meaning given in s. 990.01(26), Stats.
- (f) "Organization" means any person other than an individual, committee, or political group subject to registration under s. 11.23, Stats.
- (g) "Independent" means the absence of acting in cooperation or consultation with any candidate or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.
- (h) "Designated depository account" means a depository account specifically established by an organization to receive contributions and from which to make independent disbursements.

(2) A corporation, or association organized under ch. 185 or 193, Stats., is a person and qualifies as an organization that is not prohibited by s. 11.38(1)(a)1., Stats., from making independent disbursements until such time as a court having jurisdiction in the State of Wisconsin rules that a corporation, or association organized under ch. 185 or 193, Stats., may constitutionally be restricted from making an independent disbursement.

(3) Upon accepting contributions made for, incurring obligations for, or making an independent disbursement exceeding \$25 in aggregate during a calendar year, an organization shall establish a designated depository account in the name of the

organization. Any contributions to and all disbursements of the organization shall be deposited in and disbursed from this designated depository account. The organization shall select a treasurer for the designated depository account and no disbursement may be made or obligation incurred by or on behalf of an organization without the authorization of the treasurer or designated agents. The organization shall register with the board and comply with s. 11.09, Stats., when applicable.

- (4) The organization shall file a registration statement with the appropriate filing officer and it shall include, where applicable:
 - (a) The name, street address, and mailing address of the organization.
 - (b) The name and mailing address of the treasurer for the designated depository account of the organization and any other custodian of books and accounts for the designated depository account.
 - (c) The name, mailing address, and position of other principal officers of the organization, including officers and members of the finance committee, if any.
 - (d) The name, street address, mailing address, and account number of the designated depository account.
 - (e) The registration statement shall be signed by the treasurer for the designated depository account of the organization and shall contain a certification that all information contained in the registration statement is true, correct and complete.
- (5) An organization required to register with the Board shall annually pay a filing fee of \$100.00 to the Board as provided in s. 11.055, Stats.
- (6) The organization shall comply with s. 11.05(5), Stats., and notify the appropriate filing officer within 10 days of any change in information previously submitted in a statement of registration.
- (7) An organization making independent disbursements shall file the oath for independent disbursements required by s. 11.06(7), Stats.
- (8) An organization receiving contributions for independent disbursements or making independent disbursements shall file periodic reports as provided ss. 11.06, 11.12, 11.19, 11.20 and 11.21(16), Stats., and include all contributions received for independent disbursements, incurred obligations for independent disbursements, and independent disbursements made. When applicable, an organization shall also file periodic reports as provided in s. 11.513, Stats.

- (9) An organization making independent disbursements shall comply with the requirements of §11.30(1); (2)(a) and (d), Wis. Stats., and include an attribution identifying the organization paying for any communication, arising out of independent disbursements on behalf of or in opposition to candidates, with the following words: “Paid for by” followed by the name of the organization and the name of the treasurer or other authorized agent of the organization followed by “Not authorized by any candidate or candidate’s agent or committee.”

This rule shall take effect upon its publication in the official state newspaper, the Wisconsin State Journal, pursuant to s. 227.24, Stats.

Dated this 10th day of May, 2010.

Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

Statement of Scope
Government Accountability Board
Organizations Making Independent Disbursements GAB 1.91

Subject

Create s. GAB 1.91 relating to organizations making independent disbursements.

Objective of the Rule

In *Citizens United v. FEC*, 558 U.S. ____, (No. 08-205)(January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to engage in independent expenditures and strengthened the ability of the government to require disclosure and disclaimer of the independent expenditures. Pursuant to s. 5.05(1), the Board has the responsibility for the administration of campaign finance statutes in ch. 11, Stats. Rules promulgated by the Board will ensure the proper administration of the campaign finance statutes and address the application of *Citizens United v. FEC* to Wisconsin statutes.

Policy Analysis

Within the context of ch. 11, Stats, the proposed order will provide direction to organizations receiving contributions for independent disbursements or making independent disbursements following the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. ____, (No. 08-205)(January 21, 2010). The proposed rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions or making independent disbursements.

Statutory Authority

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

Comparison with Federal Regulations

At the federal level, the FEC provides rules at 11 CFR 109.10, which regulate persons who are not a committee and make independent expenditures. An independent expenditure statement and reports quarterly are required for any person making independent expenditures in excess of an aggregate \$250.00 in a calendar year. If a person makes an independent expenditure of \$10,000.00 or more, an independent expenditure statement and report must be filed within 48 hours of the expenditure. Any person making an independent expenditure of \$1,000.00 or more within 20 days of an election must file an independent statement and report within 24 hours of the expenditure. The independent expenditure statement must include the identity of the person making the expenditure and any contributions received in excess of \$200.00. In addition, a disclaimer is required for any communication resulting from an independent expenditure.

Entities Affected by the Rules

Any person, association, corporation, partnership, union, or any other person that is not a committee, individual or political group subject to registration under s. 11.23, Stats., that will make independent disbursements.

Estimate of Time Needed to Develop the Rules

50 hours.

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Status Report on Pending Administrative Rule-Making

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

STATUS REPORT ON PENDING ADMINISTRATIVE RULE-MAKING

Revise 1.10

Relating to: Registration by Nonresident Committees and Groups

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

Revise 1.15

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

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

Revise 1.20

Relating to: Treatment and Reporting of In-Kind Contributions

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

Create 1.21

Relating to: Treatment of Joint Account Contributions

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

Revise 1.26

Relating to: Return of Contribution

Status: Board original action on May 5, 2008. Scope statement approved at August 10, 2009 meeting, which must be submitted to the Legislative Reference Bureau and then can begin rule-making process to correct grammatical error. Likely will complete

with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

Revise 1.28

Relating to: Scope of Regulated Activity; Election of Candidates

Status: Board original action January 15, 2009. Legislative Council review complete. Public hearing held on March 30, 2009. Legislative Report complete and filed with legislature, but was recalled by the Board pending the Supreme Court decision for Citizens United v. FEC. Citizens United v. FEC decision issued January 21, 2010. Revised analysis section of rule was approved by the Board at the March 23-24, 2010 meeting and staff was directed to resubmit the rule to the Legislature. By the time of the May 10, 2010 Board meeting, the Legislative Report for the rule will be filed with the Legislature.

Revise 1.43

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

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

Revise 1.85 and 1.855

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

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

Create 1.90

Relating to: MCFL Corporation Registration and Reporting Requirements

Status: Board original action August 27, 2008. Scope statement approved by the Board at the December 17, 2009 meeting. Draft rule was approved by the Board at the March 23-24, 2010 meeting. The Statement of Scope must be submitted to the Legislative Reference Bureau for publication to begin the rule-making process. Will likely have to hold public hearing, so following submittal to Legislative Council will hold public hearing and then submittal to legislature before publication.

Create 1.91

Relating to: Organizations Making Independent Expenditures

Status: At the March 23-24, 2010 Board meeting, the Board considered the ramifications of the U.S. Supreme Court decision, *Citizens United v. FEC*. The Board adopted an interim policy regarding corporate independent expenditures. Staff was directed to draft an emergency rule to present to the Board for consideration at the May 10, 2010 meeting. In addition, the Board directed staff to promulgate permanent rules to address independent expenditures in the context of Citizens United. These materials are included separately in the Board materials for the May 10, 2010 meeting.

Revise Chapter 3

Relating to: Voter Registration, HAVA Checks

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

Repeal and Recreate Chapter 4

Relating to: Election Observers

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

Repeal and Recreation of Chapter 5

Relating to: Security of Ballots and Electronic Voting Systems

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

Revise 6.02

Relating to: Registration Statement Sufficiency.

Status: Board original action on March 30, 2009. Scope statement submitted for publication. Draft rule approved by the Board at the December 17, 2009 meeting and then can continue rule-making process to clarify sufficiency standards. Likely will

complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

Revise 6.03

Relating to: Assistance by Government Accountability Board Staff

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

Revise 6.04

Relating to: Filing Documents by FAX or Electronic Means

Status: Board original action on March 30, 2009. Scope statement submitted for publication. Draft rule approved by the Board at the December 17, 2009. Must submit to the Legislative Council for review to continue rule-making process to clarify electronic filing requirements. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

Revise 6.05

Relating to: Filing Campaign Finance Reports in Electronic Format

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

Revise Chapter 7

Relating to: Approval of Electronic Voting Equipment

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

Revise 9.03

Relating to: Voting Procedures for Challenged Electors

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

Creation of Chapter 13

Relating to: Training Election Officials

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

Repeal 21.01, 21.04 and Revise 20.01

Relating to: 21.01—filing of all written communications and documents intended for former Ethics Board

21.04—transcripts of proceedings before former Ethics Board

20.01—procedures for complaints before former Elections Board

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

Creation of Chapter 22

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

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

State of Wisconsin \ Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, 3rd Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of May 10, 2010

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel

Prepared and Presented by:
Michael Haas, Staff Counsel

SUBJECT: MOVE Act Implementation

At its meeting of December 17, 2009, the Board authorized the Director and General Counsel to develop legislation to harmonize state law with the new requirements of the federal Military and Overseas Voter Empowerment (MOVE) Act. The Board also authorized the Director and General Counsel to proceed with an application for a waiver from some of the MOVE Act's timing provisions, specifically the requirement to provide absentee ballots to military and overseas voters at least 45 days in advance of the November 2010 General Election, if that is determined to be the best method to facilitate compliance with the MOVE Act consistent with Wisconsin's election calendar. This memorandum provides a summary of the status of MOVE Act implementation for the Board's information, and no additional Board action is required at this time.

Board staff had proposed state legislation to assist in implementing provisions of the MOVE Act, which were incorporated into the omnibus election legislation known as the Voter Protection Act, but that legislation was not enacted. Absent a special or extraordinary legislative session, staff believes that the requirements of the MOVE Act can be implemented administratively for the 2010 General Election, with emergency administrative rules if necessary.

The MOVE Act requires state and local election officials to change several forms and procedures to better accommodate voting by military and overseas electors, who face unique challenges in receiving and returning absentee ballots. Several of the requirements involve facilitating the use of electronic transmission to request and to send voter registration applications, absentee ballot applications, and blank absentee ballots. Another significant change will be to enhance the Statewide Voter Registration System and the Voter Public Access website to permit military and overseas voters to verify the receipt of their absentee ballots by the appropriate municipality.

Board staff has established a timetable and process for implementing new procedures, which will include consultation and coordination with local election officials. As part of its regular WisLine training programs, Board staff outlined basic MOVE Act information to a telephone

audience of over 90 election officials on April 28, 2010. A clerk advisory committee will convene in mid-May to discuss coordinating MOVE Act procedures between the G.A.B and municipalities. Changes to absentee balloting instructions and materials are scheduled to be finalized by mid-June, and necessary updates to SVRS will be developed, tested, and installed over the next three months.

To execute the Board's motion from its December meeting, Board staff will seek a waiver from the federal government of the requirement that absentee ballots be available to military and overseas voters at least 45 days prior to the 2010 General Election. The State Write-In Absentee Ballot is sent to military and overseas electors 90 days in advance of Election Day. Given that the Partisan Primary Election is 42 days prior to the General Election, it is impossible for Wisconsin's official absentee ballot to be available by the date anticipated in the MOVE Act.

According to the Department of Defense, there are 15,752 Wisconsin military service members serving overseas, with an additional 3,369 voting age dependents. While the total number of individuals who would qualify as overseas electors eligible to vote in Wisconsin elections is unknown, in the November 2008 General Election, another 4500 absentee ballots were issued to such voters. Historically, state and local election officials have taken seriously the obligation to ensure timely access to the ballot for these individuals, as illustrated by two independent state-by-state studies which assigned Wisconsin their highest ratings for accommodating military and overseas voters. Board staff is committed to continuing that high level of service by implementing the changes created by the MOVE Act in an organized and comprehensive manner.

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212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Significant Legislative Activity

Introduction

The Legislative Status Report provides a listing of the key pieces of legislation monitored by the agency staff as well as a status report on the individual bills and resolutions. This memorandum discusses recent legislative activity on items of particular import for the agency.

2009 Assembly Bill 913, Impartial Justice Act Trailer Bill

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

A staff report on implementation of the new law is presented separately. The new law has been challenged by two lawsuits. Board Members will be briefed on the defense of the lawsuits in closed session.

Staff worked with the legislative drafter to develop a trailer bill (2009 Assembly Bill 913 and 2009 Senate Bill 658) to address a number of drafting anomalies which raised questions about the administration of certain provisions of the new law. We contacted the legislative authors and requested they consider introducing the trailer legislation to ensure the new law can be administered effectively. Due to the diligent efforts of Mike Haas, who shepherded this legislation in the waning days of the legislative session, we were able to get the bills introduced, public hearings held, executive action by the legislative committees and passage of the Assembly

version and concurrence by the Senate by the end of the session. Governor Doyle signed Senate Bill 913 into law on April 29, 2010.

2009 Assembly Bill 895/ 2009 Senate Bill 640 - Omnibus Election Legislation

Representative Jeff Smith, Chair of the Assembly Committee on Elections and Campaign Reform, in conjunction with Senator Spencer Coggs, Chair of the Senate Committee on Labor, Elections and Urban Affairs, put together a comprehensive bill, the Wisconsin Voter Protection Act, on election administration which captured several elements of legislative initiatives proposed by the G.A.B. This included our MOVE implementation legislation and most of the Board's recommendations to streamline in-person absentee voting set out in its Report on Early Voting adopted at the December 17, 2009 meeting. It did not move the deadline for in-person absentee voting from the day before the election (Monday) to the Friday preceding Election Day. The Bill also included several technical changes that were part of the agency's legislative agenda.

On-line voter registration, which is a key element of the agency's 5-year election administration plan, was included in the substitute amendment of the bills that was drafted after a joint Assembly/Senate Committee public hearing on March 31, 2010. Senator Risser and Representative Berceau had introduced separate legislation -- 2009 Assembly Bill 892 and 2009 Senate Bill 645 -- to create an on-line voter registration program linking information from the Statewide Voter Registration System (SVRS) with information from the Department of Transportation (DOT) to enable voters with a Wisconsin driver's license or DOT-issued identification card to complete or change their voter registration on-line using a portal on the G.A.B. website. Senator Risser and Representative Berceau worked closely with our staff to develop this legislation. Shane Falk and Ann Oberle put in extraordinary efforts to make the proposal secure, administratively feasible and transparent.

The proposal also included provisions for voter registration modernization in the form of automatic registration of eligible citizens based on information in existing government databases; increased availability of permanent absentee voting; restrictions on challenging voters and provisions to prohibit voter intimidation and deceptive election practices. These provisions all originated with specific legislative initiatives developed by legislators, including incorporation of proposals from other bills which had been previously introduced.

Neither bill was voted on in either house so the legislation failed to pass. This was unfortunate because a significant part of our election-related legislative priorities had been added to the legislation. Many of the proposed changes would have leveraged technology to improve the administration of elections in Wisconsin. Most damaging was the failure to enact changes to implement the Military and Overseas Voters Empowerment (MOVE) Act passed last fall by Congress.

Staff is working to develop administrative steps to implement MOVE as authorized by the Board at its December 17, 2009 meeting. We expect to work closely with the Attorney General's office and the U.S. Department of Justice to ensure Wisconsin is in compliance for the 2010 elections as required by federal law. We are also working on the possibility for a special or an extraordinary session of the Legislature to address MOVE implementation

Legislative Response to *Citizens United v. Federal Election Commission* and Issue Ad Regulation

Following the U.S. Supreme Court decision in *Citizens United v. Federal Election Commission*, the staff contacted members of the Legislature to encourage them to develop legislation that would remove the restriction on corporate independent expenditures and establish a mechanism for disclosing corporate campaign spending. A number of proposals were developed. The most promising was an Assembly substitute amendment to 2009 Senate Bill 43. The original legislation was aimed at regulating issue ads and had passed the Senate. Initially the legislation tracked the Board's proposed administrative rule on the scope of regulated activity to permit more disclosure of certain issue advocacy. The proposed substitute amendment was not introduced in the Assembly and several competing versions were discussed with a wide range of participants in the process including G.A.B. staff. However, the requisite consensus among the legislators working to secure passage was never achieved and no version passed the Legislature.

Two companion bills were introduced in each house which removed the restriction on corporate independent expenditures and required some disclosure -- 2009 Senate Bill 540 and 2009 Assembly Bill 812. The legislation also required shareholders to approve any corporate political spending. The Senate version passed the Senate, but no action was taken in the Assembly.

As a result, the G.A.B. is left to determine how to address corporate campaign independent expenditures. A separate report with proposed rules will be presented to the Board at this meeting.

Electronic Filing of Campaign Finance Reports

Representative Corey Mason introduced 2009 Assembly Bill 494, which would permit campaign finance registrants subject to the requirement to file electronic reports to use either a web-based system developed by the G.A.B. or file their report in a delimited electronic format such as an Excel spreadsheet. This legislation is also a response to the frustration experienced by candidates resulting from the first filing on the CFIS tool. The Board staff independently had implemented a change to CFIS last fall that permits the use of an Excel spreadsheet to file a report. The Senate adopted an amendment that would have permitted committees to file a paper report; however, the Assembly never took up the amended version of the Bill. This Bill did not pass.

Referendum Registration Threshold Legislation

The Board requested the Legislature to amend the current registration requirements for individuals and groups seeking to influence the outcome of referenda, as established in §11.23, Wis. Stats. This initiative was in response to a federal court ruling that the current \$25 threshold to require registration and reporting was unconstitutionally low. Companion legislation was introduced by the respective legislative committees at the Board's request -- Assembly Bill 645 and Senate Bill 417. Senate Bill 417 passed both houses and is awaiting the Governor's signature. It raises the \$25 threshold to \$750 of expenditures in a calendar year, so that individuals or groups advocating with regard to a referendum election are not required to register or file campaign finance reports unless their contributions or expenditures total at least \$750 in a calendar year. Following the federal court decision, Board staff advised district attorneys not to enforce the current statute pending legislative action. Upon enactment, the Board will

communicate with district attorneys to inform them of the statutory change and advise that we believe the statute would now survive a constitutional challenge

Electronic Data from Memory Devices for Voting System Tabulating Equipment

After a review of the capabilities of current electronic voting equipment in use in the State, the Board requested the Legislature to amend the law on retention of data stored in detachable memory units on electronic tabulating equipment. Companion legislation was introduced by the respective legislative committees at the Board's request, 2009 Assembly Bill 646 and Senate Bill 435. Both versions were amended to address concerns raised by legislators about the application of the proposed changes in electronic data retention to newer electronic voting systems. 2009 Senate Bill 435 passed both houses.

As a result electronic voting systems approved by the G.A.B after January 1, 2009 are required to have the capability of retaining electronic voting data from tabulating equipment for 22 months following any election. Municipalities using electronic voting equipment approved before that date must retain the electronic data for 14 days after a primary and 21 days after a general election involving only state and local offices or referenda (February and April), but must still retain the data for 22 months following any federal election. This legislation would significantly clarify the obligation of municipalities to retain electronic election records, an issue which has required much Board and staff attention since the 2008 General Election. It also provides a significant cost savings for municipalities that continue to use electronic voting systems approved prior to January 1, 2009

As of the date of drafting this memorandum, SB 435 has not been signed into law by the Governor, but the signing is expected imminently.

LEGISLATIVE STATUS REPORT

May 10, 2010 Meeting

(2009 Regular Session Full Report)

Assembly Bills

- **Assembly Bills - Passed**

Assembly Bill 2

Introduced by Representatives Pocan, Zigmunt, Barca, Benedict, Berceau, Bernard Schaber, Black, Clark, Danou, Fields, Grigsby, Hraychuck, Hubler, Jorgensen, Krusick, Mason, Molepske Jr., Nelson, Parisi, Pasch, Pope-Roberts, Radcliffe, Richards, Roys, Seidel, Sheridan, Shilling, Sinicki, Smith, Van Akkeren, A. Williams and Young. Cosponsored by Senators Wirch, Coggs, Hansen, Lassa, Lehman, Miller, Robson and Sullivan.

Relating to: state procurement of contractual services.

History: Passed the Assembly and Senate. Approved by the Governor on 3/3/10. Published on 3/17/10 as **2009 Wisconsin Act 136**.

Assembly Bill 75

Introduced by Joint Committee on Finance, by request of Governor Doyle.

Relating to: state finances and appropriations, constituting the executive budget act of the 2009 Legislature.

History: Referred to the Joint Committee on Finance, the Joint Survey Committee on Tax Exemptions, and the Joint Survey Committee on Retirement Systems. Public hearings held by Joint Committee on Finance. Assembly substitute amendment 1 offered. Passage as amended recommended by Joint Committee on Finance. Referred to calendar on 6/08/09. Passed with partial veto and published on 6/29/09. **2009 Wisconsin Act 28**. Partial vetoes referred to Assembly Committee on Rules. Assembly refused to suspend rules to withdraw partial item veto D-6 from committee on Rules and take up.

Assembly Bill 913

Introduced by Representative Hintz. Cosponsored by Senator Kreitlow.

Relating to: public financing of campaigns for the office of justice of the Supreme Court.

History: Referred to committee on Elections and Campaign Reform. Public hearing held on 3/31/10. Assembly amendment 1 offered by Representative Hintz. Assembly substitute amendment 1 offered by committee on Elections and Campaign Reform. Assembly Substitute Amendment 1 adoption recommended by committee on Elections and Campaign. Passage as amended recommended by committee on Elections and

Campaign Reform. Referred to committee on Rules. Assembly made a special order of business on 4-20-2010 pursuant to Assembly Resolution 23.

Assembly substitute amendment 1 adopted. Read a third time and passed. Senate received from Assembly and referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Senator Taylor added as a cosponsor. Senate Committee on Rules suspended to withdraw from committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing and take up. Senate Rules suspended. Senate read a third time and concurred in. Assembly received from Senate concurred in. Correctly enrolled. Signed by the Governor on 4/29/10. **2009 Wisconsin Act 216.**

- **Assembly Bills – Failed to Pass**

- **Assembly Bill 39**

- Introduced by Representatives Kessler, Soletski, Pocan, Hubler, Turner, Richards, A. Williams, Hebl, Berceau, Roys, Black, Grigsby, Barca and Pasch. Cosponsored by Senators Lehman, Cogg and Plale.

- **Relating to:** the authorization for municipalities to establish satellite stations for purposes of conducting voter registration and absentee voting and granting rule-making authority. Assembly failed to pass pursuant to Senate Joint Resolution 1.

- **Assembly Bill 42**

- Introduced by Representatives Gottlieb, Kaufert, Ballweg, Bies, Brooks, Cullen, Davis, Gunderson, Lothian, Meyer, Mursau, Murtha, Nass, Nygren, A. Ott, Petrowski, Roth, Strachota, Van Roy and Ripp. Cosponsored by Senators Harsdorf, Olsen, Cowles and Schultz.

- **Relating to:** acceptance of certain political contributions by certain elective state officials, officials elect, and committees and providing a penalty. Assembly failed to pass pursuant to Senate Joint Resolution 1.

- **Assembly Bill 62**

- Introduced by Representatives Kessler, Soletski, Hubler, Cullen, Hilgenberg, Black, Berceau, Benedict, Danou, Pope-Roberts, Hixson and Parisi. Cosponsored by Senators Sullivan, Risser and Lehman.

- **Relating to:** venue for elections and ethics enforcement actions. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 63

Introduced by Representatives Dexter, Hebl, Cullen, Zigmunt, Sherman, Barca, Hintz, Black, Hilgenberg, Mason, Toles, Hixson, Pope-Roberts, Pocan and Kaufert. Cosponsored by Senators Erpenbach, Kreitlow, Ellis, Vinehout, Hansen, Risser, Lehman, Holperin, Harsdorf, Carpenter, Cowles and Robson.

Relating to: the scope of regulated activity under the campaign finance law. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 65

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

Relating to: public financing of campaigns for the office of justice of the Supreme Court, making appropriations, and providing penalties. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 104

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

Relating to: reporting of information by nonresident registrants under the campaign finance law. Senate failed to concur in pursuant to Senate Joint Resolution 1.

Assembly Bill 117

Introduced by Representatives Kaufert, Bies, Brooks, Roth, Van Roy, Townsend, Lothian and Mursau. Cosponsored by Senators Cowles, Ellis and A. Lasee.

Relating to: withholding of pay of certain state elected officials and prohibiting the reimbursement of certain legislator expenses; acceptance of certain political contributions by certain elective state officials and committees; deadlines for the transmittal of the Building Commission's long-range state building program recommendations and the delivery of the governor's biennial budget message; submission of a report on the timeliness of the submittal of agency biennial budget requests; legislative consideration of biennial budget bill; operation of legislature before passage of biennial budget bill; and providing a penalty. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 120

Introduced by Representatives Vos, Montgomery, Nygren, Suder, Gundrum, Kramer, Huebsch, Kestell, Kerkman, LeMahieu, Petersen, Cullen, Murtha, J. Ott, Townsend, Mursau, Gunderson, Spanbauer, Bies, Strachota, Kleefisch, Van Roy, Lothian, Petrowski and Honadel. Cosponsored by Senators Grothman, Cowles, Hopper, Darling, Leibham and Lazich.

Relating to: providing the public with information on state agency operations expenditures and state agency contracts and grants. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 145

Introduced by Representatives Kessler, A. Williams and Turner. Cosponsored by Senator Taylor.

Relating to: legislative review of municipal ward, supervisory district, aldermanic district, and certain school district election district plans. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 163

Introduced by Representatives Berceau, Roys, Zepnick, Hilgenberg and Smith. Cosponsored by Senators Taylor and Plale.

Relating to: allowing certain political signs on rental premises. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 168

Introduced by Representatives Zipperer, Vukmir, Kramer, Davis, Gundrum, Kerkman, Kestell, Kleefisch, Knodl, LeMahieu, Lothian, Montgomery, Murtha, Nass, Nygren, J. Ott, Petersen, Roth, Spanbauer, Strachota, Suder, Townsend, Van Roy, Vos and Ziegelbauer. Cosponsored by Senators Leibham, Kanavas, Cowles, Darling, Hopper, Lazich and Schultz.

Relating to: preparation and legislative consideration of a biennial budget bill; making executive sessions of the Joint Committee on Finance relating to the biennial budget bill available in real time for viewing by the public on the legislature's Internet Web site; and reporting of certain information by lobbying principals. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 169

Introduced by Representative Zipperer. Cosponsored by Senator Kanavas.

Relating to: the number of nomination paper signatures required for school board candidates in certain school districts.

Assembly Bill 245

Introduced by Representatives Black, Clark, Brooks, Smith, Hilgenberg, Ziegelbauer, Berceau, Pope-Roberts, Hebl, Benedict, Bies and Pocan. Cosponsored by Senators Lassa, Schultz, Lehman and Carpenter.

Relating to: service by a former member of the legislature as a lobbyist. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 249

Introduced by Representatives Young, Grigsby, A. Williams, Richards, Black, Roys, Jorgensen, Pasch, Mason, Pope-Roberts and Toles. Cosponsored by Senators Coggs, Risser, Taylor and Hansen.

Relating to: deceptive election practices; voter intimidation, suppression, and protection; granting rule-making authority; and providing penalties. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 304

Introduced by Representatives Soletski, Bies, Berceau, Brooks, Mursau, A. Ott, Spanbauer, Van Roy and Zigmunt. Cosponsored by Senators A. Lasee and Cowles.

Relating to: ineligibility of convicted felons for licensure as lobbyists. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 322

Introduced by Representatives Black, Hebl, Turner, Jorgensen and Clark.

Relating to: identification of individuals who examine statements of economic interests filed with the Government Accountability Board. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 327

Introduced by Representatives Schneider, A. Williams, and Hraychuck.

Relating to: contributions by state contractors, grantees, or loan recipients and their officers and substantial owners to certain elective state officials. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 330

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

Relating to: requirements for electors who vote by absentee ballot. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 353

Introduced by Representatives Grigsby, Schneider, Parisi, Hilgenberg, Pocan, Young, Pasch, Roys, Black, Turner, Fields, Kessler, Berceau, A. Williams, Toles, Sinicki, Pope-Roberts and Zigmunt. Cosponsored by Senators Taylor, Coggs, Miller and Risser, by request of Restore the Vote Wisconsin NOW Coalition.

Relating to: restoring the right to vote to certain persons barred from voting as a result of a felony conviction and changing the information required on voter registration forms. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 388

Introduced by Representatives Pope-Roberts, Berceau, Black, Hixson, Hebl, Zigmunt, Clark, Kessler, Molepske Jr., Parisi and Kaufert. Cosponsored by Senators Erpenbach, Ellis, Carpenter, Lehman, Holperin, Schultz, Risser, Harsdorf, Vinehout, Sullivan and Kapanke.

Relating to: campaign financing, designations for the Wisconsin election campaign fund by individuals filing state income tax returns, creating a nonrefundable individual income tax credit for contributions to the Public Integrity Endowment, candidate time on public broadcasting television stations and public access channels, staffing of the Government Accountability Board; providing exemptions from emergency rule procedures; granting rule-making authority; making appropriations; and providing penalties. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 406

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

Relating to: challenging the ballots of electors at polling places. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 454

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

Relating to: information concerning independent candidates for partisan office that appears on the ballot at elections. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 494

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

Relating to: the methodology for filing campaign finance reports in electronic format. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 545

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

Relating to: residency of election officials. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 619

Introduced by Representatives Pocan, Smith, Berceau, Hebl, Milroy, Parisi, Pope-Roberts, A. Williams and Zepnick. Cosponsored by Senators Risser, Lehman, Miller and Sullivan.

Relating to: county, city, town, and village authority to create local elections boards and to regulate the financing of campaigns for county, city, town, and village offices; duties of municipal and county boards of election commissioners; and granting rule-making authority. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 630

Introduced by Representatives Kestell, Kerkman, Townsend, Suder, Knodl, Van Roy, Vos, Murtha, Gunderson, A. Ott, Brooks, J. Ott, Honadel, Ziegelbauer, Lothian, Ballweg and LeMahieu. Cosponsored by Senators Darling, Leibham, Grothman, Olsen and Cowles.

Relating to: enforcement of the citizenship qualification for voting in elections in this state. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 645

Introduced by Assembly Committee on Elections and Campaign Reform, by request of Government Accountability Board.

Relating to: the threshold for registration and reporting by groups and individuals seeking to influence referendum results. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 646

Introduced by Assembly Committee on Elections and Campaign Reform, by request of Government Accountability Board.

Relating to: the period for retention of certain election materials in state and local elections. Senate failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 669

Introduced by Representatives Grigsby, Sinicki, A. Williams, Kessler, Turner, Mason and Toles. Cosponsored by Senator Coggs.

Relating to: the governance, and election of members of the board of school directors, of a first class city school district, and tenure for school principals. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 812

In Introduced by Representatives Black, Berceau, Cullen, Kessler, Steinbrink, Pope-Roberts, Turner and Molepske Jr.; cosponsored by Senators Wirch, Lassa, Coggs, Lehman and Miller.

Relating to: political disbursements by corporations and cooperative associations and the scope of regulated activity under the campaign finance law. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 814

Introduced by Representatives Kramer, Petersen, Davis, Knodl, Vos, Zipperer, Huebsch, Townsend, Strachota, Gunderson, J. Ott, Suder and LeMahieu. Cosponsored by Senators Kanavas, Carpenter, Lazich, Hopper, Darling, Leibham, Schultz and Olsen.

Relating to: an optional identification requirement for voting in elections. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 872

Introduced by Representative Black.

Relating to: preparation of legislative and congressional districting plans by Legislative Reference Bureau. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 892

Introduced by Representatives Berceau, Parisi, Black, Smith, Turner, Pope-Roberts, Zepnick, Roys and Hebl. Cosponsored by Senators Risser, Taylor and Miller.

Relating to: electronic voter registration and proof of residence for voting in an election and granting rule-making authority. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 895

Introduced by Representatives Smith, Parisi, Young, Kessler, Roys, Soletski, A. Williams, Sheridan, Nelson, Pocan, Hilgenberg, Berceau, Hubler, Dexter, Bernard Schaber, Vruwink, Pasch, Black, Milroy, Grigsby and Pope-Roberts. Cosponsored by Senators Coggs, Hansen, Wirsch, Kreitlow, Holperin and Taylor.

Relating to: various changes in election laws, granting rule-making authority, and providing penalties. Assembly failed to pass pursuant to Senate Joint Resolution 1.

Assembly Bill 947

Introduced by Representatives Stone, Pridemore, Roth, Davis, LeMahieu, Vukmir, Lothian, Huebsch, Van Roy, Gunderson, Suder, Gottlieb, Petersen, Honadel, Spanbauer, Kestell, Zipperer, Kaufert, Kleefisch, Kramer, Vos, Kerkman, A. Ott, Montgomery, Knodl, Ballweg, Gundrum and J. Ott. Cosponsored by Senators Leibham, Lazich, A. Lasee, Kedzie, Olsen, Kanavas, Darling, Harsdorf, Schultz and Hopper.

Relating to: requiring certain identification in order to vote at a polling place or obtain an absentee ballot, verification of the addresses of electors, absentee voting procedure in certain residential care apartment complexes and adult family homes, identification cards issued by the Department of Transportation, creating an identification certificate issued by the Department of Transportation, requiring the exercise of rule-making authority, and providing a penalty. Assembly failed to pass pursuant to Senate Joint Resolution 1.

AB 978 (04.30.10)

Assembly Joint Resolutions

- **Assembly Joint Resolutions - Passed**
 - **None**
- **Assembly Joint Resolutions – Failed to Adopt**

Assembly Joint Resolution 2

Introduced by Representatives Sherman, Vruwink and Soletski. Cosponsored by Senators Carpenter and Holperin.

Relating to: eliminating the spring election (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 6

Introduced by Representatives Kessler and A. Williams.

Relating to: fixing the size of the legislature and gubernatorial appointment of Supreme Court justices (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 11

Introduced by Representatives Schneider, Kaufert and Suder. Cosponsored by Senators S. Fitzgerald and Schultz.

Relating to: status of seats of legislators on ordered military duty and appointment of temporary acting legislators for legislators performing ordered military duty (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 26

Introduced by Representative Schneider

Relating to: terms of office for members of the senate and assembly (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 29

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

Relating to: establishing competitive election criteria for redistricting the legislature (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 39

Introduced by Representatives Mason, Pasch, Soletski, Fields and Roys. Cosponsored by Senator Taylor.

Relating to: the age of qualified electors for state and local elections (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 63

Introduced by Representatives Kessler, Black, Grigsby, Turner and A. Williams. Cosponsored by Senator Taylor.

Relating to: excluding incarcerated, disenfranchised felons from the enumeration of population for apportionment and redistricting of legislative, county, and certain other district offices (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 96

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

Relating to: appointment of Supreme Court justices and elections to consider retention of justices (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

Assembly Joint Resolution 125

Introduced by Representatives Stone, Pridemore, Roth, Vukmir, Vos, LeMahieu, Gunderson, Van Roy, Suder, Gottlieb, Petersen, Honadel, Spanbauer, Kestell, Davis, Zipperer, Kaufert, Strachota, Newcomer, Petrowski, Kramer, Knodl, Kerkman, Nygren, A. Ott, Ballweg, Gundrum and J. Ott. Cosponsored by Senators Leibham, Lazich, A. Lasee, Kanavas, Darling, Schultz and Hopper.

Relating to: requiring a photographic identification to vote, or register to vote, at the polls on Election Day (first consideration). Assembly failed to adopt pursuant to Senate Joint Resolution 1.

AJR 138 (04.30.10)

Senate Bills

- **Senate Bills- Passed**

Senate Bill 40

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

Relating to: public financing of campaigns for the office of justice of the Supreme Court, making appropriations, and providing penalties.

History: Referred to Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Public hearing held on 5/27/09. Referred to Senate Joint Committee on Finance on 9/08/09 by committee on Senate Organization, pursuant to Senate Rule 41(1) (e). Senator Ellis added as a coauthor. Senator Carpenter added as a coauthor. Senate amendments 1, 2, 3, 4, and 5 adopted. Presented to the Governor on 11/30/09. Approved by the Governor with partial veto on 12/1/09. Published 12-15-2009. **2009 Wisconsin Act 89.**

Senate Bill 227

Introduced by Joint Legislative Council.

Relating to: interim successors for legislators, meetings of the legislature and legislative committees, and temporary seat of government for the legislature.

History: Referred to Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection. Senate amendment 3 offered by Senator Jauch. Senate amendment 3 adopted. Senate passed on 2/23/10. Assembly received and referred to the Assembly Committee on Rules. Assembly amendment 1 offered by Representatives Ballweg and Schneider. Assembly amendment 1 adopted. Assembly concurred in as amended. Senate received from Assembly and concurred in as amended, Assembly amendment 1 adopted. Placed on calendar 4-13-2010 pursuant to Senate Rule 18(1) and following Senate Bill 530. Senate amendment 1 to Assembly amendment 1 offered by Senator Lazich. Senate amendment 1 to Assembly amendment 1 rejected. Assembly amendment 1 concurred in. Senate action ordered immediately messaged. Correctly enrolled on 4-21-2010.

Senate Bill 383

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

Relating to: municipal court elections, judges, and procedure, and providing penalties.

History: Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Passage as amended recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Senate amendment 1 to Senate amendment 1 offered by Senator Taylor. Senator Miller added as a coauthor. Senate amendment 1 adopted. Senate amendment 1 to Senate amendment 1 adopted. Senate passed. Assembly received and referred to Assembly Committee on Corrections and the Courts. Public hearing held on 2/26/10. Assembly amendment 1 offered by Representative Seidel. Assembly 2 offered by Representative Kessler. Assembly 3 offered by Representative Parisi. Made a special order of business on 4-15-2010 pursuant to Assembly Resolution 22. Assembly amendment 1 adopted. Assembly amendment 3 adopted. Assembly read a third time and concurred in as amended. Senate received from Assembly amended and concurred in as amended, Assembly amendments 1 and 3 adopted. Senate placed on calendar 4-20-2010 pursuant to Senate Rule 18(1). Senate Assembly amendments 1 and 3 concurred in. LRB correction (Senate Amendment 1). Correctly enrolled on 4/28/10.

Senate Bill 417

Introduced by the Senate Committee on Judiciary, Corrections, Campaign Finance Reform, and Housing at the request of the Government Accountability Board.

Relating to: the threshold for registration and reporting by groups and individuals seeking to influence referendum results.

History: Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Senate report passage recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing. Placed on calendar 4-15-2010 pursuant to Senate Rule 18(1). Senate read a third time and passed. Assembly received from Senate and referred to committee on Rules. Made a special order of business on 4-20-2010 pursuant to Assembly Resolution 23. Assembly read a third time and concurred in. Senate received from Assembly concurred in.

Senate Bill 435

Introduced by Senate Committee on Labor, Elections and Urban Affairs, by request of the Government Accountability Board.

Relating to: the period for retention of certain election materials in state and local elections.

History: Referred to committee on Labor, Elections and Urban Affairs. Public hearing held on 4/08/10. Senate substitute amendment 1 offered by Senator Coggs. Adoption of Senate Substitute Amendment 1 recommended by committee on Labor, Elections and Urban Affairs. Passage as amended recommended by committee on Labor, Elections and Urban Affairs. Placed on calendar 4-20-2010 pursuant to Senate Rule 18(1). Senate substitute amendment 1 adopted. Read a third time and passed. Assembly received from Senate and referred to committee on Rules. Assembly made a special order of business on 4-22-2010 pursuant to Assembly Resolution 26. Assembly read a third time and concurred in. Senate received from Assembly concurred in.

- **Senate Bills- Failed to Pass**

Senate Bill 8

Introduced by Senators Wirch, Coggs, Hansen, Lassa, Lehman, Miller, Robson and Sullivan. Cosponsored by Representatives Pocan, Zigmunt, Barca, Benedict, Berceau, Bernard Schaber, Black, Clark, Danou, Fields, Grigsby, Hraychuck, Hubler, Jorgensen, Krusick, Mason, Molepske Jr., Nelson, Parisi, Pasch, Pope-Roberts, Radcliffe, Richards, Roys, Seidel, Sheridan, Shilling, Sinicki, Smith, Van Akkeren, A. Williams and Young.

Relating to: state procurement of contractual services. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 43

Introduced by Senators Erpenbach, Kreitlow, Ellis, Vinehout, Hansen, Risser, Lehman, Holperin, Harsdorf, Carpenter, Cowles and Robson. Cosponsored by Representatives Dexter, Hebl, Cullen, Zigmunt, Sherman, Barca, Hintz, Black, Hilgenberg, Mason, Toles, Hixson, Pope-Roberts, Pocan, Kaufert and Berceau.

Relating to: the scope of regulated activity under the campaign finance law. Assembly failed to concur in pursuant to Senate Joint Resolution 1.

Senate Bill 68

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

Relating to: reporting of information by nonresident registrants under the campaign finance law. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 92

Introduced by Senators Leibham, Kanavas, Cowles, Darling, Hopper, Lazich and Schultz. Cosponsored by Representatives Zipperer, Vukmir, Davis, Gundrum, Kerkman, Kestell, Kleefisch, Knodl, Kramer, LeMahieu, Lothian, Montgomery, Murtha, Nass, Nygren, J. Ott, Petersen, Roth, Spanbauer, Strachota, Suder, Townsend, Van Roy, Vos and Ziegelbauer, Brooks.

Relating to: preparation and legislative consideration of a biennial budget bill; making all meetings of the Joint Committee on Finance relating to the biennial budget bill available in real time for viewing by the public on the legislature's Internet Web site; and reporting of certain information by lobbying principals. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 179

Introduced by Representatives Kessler, Soletski, Hubler, Cullen, Hilgenberg, Black, Berceau, Benedict, Danou, Pope-Roberts, Hixson and Parisi. Cosponsored by Senators Sullivan, Risser and Lehman.

Relating to: deceptive election practices; voter intimidation, suppression, and protection; granting rule-making authority; and providing penalties. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 199

Introduced by Senators Leibham, Lazich, Carpenter, Darling, Grothman, Harsdorf, Hopper, Kanavas, Kedzie, A. Lasee, Olsen, Plale, Schultz and Sullivan. Cosponsored by Representatives Stone, Vukmir, Bies, Brooks, Davis, Gundrum, Honadel, Huebsch, Kaufert, Kerkman, Kestell, Kramer, LeMahieu, Lothian, Meyer, Montgomery, Murtha, Nass, A. Ott, J. Ott, Petersen, Pridemore, Spanbauer, Strachota, Suder, Tauchen, Townsend, Van Roy, Vos and Zipperer. Representative Petrowski added as a cosponsor.

Relating to: requiring certain identification in order to vote at a polling place or obtain an absentee ballot, verification of the addresses of electors, absentee voting procedure in certain residential care apartment complexes and adult family homes, and the fee for an identification card issued by the Department of Transportation.. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 217

Introduced by Senators A. Lasee and Cowles. Cosponsored by Representatives Soletski, Bies, Berceau, Brooks, Mursau, A. Ott, Spanbauer, Van Roy and Zigmunt.

Relating to: ineligibility of convicted felons for licensure as lobbyists. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 221

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

Relating to: campaign financing, designations for the Wisconsin election campaign fund by individuals filing state income tax returns, creating a nonrefundable individual income tax credit for contributions to the Public Integrity Endowment, candidate time on public broadcasting television stations and public access channels, staffing of the Government Accountability Board; providing exemptions from emergency rule procedures; granting rule-making authority; making appropriations; and providing penalties. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 236

Introduced by Senators Hansen, Ellis, A. Lasee, Vinehout, Risser, Kedzie, Carpenter, Schultz, Wirch, Erpenbach, Cowles and Kapanke. Cosponsored by Representatives Ziegelbauer, Roth, Schneider, Kessler, Brooks, Berceau, Nass, Toles, Ballweg, Vos and Nerison.

Relating to: electronic filing of campaign finance reports. Assembly failed to concur in pursuant to Senate Joint Resolution 1.

Senate Bill 240

Introduced by Senators Taylor, Miller, Coggs and Risser. Cosponsored by Representatives Grigsby, Schneider, Parisi, Young, Pasch, Roys, Hilgenberg, Black, Pocan, Turner, Fields, Kessler, Berceau, A. Williams, Toles and Sinicki.

Relating to: restoring the right to vote to certain persons barred from voting as a result of a felony conviction and changing the information required on voter registration forms. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 272

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

Relating to: challenging the ballots of electors at polling places. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 350

Introduced by Senators Kanavas, Carpenter, Lazich, Hopper, Darling, Leibham and Schultz. Cosponsored by Representatives Kramer, Petersen, Davis, Knodl, Vos, Zipperer, Huebsch, Townsend, Strachota, Gunderson and J.Ott.

Relating to: an optional identification requirement for voting in elections. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 540

Introduced by Senators Wirch, Lassa, Coggs, Lehman and Miller. Cosponsored by Representatives Black, Pope- Roberts, Turner, Steinbrink, Kessler, Cullen and Berceau.

Relating to: political disbursements by corporations and cooperative associations and the scope of regulated activity under the campaign finance law. Assembly failed to concur in pursuant to Senate Joint Resolution 1.

Senate Bill 640

Introduced by Senators Coggs, Hansen, Wirch, Kreitlow, Holperin and Taylor. Cosponsored by Representatives Smith, Parisi, Young, Kessler, Roys, Soletski, A. Williams, Nelson, Hilgenberg, Berceau, Hubler, Dexter, Bernard Schaber, Vruwink, Pasch, Black, Milroy, Grigsby, Sheridan, Pocan and Pope-Roberts.

Relating to: various changes in election laws, granting rule-making authority, and providing penalties. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 645

Introduced by Senators Risser, Taylor and Miller. Cosponsored by Representatives Berceau, Parisi, Black, Smith, Turner, Pope-Roberts, Zepnick, Roys and Hebl.

Relating to: electronic voter registration and proof of residence for voting in an election and granting rule-making authority. Senate failed to pass pursuant to Senate Joint Resolution 1.

Senate Bill 658

Introduced by Senators Kreitlow and Taylor. Cosponsored by Representative Hintz.

Relating to: public financing of campaigns for the office of justice of the Supreme Court. Senate failed to pass pursuant to Senate Joint Resolution 1.

SB 708(04.30.10)

Senate Joint Resolutions

- **Senate Joint Resolutions - Passed**
 - **None**

- **Senate Joint Resolutions – Failed to Adopt**

Senate Joint Resolution 9

Introduced by Senator Carpenter. Cosponsored by Representatives Berceau, Vos and Spanbauer.

Relating to: providing for an advisory referendum on the question of restoring the annual adjustment of the motor vehicle fuel tax rate in this state. Senate failed to adopt pursuant to Senate Joint Resolution 1.

Senate Joint Resolution 42

Introduced by Senator Taylor. Cosponsored by Representatives Kessler, Black, Grigsby, Turner and A. Williams.

Relating to: excluding incarcerated, disenfranchised felons from the enumeration of population for apportionment and redistricting of legislative, county, and certain other district offices (first consideration). Senate failed to adopt pursuant to Senate Joint Resolution 1.

Senate Joint Resolution 49

Introduced by Senators Carpenter, Holperin, Jauch and Taylor. Cosponsored by Representatives Sherman, Vruwink, and Soletski.

Relating to: eliminating the spring election (first consideration). Senate failed to adopt pursuant to Senate Joint Resolution 1.

SJR 83 (04.30.10)

State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



JUDGE MICHAEL BRENNAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Update

Election Administration Update

Introduction

Since the Government Accountability Board's March 23-24, 2010 meeting, the Elections Division has focused on the following tasks:

Noteworthy Election Administration Activities

1. Spring Election

A. Extended Hours Survey Summary

Included in the 2009 Budget Bill, Act 28 enacted on June 29, 2009, is language requiring the Board to ensure adequate staff be on-hand to answer local election officials' questions. Normal business hours are, however, sufficient when there are no elections or recounts in progress. In times of greater need though, as in the preparation for, during, and in the aftermath of an election or recount, Act 28 requires the Board to offer extended hours to fulfill its responsibility to local election officials and prevent solvable problems from crippling the election process.

In previous years, as in the 2008 November Presidential Election, extended hours were based upon past election experience. In our continued effort to more effectively meet the needs of electors and local election official partners though, we sought, for the first time, to directly collect input from local election officials on what extended hours would best meet their needs. To solicit clerks' input, an online survey was developed and made available on January 15, 2010 to all County and Municipal Clerks who have access to internet. Clerks were asked to respond no later than by January 29, 2010.

Of the 1,923 County and Municipal Clerks, 185 did not have access to internet at the time. A paper copy of the survey was mailed to these clerks but none were returned to us. When the survey closed, 795 or 45.7% of the 1,738 Clerks who had access to internet completed the survey and beyond just answering the questions, provided numerous additional written comments to clarify and magnify their needs.

- **Extended Hours for Spring Primary and Election**

Based on the results of this survey, we developed an extended hours plan for both the February 16, 2010 Primary and April 6, 2010 Election which was previously shared with you.

- **Inquiries Received During Extended Operating Hours**

During these extended hours and on Election Day, staff were asked to keep a log of inquiries they were involved in so that we could analyze the demand for services and the effectiveness of our extended hours. The following are tables detailing the volume of inquiries before, during and after the Spring Primary and Election.

February 16, 2010 Primary Extended Hour Phone Calls			
Before Election Day	On Election Day	After Election Day	Total
10	128	0	138

April 6, 2010 Election Extended Hour Phone Calls			
Before Election Day	On Election Day	After Election Day	Total
39	256	4	299

A report to the legislature is being prepared that summarizes, in detail, the findings and recommendations of the survey on extended operating hours and the effectiveness of the hours employed for the Spring Primary and Election.

B. Spring Election Summary

The Spring Election was conducted on Tuesday, April 6, 2010. Offices up for election were Court of Appeals Judge, Districts 1, 2 and 4, 44 Circuit Court Judge positions in several counties, and various county, municipal and school district offices throughout the state. Many jurisdictions, particularly school districts, also had referenda questions on their ballots.

The deadline for G.A.B. to receive the election canvasses from the counties was Tuesday, April 13, 2010. Out of **46** total canvasses, **43** were received timely. Three (**3**) canvasses were received after the statutory deadline (two (**2**) were received on Thursday, April 15, and one (**1**) was received on Friday, April 16, 2010). The statutory deadline for G.A.B. staff to complete the canvass is May 15, 2010. However, the April 6, 2010 Election canvass will be completed in time for certification to occur at the May 10, 2010 meeting. Certificates of Election will be mailed to candidates immediately following certification.

2. Collaboration with Clerk Customers

- Tuesday, May 4, 2010: Met with Clerk Communications Advisory Committee members. At this meeting Clerks advised G.A.B. staff on the arrangement, content and appearance of the new website. Elections Division staff members have been making significant contributions to the new website which is scheduled to go live in May, brings together

information about the Board's Elections and Ethics divisions in one convenient, easy-to-use place.

- Thursday, May 6, 2010: Met with the Ad-Hoc G.A.B. Advisory Committee to Redesign the Absentee Ballot Envelope to discuss design improvements that could be made to better streamline the information on the absentee ballot envelope. This is one of the recommendations contained in the Early Voting Report, and is also a provision in the Legislatively-approved 5-Year Election Administration Plan.

3. Election-related Outreach Activities

- Tuesday, April 20, 2010: Assisted the agency Director and General Counsel in preparing for and presenting to a group of Foreign Delegates from 11 different countries in Africa on the topic of "Transparency in Wisconsin Government."
- Wednesday, April 21, 2010: The G.A.B. in-house Accessibility Team met with the Wisconsin Disability Vote Coalition (WDVC), a non-partisan group whose mission it is to increase voter turnout among the disability community in Wisconsin. The group's mission, goals and planned activities for 2010 were discussed.
- Monday, May 3, 2010: In response to an invitation, Nat Robinson addressed the **Adventures in Lifelong Learning Group** at UW-Parkside in Kenosha. The presentation topic was "Engagement: An Effective Tool for Change" and it focused on informing attendees on election administration changes in Wisconsin, the importance of voting, and urging attendees to become more active in their government.
- Wednesday, May 5, 2010: In response to an invitation, Nat Robinson addressed the **Citizen Advocacy Project Group** at Christ Presbyterian Church in Madison. The presentation topic was again, "Engagement: An Effective Tool for Change" and it focused on informing attendees on election administration in Wisconsin, the importance of voting, and urging attendees to become more active in their government.

4. Inter-State Voter Registration Data Sharing:

(A Collaborative Initiative to Detect Possible Border Election Fraud)

One of the methods to improve the accuracy of voter information in SVRS is to share voter registration data between states, and enhance the detection of possible voter fraud, particularly the states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota. The Team is in contact with representatives in our neighboring states and initial discussions regarding a sharing agreement has begun with one state.

Under current state statutes, the state is prohibited from sharing the voter's date of birth. In order to have effective matching, the date of birth is a necessary piece of identifying information. The Team has proposed that Board staff perform the matching in-house. This will allow us to match our voter data with other states' data and still comply with the law.

Wisconsin's chief election officer and Minnesota's chief election officer entered into a Memorandum of Understanding for an exchange of voter participation information. On April 15, 2010, Kevin J. Kennedy, Director and General Counsel of the Government Accountability Board, signed the agreement with the State of Minnesota to share voter information including voter participation data from the November 4, 2008 General Election. Board staff is conducting the comparison in-house, is sharing the potential matching information with our Minnesota counterparts, and will begin to gather corroborating information from the appropriate local

election clerks in a process similar to the Voter/Felon Comparison Audit. Verifying information with clerks helps eliminate false matches that may have resulted from poll worker inadvertent errors or clerical errors made in SVRS.

The Board staff working on this initiative intends to continue to develop similar agreements with Wisconsin's other neighboring states.

5. Preparing for the 2010 Fall Election Season and Beyond

- Board Staff focused on preparing for the 2010 Fall Election Season: As soon as the April 6, 2010, Spring Election Canvass was completed, staff turned their attention to identifying what needs to be done to ensure a successful 2010 Fall Election Season. The Elections Division staff, two staff counsels, Chief Administrative Officer and agency Director and General Counsel retreated and brainstormed on tasks, deadlines, and resources needed to collaborate with our clerk customers to ensure a successful 2010 Fall Election Season.
- Migrating the polling place Accessibility Survey from a paper format to a web-based, online format. An electronic Accessibility Reporting and Assessment System will significantly improve staff's administrative efficiency and effectiveness in the monitoring, evaluation, and enforcement of polling place accessibility for our disabled and elderly voters. This new system will be completed in time to be used for the 2010 Fall Election Season.
- Migrating the canvass process to a web-based, online platform. An electronic GAB Canvass Reporting System will significantly improve staff's administrative efficiency and effectiveness. This new system will be completed in time to be used for the 2010 Fall Election Season. It is anticipated that this web-based, online platform, will improve counties' Boards of Canvass administrative processes, and it will measurably reduce the number of Board staff and staff time to complete canvasses.

The automated canvass process will also set the stage for election night reporting. Changes to the SVRS software related to the candidate ballot-access filing process are currently being tested. Next steps include vetting the canvass process with our clerk customers before changes are finalized and the timeline for implementation is set.

- Ready the SVRS to accept results of the 2010 Decennial Census results. Refinements are being made to SVRS to enable SVRS to adjust new address ranges, using GIS technology, when Wisconsin Congressional Districts are re-drawn in 2011, based on the 2010 Census results.

6. Training

Please refer to the attached Training Summary.

Other Noteworthy Initiatives:

1. Voter Data Interface

Clerks continue to use SVRS to run HAVA Checks to validate against Department of Transportation (DOT) and Social Security Administration (SSA) records, and confirm matches with Department of Corrections (DOC) felon information and Department of Health Services (DHS) death data, as part of on-going HAVA compliance.

Clerks process HAVA Checks and confirm matches on a continuous basis during the course of their daily election administration tasks. This process has been followed since the Interfaces became functional in SVRS on August 6, 2008. Since the Board's last meeting on March 23-24, 2010, Clerks processed approximately 18,544 HAVA Checks with DOT/SSA on voter applications in SVRS.

2. Retroactive HAVA Checks Status

A Final Report on the Retroactive HAVA Check Project was presented to the Board at its last meeting. Staff is currently evaluating the best way to proceed with the process to resolve the remaining non-matches in records of those voters who did not respond to the initial Retroactive HAVA Checks.

3. Voter Registration Statistics

As of Wednesday, April 21, 2010, there were a total of 4,521,844 voter records stored in SVRS. Of this number: 3,427,247 were active voters; 875,175 were inactive; and 219,422 were cancelled voters.

Note: An Active Voter is one whose name will appear on the poll list. An Inactive voter is one who may become active again, e.g. convicted felon. A Cancelled Voter is one who will not become active again, e.g. deceased person. The number of records in SVRS has decreased slightly since the last report due to the work of clerk users and Board staff in merging duplicate voter records as part of regular list maintenance. 3,570 merges have been completed in SVRS between March 23, 2010, and April 21, 2010.

4. Online Voter Registration Initiative

On March 31, 2010, the Senate Committee on Labor, Elections and Urban Affairs, and the Assembly Committee on Elections and Campaign Reform held a joint public hearing on 2009 Senate Bill 645 and 2009 Assembly Bill 892. This legislation would authorize implementation of electronic (online) registration. Nathaniel E. Robinson, Elections Division Administrator, and Shane Falk, Staff Counsel, presented testimony on behalf of Kevin J. Kennedy, Director and General Counsel, in support of the proposed legislation..

The electronic registration provision of AB 892/SB 645 was incorporated into the substitute amendment to the AB 895/SB 640, the Wisconsin Voter Protection Act (WVPA). The charge of the agency Online Voter Registration Committee was expanded to include discussions and recommendations relating to implementation strategies for the WVPA bill. Technologies required to implement the Online Voter Registration section are similar to the technological requirements needed for the Automatic Voter Registration component of WVPA. Board staff and staff from the Department of Transportation/Division of Motor Vehicles (DMV) met regularly to discuss issues related to the electronic registration provisions of the WVPA.

The WVPA legislation was not enacted before the close of the recent legislative session. Although the legislation was not enacted, Board staff will continue to collaborate with the DOT/DMV staff to study and prepare a report to present to the Board and Legislature in January 2011.

5. G.A.B. Help Desk

The G.A.B. Help Desk is supporting over 1,700 active SVRS users. The Help Desk staff continues to assist with processing Retroactive HAVA Letter calls and voter record update

tracking. Help Desk staff also improves and maintains the two training environments that are being utilized in the SVRS training of clerk users.

The majority of calls were from SVRS users and clerks requesting assistance with the administration of the April Spring Election in SVRS, supporting clerks in running various reports in SVRS (such as poll lists and voter lists for candidates), providing assistance for the set-up and other preparation and close-out tasks for the April Spring Election, giving assistance with use of bar code scanners, providing access to the Wisconsin Election Data Collection System, and aiding users in setting up new computers to run SVRS.

G.A.B. Help Desk Call Volume	
March 2010	795
April 2010 (ending 4/23/2010)	477
Total since last Board Meeting	1,272

The Help Desk maintained extended hours before, during and after the April Spring Election to support clerks who needed assistance outside of regular business hours.

6. Voter/Felon Comparison Audit

In accordance with State statutes, the Board is performing an audit that compares voter participation records in SVRS against convicted felon records at Department of Corrections. This audit is used to detect if felons improperly voted in the election.

Regarding voting in the November 4, 2008, Presidential and General Election, in November 2009, 124 individuals were referred to the appropriate 37 District Attorneys. 20 District Attorneys have reported to the Board on the status of the referrals. District Attorneys are required by law to give status reports within 40 days and every 30 days thereafter until the case is closed. In February 2010, 17 District Attorneys were sent reminder notices that their 40-day reports had not been received and were overdue. Currently 9 reports are still outstanding.

Regarding the Spring 2009 election events, clerks responded after review of the list sent to them in December 2009 regarding voting in the February 17, 2009, Spring Primary and April 7, 2009 Spring Election. 8 individuals were referred to the appropriate 7 District Attorneys. There were 2 potential matches from the February 2009 primary and 6 from the April 2009 election. 4 District Attorneys have reported to the Board on the status of the referrals. District Attorneys are required by law to give status reports within 40 days and every 30 days thereafter until the case is closed. Currently 3 reports are still outstanding.

Regarding conducting a Felon Audit for the 2010 Spring Election Season, once all the voter participation records are entered by local election clerk users, Board staff will perform a similar comparison when the name of a person was found who is on the DOC list and was a voter in SVRS for the 2010 February Spring Primary and 2010 April Spring Election.

7. SVRS Core Activities

A. Software Upgrade(s)

Software development efforts have focused on the new version of SVRS, version 7.0. This version includes a core software upgrade to keep current with Microsoft's .NET development platform, as well as fixes related to absentee, candidate ballot access tracking, reports and mailings, and improving the response time of the SVRS. The new version of SVRS also allows Board staff to retire the current antiquated and unsupported Elections

Administration system, SWEBIS II. User Acceptance Testing of version 7.0 began in early April. The new version is scheduled to be released for local election officials to start using at the beginning of June 2010.

The next version of SVRS, 7.1, is in the planning stages. This version will include simplifications to the Absentee process and updates required to implement the Federal MOVE Act. This build is targeted to be available to clerks in late July.

B. System Outages

SVRS users experienced a brief outage of the SVRS system on the morning of Tuesday, April 13, 2010. Due to a hardware failure in the Department of Administration/Division of Enterprise Technology (DET) firewall module, users were denied access to SVRS or were unable to log back in. The firewall module grants access to the whole DET data center and thus to SVRS. DET restored firewall services on back-up hardware and brought all systems back on line. Multiple agencies and systems were impacted by this outage.

Also on April 13, 2010, a separate outage occurred for several Board staff who lost connectivity to the State network. This outage was caused by disruption in the fiber line that connects the Board staff offices to the State network. All connectivity was restored within a few hours.

C. Data Requests

The Board regularly receives requests from customers interested in purchasing electronic voter lists. The SVRS allows Board staff to generate electronic voter lists statewide, for any county or municipality in the state, or by any election district, from congressional districts to school districts. The voter lists also include all elections that a voter has participated in, going back to 2006 when the system was deployed.

The Board received many data requests during January, February and March 2010, due to the upcoming Spring election events, and interest is beginning for the Fall 2010 elections as candidates start to gear up for their campaigns. The following statistics demonstrate the activity in this area:

- 122 inquiries were received requesting information on purchasing electronic voter lists from the SVRS system. This is compared to 69 for October, November and December 2009.
- 96 electronic voter lists were purchased.
- 7 paper voter lists were purchased.
- \$22,006.25 was received for the 103 paper and electronic voter lists requested.

30-Day Forecast

- Voter/Felon Comparison – Staff will perform the comparison when the name of a person was found who is on the DOC list and was a voter in SVRS for the 2010 February Spring Primary and 2010 April Spring Election once all the voter participation records are entered by local election clerk users.

- Election Readiness – Staff will continue to strategize on the best way to prepare local election officials for the 2010 September Partisan Primary and 2010 General Election, taking into account updates in the SVRS software.

Action Items

None.

ATTACHMENT #1

GAB Election Division's Training Initiatives
3/24/10 – 5/9/10

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
SVRS "Initial" Application and Election Management	Instruction in core SVRS functions – how to navigate the system, how to add voters, how to set up elections and print poll books.	16 hours	New users of the SVRS application software.	Training conducted in Madison.	7
SVRS "Advanced" Election Management	Instruction for those who have taken "initial" SVRS training and need refresher training or want to work with more advanced features of SVRS.	3 types of classes: Election Management; Absentee Process; HAVA Interfaces, Reports, Labels & Mailings; 4 hours each	Experienced users of the SVRS application software.	Training conducted in Madison.	20
Voter Registration	Basic training in adding voter registration applications, searching for voters, updated voters.	3 hours	Municipal and county clerks, staff and temp workers who provide election support only.	The WBETS site is available to train temporary workers.	Ongoing, self-directed training is available online.
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.	Training conducted in Madison.	5

ATTACHMENT #1

GAB Election Division's Training Initiatives
3/24/10 – 5/9/10

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
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.	Training conducted in Madison.	43
WisLine	Series of 10 programs designed to keep local government officers up to date on the administration of elections in Wisconsin.	80 minute conference call, hosted by the UW Extension, conducted by Elections Division staff.	Clerks and chief inspectors; campaign treasurers and candidates.	April 28, 2010: Absentee Voting- Emphasis on the Special Requirements Associate with Military and Overseas Voters.	Average 200 per class
WBETS	Web Based Election Training System. Still under development. Reference materials were made available to the clerks in February; voter registration training made available to clerks 3/24/2008.	Varies	County and municipal clerks and their staff.	Phase 1 of eLearning training plan close to completion; Phase 2 under discussion.	Site is available for clerks to train temp workers in data entry; reliers are also able to access the site upon request.

ATTACHMENT #1

GAB Election Division's Training Initiatives
3/24/10 – 5/9/10

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
HAVA Interfaces	Instruction in the user of the interface functionality in SVRS to check death records, felon records, DOT records and duplicate records against voter records as part of HAVA compliance requirements.	2 hours	All clerks (staff as determined by clerk).	Pilot of web-based training presented to the Standards Committee on May 14, 2008. Lessons available online June 2, 2008.	Eventually 2000+
Other initiatives:	<ul style="list-style-type: none"> • Board staff developing clerk-trainer program. • Board staff working on migration of several training programs to online and DVD formats. • Board staff updating training manuals and presentations. 				

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE WILLIAM EICH
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: May 10, 2010

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Program

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

2010 July Continuing Reports

Staff is currently preparing materials for the 2010 July Continuing report that will be sent to all candidates, PACs, parties, conduits, and sponsoring organizations. This report will cover their activity from the previously report the committee filed through June 30, 2010. Filing notices will be sent to all active committees during the week of June 23, 2010. The report is due on July 20, 2010. Staff continues to answer questions and work with candidates, PACs, parties, conduits and corporations on registering and filing campaign finance information using the Campaign Finance Information System.

2010 January Continuing Reports – Non-Filers

There are 6 committees that have not filed campaign finance reports yet for the January Continuing 2010 report period. The non-filers include 1 political party, 3 PACs, and 2 corporations (all conduits have filed). Staff has made efforts to follow up with all committee that did not timely file.

Annual Filing Fees

Any non-candidate committee with expenses over \$2,500 is required to pay a \$100 filing fee. This fee was due on or before February 1, 2010. All **359** committees required to pay the 2009 filing fee have now done so. The G.A.B. has collected **\$42,500** in filing fees.

Campaign Finance Information System Performance and Update

The Campaign Finance Information System performance continues to improve. A new code release took place during the first week in April. This release addressed the problem that occurred during the January filing period when a large campaign finance report was unable to be created as a .PDF file. Staff tested and confirmed that the system can now adequately generate a .PDF copy of a large report; future filers will not experience the same problem that occurred during January's filing. Other system enhancements were also included in the release to continue to improve CFIS' efficiency and usability.

GAB staff and PCC Technology will continue to work to enhance the system's functionality and performance prior to the July Continuing reporting period.

Lobbying Update

Tommy Winkler, Assistant Division Administrator

Statement of Lobbying Activities and Expenditures Reports

Lobbying principal organizations and lobbyists registered and licensed as of January 1, 2010 in this legislative are required to complete and file a six month Statement of Lobbying Activities and Expenditures reports covering lobbying activity and expenditures from January through June, 2010. These reports are due on or before Monday, August 2, 2010. Filing notices will be sent to all lobbyists and lobbying organizations required to file on July 1 and e-mail reminders will be sent throughout the July to those that have not filed. Staff continues to process matters that are the subject of lobbying communications reported by principal organizations as required by Chapter 13, *Wisconsin Statutes*.

Lobbying Registration and Reporting Information

Government Accountability Board staff continues to process 2009-2010 lobbying registrations, licenses and authorizations. Processing performance and revenue statistics related to this session's registration is provided in Table 2 below.

TABLE 1

2009-2010 Legislative Session: Lobbying Registration by the Numbers (Data Current as of March 12, 2010)			
	Number	Cost	Revenue Generated
Organizations Registered	774	\$375	\$290,250
Lobbyists Licenses Issued (Single)	658	\$250	\$164,500
Lobbyists Licenses Issued (Multiple)	138	\$400	\$55,200
Lobbyists Authorizations Issued	1727	\$125	\$215,875

New Lobbying Website Project Update

GAB staff recently completed the final administrative procedures to receive spending authority to begin work on the new lobbying website. Staff is now in the early stages of working with the Division of Enterprise Technology to design and build the new application. Staff has already spent significant time identifying the business requirements and discussing the process flows for the lobbying registration and reporting process. Staff intends to include and solicit feedback from members of the lobbying community and other interested stakeholders in the design of the new application. Work will continue throughout the summer months on the project, with testing of the new application scheduled for the fall of 2010.

Financial Disclosure Update

Cindy Kreckow, Ethics and Lobbying Support Specialist
Tommy Winkler, Assistant Division Administrator

Statements of Economic Interests – Annual Filing

Government Accountability Board mailed a total of **2,188** pre-printed Statements of Economic Interests to state public officials required to file a statement with the Board under Chapter 19, *Wisconsin Statutes*. This includes incumbent state judges who were up for re-election in the spring of 2010 as well as reserve judges who are required to file a statement within 21 days of taking a case. Those officials not up for re-election in the spring have their statements mailed to them over the course of eight weeks, beginning January 25, 2010. As of Friday,

April 30, 2010, **2,060** statements have been filed. Of those filed, **2,035** statements have been processed into the online index available on the agency's website. Statements of Economic Interests were due on or before April 30, 2010. Staff will continue to process incoming statements throughout May and will follow up with those officials who have not filed a timely statement to obtain their completed 2010 statement and inform them of the penalties for late filing.

Quarterly Transaction Reports

Staff also sent out quarterly financial disclosure statements to 39 State Investment Board members on March 31, 2010. These statements are to be completed and returned to the G.A.B. no later than April 30, 2010. As of Friday, April 30, **35** Investment Board members had filed statements with the G.A.B.

Fall Candidates Required to File SEI to Obtain Ballot Status

Staff will be working in May and June to identify candidates for the fall and ensure that those challengers for a state partisan office receive a statement of economic interests form and are made aware of the filing requirement in order to obtain ballot status. Fall candidates must file a 2010 statement of economic interests with the Government Accountability Board on or before 4:30 p.m. on Friday, July 16, 2010 in order to obtain ballot status. Incumbent officials who have already filed a 2010 statement do not need to file another one; they have already met the filing requirement.

State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 10, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been on working with the Legislature as the session winds down, working with outside auditors on the agency's federal compliance audit, Contract Sunshine program development, working with the Department of Administration/Division of Enterprise Technology to develop a new IT services support structure, staff recruitments, communicating with agency customers, and presentations.

Noteworthy Activities

1. Federal Performance Audit

On March 22, 2010, the audit team began their field work at the G.A.B. office. The HAVA audit field work consisted of testing payroll expenditures, major procurement transactions, direct/indirect expenses, a fund reconciliation, and visiting municipalities to count and verify voting equipment purchases. The audit team concluded their field work on April 1.

On April 19, 2010 an exit conference was held with the federal audit team and G.A.B. staff to discuss preliminary findings. The audit team identified five areas of concern:

- **Financial Accounting and Reporting**
 - Financial Status Reports contain inaccurate information.
- **Program Income**
 - Funds received from the sale of SVRS lists not being deposited into the election fund (HAVA).
- **Interest Earnings Shortfall**
 - Wisconsin Election Data Collection System (WEDCS) grant used HAVA funds which resulted in a loss of interest.

- **Personnel Costs**
 - Payroll lacks supporting documentation (timesheets/certifications) to prove employees worked on HAVA activities.
- **Property Management**
 - City of Milwaukee had an insufficient inventory log for equipment.

As a result of the audit, a Notice of Findings and Recommendations will be submitted to the U.S. Election Assistance Commission (EAC). Shortly, thereafter, the EAC will provide the G.A.B. with a draft audit report. The G.A.B. will work through the audit resolution process with the EAC. After the resolution process a final audit report will be issued.

2. Contract Sunshine Program Update

Since the last board meeting, we have directed our attention to updating the Contract Sunshine website and working with state agencies to register them for the Contract Sunshine website.

In the past month, major progress has been made in adding mandatory, Department of Administration statewide contracts. This data is especially valuable as these contracts form the sole basis of purchasing certain crucial, widely-procured items. By getting this data into the Contract Sunshine database, users from every state agency will be able to refer to these contracts as their basis for purchasing, thus greatly increasing the amount of accurate data that can be entered into the system.

We met with our vendor, Sundial Software, as well as with Herb Thompson and Zack Lehman from the Department of Administration (DOA) to discuss enhancements to the current reporting website, possible avenues of integration with existing financial and reporting framework, such as VendorNet and WiSMART. Among the enhancements to the current website we discussed additions of purchasing methods that had not been added to the system, the ability for DOA consolidated agency purchasing (CAPS) staff to report for the agencies that they represent, and updates to the look and feel of the current website. We also asked Sundial to assist us with developing appropriate testing plans to ensure that these enhancements and fixes function properly.

In terms of progress made following our meeting with Sundial and DOA, Sundial has provided DOA with the XML layout, and is waiting for DOA to provide a data download to test the automatic upload of data into Contract Sunshine from DOA systems. This test should occur soon, and once the test occurs we will meet with Sundial and DOA to discuss next steps.

G.A.B. staff has discussed with DOA/DET, the future direction and development of G.A.B. online initiatives. A memorandum of understanding will be written, discussing what online services DOA/DET will provide. Contract Sunshine has been discussed in this context, and future discussions will include questions such as hosting, as we seek to move the Contract Sunshine website off our vendor's servers. We are also gathering information on other states' implementation of Contract Sunshine.

3. A New Approach to Ensuring IT Support for the G.A.B.

The agency Management Team is working with Oskar Anderson, the state's chief information technology officer, and his staff to address technical service support issues and explore means of managing our IT application development. We have agreed to enter into a partnership with

the Department of Administration's Division of Enterprise Technology to put together a team of seven IT staff who will oversee all aspects of our information technology program including the hosting of program applications, application support and application development. Although we are a small agency, our information technology activity is huge and is an essential element of our program operations.

A Memorandum of Intent (MOI) was established to document the intention of both parties to enter into an agreement for these services. A team of Board and DET staff has convened to develop a Memorandum of Agreement (MOA) to memorialize the terms of the new services. The MOA is targeted to be completed by the end of June, with the enhanced services beginning on July 1, 2010.

4. Staffing

Currently, we are recruiting for a vacant Ethics Specialist position to support areas of campaign finance, lobbying and financial disclosure. We are also recruiting for a vacant an Elections Specialist position to assist in implementing the new Federally-Approved Military Overseas Voter Empowerment Act (MOVE).

5. Communications Report

Since the March 23 and 24, 2010, Board meeting, the Public Information Officer has responded to numerous media inquiries and planned communications strategy in furtherance of the Board's mission.

Our project to consolidate the web sites of the former Elections and Ethics boards will be launched in early May at <http://gab.wi.gov>. The PIO has spent significant time designing and developing the new web site, using the same free, open source software used by the White House. The Web Site Team guiding the project held a one-day retreat to put the finishing touches on the site April 27, and held a session with clerks May 4 in Madison to gather feedback and make any necessary changes prior to going live. The new site has been well-received by the clerks.

The PIO also worked on a variety of other projects including: organizing a presentation to a group of visitors from Africa (see below), responding to media requests regarding the Spring Election, serving on the Online Voter Registration Team and working on the agency's response to the omnibus election bill, responding to concerns from Legislators on a variety of topics, and communicating with our clerk partners.

6. Meetings and Presentations

The Director and General Counsel had several informal meetings and contacts with key agency stakeholders related to agency information on technology issues, proposed legislation, MOVE Act implementation, the federal audit of HAVA funds and the Campaign Finance Information System (CFIS). This included meetings with several legislators and staff related to the wrap up of the 2009-2010 legislative session and a number of key pieces of legislation of interest to the agency.

I monitored several meetings organized by the Elections Division related to the 2010 fall election preparation, MOVE Act implementation, early voting, on-line voter registration, 2010

census planning, SVRS enhancements, election official training and clerk communications. I also monitored Ethics and Accountability Division discussions on SEI reporting, lobbying, implementation the Impartial Justice Act, administrative implications of *Citizens United* and CFIS planning. I was also involved in discussions on the development of the lobbying website update.

The Government Accountability Candidate Committee met at noon on April 12, 2010 to nominate at least two former judges to fill the vacancy on the Government Accountability Board that will be created as a result of the expiration of the term of Judge Eich. The Committee Members are Court of Appeals Judges Ralph Adam Fine, Daniel Anderson, Edward Brunner and Charles Dykman. The Committee reviewed applications from fifteen former judges. The Committee submitted the names of Judge David Deininger of Monroe and Judge Michael Lucci of Superior to the Governor as nominees to serve a six-year term on the Government Accountability Board. I expect the Governor will announce his appointment shortly after the May 10, 2010 Board meeting.

On April 12, 2010, I participated on a panel with Senator Glen Grothman and Representative Jeff Smith on the omnibus election legislation that was developed by the Senate Committee on Labor, Elections and Urban Affairs (2009 Senate Bill 640) and the Assembly Committee on Elections and Campaign Reform (2009 Assembly Bill 895). The program was produced by Wisconsin Eye and can be viewed online at: mms://71.87.25.133/IVOD/NMK/NMK_100412_ELECTIONS.wmv. If that link does not work, go to: http://wisconsineye.org/wisEye_programming/ARCHIVES-newsmakers.html and find the Newsmakers program on "Election Law Changes."

On April 20, 2010, the agency hosted a group of visitors from Africa who are interested in learning about Wisconsin's commitment to transparency in Government. There were visitors from the following African nations: Benin, Burkina Faso, Chad, Democratic Republic of Congo, Djibouti, Gabon, Mali, Niger, Rwanda, Senegal and Togo. Reid Magney coordinated the visit with the International Institute of Wisconsin. Jon Becker and I shared information about the role of the Government Accountability Board in promoting transparency in government. The visit included a robust discussion with the delegation.

On April 29-30, 2010, a team representing Wisconsin participated in a PEW Center meeting to discuss the States' implementation of voter registration modernization. The meeting was held in Portland, Oregon. In addition to me, Sarah Whitt of our office, Herb Thompson from the Department of Administration's Division of Enterprise Technology and Kim Bushey, the Walworth County Clerk participated in the program. The program brought together state election policy and information and technology staff along with local election officials from several states: Alaska, Colorado, Delaware, the District of Columbia, Montana, Nevada, Ohio, Oregon, Utah, Washington and Wisconsin.

On May 6, 2010, I moderated a panel for the State Bar of Wisconsin Annual Convention on *Advertising in Judicial Election Campaigns: The First Amendment and Beyond*. Joining me on the panel was Attorney Brady Williamson, a noted First Amendment expert; Attorney Thomas Basting, who initiated the State Bar's judicial campaign ad monitoring project; and Jay Heck of Common Cause.

Looking Ahead

The staff will develop a response to findings identified in the federal audit of HAVA funds, implementing legislative initiatives enacted into law affecting the agency, carryout a number of organization functions related to ongoing investigations, administrative rule promulgation, informational manual revisions, preparing for the 2010 election cycle and rolling out the revised agency web site.

Action Items

None