

Meeting of the Board

Monday, June 9, 2008

9:30 A.M.

Risser Justice Center, Room 150

120 Martin Luther King Jr. Blvd.

Madison, Wisconsin

Agenda
Open Session

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A. Call to order.		
	Judge Thomas Cane	
B. Director's confirmation of appropriate notice of meeting.		
C. Approval of minutes of previous meeting.	See attached minutes	1
D. Public comment.		8
<i>Break</i>		
E. Proposed Ballot Access Challenge Procedures		13
F. Review of select former Elections Board operating procedures, opinions and/or rules related to:		23
1) Contribution Limits		25
2) Source Identification (Disclaimers)		30
3) Campaign Spending		33
4) Absentee Voting		37
5) Electioneering		38
G. Review of select former Ethics Board opinions and/or guidelines related to:		40
1) Opinions related to campaign activity and contributions		43
2) Guidelines related to:		48
Scheduling		
Solicitation		
Campaign Contributions		
Referendums		
Lobbying		
Attending events at national party convention		

Break

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.

H. Review of Proposed Administrative Rules Establishing a Settlement Offer Schedule.	50
I. Director's report.	
Elections division-update – elections administration and SVRS	62
Ethics and accountability division update – campaign finance, state official financial disclosure, lobbying registration and reporting, contract sunshine.	72
Agency administration and legal issues – general administration and orders.	79
J. 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:	
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],

The Government Accountability Board has scheduled its next meeting for Wednesday, July 16, 2008 at the Risser Justice Center, Room 150, 120 Martin Luther King Jr. Blvd., Madison, WI

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD

Room 150, Risser Justice Building
120 Martin Luther King, Jr. Boulevard.
Madison, Wisconsin

May 5, 2008

9:30 a.m.

DRAFT

Not yet approved
by the Board

Open Session Minutes

	<u>Page</u>
A. <u>Summary of Significant Actions Taken</u>	
B. Adopted a policy regarding complaints and advice.	3
C. Consensus of the Board not to take action at this time regarding “salting” of contributor lists.	3
D. Consensus of Board to make no exception to the lobbying law regarding furnishing something of pecuniary value to a legislative employee.	3
E. Approved proceeding with promulgation of proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.	3
F. Reaffirmed two opinions and one administrative rule pertaining to non-resident committees.	4
G. Reaffirmed ten opinions and eleven administrative rules; modified three opinions; and declined to reaffirm one administrative rule pertaining to campaign finance recordkeeping and reporting.	4
H. Declined to reaffirm one opinion; reaffirmed two administrative rules and modified one administrative rule pertaining to campaign finance registration.	4
I. Reaffirmed four opinions and position articulated in one complaint; and declined to reaffirm four opinions pertaining to ballots.	5
J. Reaffirm five administrative rules and modify one administrative rule pertaining to challenging electors.	5
K. Declined to reaffirm one administrative rule and directed staff to commence development of administrative rules pertaining to polling place observers.	5
L. Reaffirmed three administrative rules and directed staff to commence revision of rules pertaining to voting equipment approval	5

Present: Judge Thomas Cane, Judge Michael Brennan, Judge William Eich, Judge Gerald Nichol

Staff present: Kevin Kennedy, Jonathan Becker, George Dunst, Barbara Hansen, Sharrie Hauge, Ross Hein, Helena Huddleston, Nate Judnic, Diane Lowe, Nat Robinson, Tommy Winkler

A. Call to order

Chairman Cane called the meeting to order at 9:35 a.m.

B. Director's report of appropriate notice of meeting

Kevin Kennedy reported that the meeting had been properly noticed.

C. Approval of minutes of the previous meeting

MOTION: Approve minutes of the March 26, 2008 meeting of the Government Accountability Board.

Moved by Eich, seconded by Brennan. Motion carried.

D. Sign canvass of the April 1, 2008 Spring Elections

Chairman Cane signed canvass of April 1, 2008 Spring Elections certifying the results of the vote on the Referendum on a Proposed Constitutional Amendment Limiting the Governor's Veto Power, Supreme Court, Court of Appeals, and Circuit Court elections.

E. Public Comment

1. **Rob Marchant**, Wisconsin Senate Chief Clerk, appeared to give an overview of the Senate's relationship with the Government Accountability Board.
2. **Paul Malischke**, appeared to comment on Section I – proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.
3. **John Washburn** appeared to comment on Section I – proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.
4. **Bob Ohlsen**, Dane County Clerk, appeared to comment on ad hoc committee's work on the voting equipment security procedures and to ask the Board to adopt Administrative Rule Chapter 5 as proposed.
5. **Wendy Christensen**, Village of Caledonia appeared to comment on ad hoc committee's work on the voting equipment security procedures and to ask the Board to adopt Administrative Rule Chapter 5 as proposed.

6. **Paul Malischke**, appeared a second time to comment on his suggestions for consideration during the revision of the administrative rules related to Section K7 – Electronic Voting Equipment.

F. Confidentiality of complaints and informal disposition of investigative actions
(Presented by Jonathan Becker)

The unanimous consensus of the Board was to adopt the policy that staff may acknowledge receipt of a complaint when it has been made public to the news media and filed with us. Similarly, staff may acknowledge when we have not received a complaint. Staff may also continue to reflect in the open session of the Board’s minutes, the number of requests for advice and complaints taken up in the closed session.

G. “Salting” – Permitting a candidate to include false entries among reported contributors to help identify improper use of contributor lists (Presented by Jonathan Becker)

The unanimous consensus of the Board was to take no action at this time.

H. Lobbyists making contribution to legislative employee (Presented by Jonathan Becker)

By unanimous consensus, the Board decided that they would not make any exceptions to the rule that a lobbyist may not furnish anything of pecuniary value to a legislative employee and a legislative employee may not accept anything of pecuniary value from a lobbyist.

Hearing no objections, the Chairman called a 20 minute break and reconvened the meeting at 11:40 a.m.

I. Proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security (Presented by Kevin Kennedy and Ross Hein)

MOTION: *The Board directed staff to proceed with promulgation of the proposed administrative rules establishing procedures to ensure the security of ballots and electronic voting systems in Wisconsin.*

Moved by Eich, seconded by Nichol. Motion carried unanimously.

J. Proposed Administrative Rule Chapter 3: Voter Registration (Presented by Kevin Kennedy and Nate Judnic)

Report was made for informational purposes only; the Board took no action.

Hearing no objections, the Chairman called a 30 minute lunch recess and reconvened the meeting at 1:23 p.m.

K. Review of select Elections Board operating procedures, opinions and/or rules:
(Presented by Kevin Kennedy)

K.1.) Non-Resident Committees

MOTION: Board adopted staff recommendation to:
Reaffirm opinions El.Bd. 74-7 and El Bd 75-3; and
Reaffirm administrative rule ElBd. 1.10 with title change.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.2.) Campaign Finance Recordkeeping and Reporting

MOTION: Adopt staff recommendations with regard to Opinion El.Bd. 74-16.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Adopt staff recommendations to modify Opinion El.Bd. 75-5.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Board adopted staff recommendations to:
Reaffirm opinions El.Bd. 74-9, El.Bd.. 74-10(Rev), El.Bd. 74-17, El.Bd. 76-01, El.Bd. 76-13, El.Bd. 77-9, El.Bd. 78-2, El.Bd. 88-3, El.Bd. 00-01, and El.Bd. 01-01; and
Modify opinion El.Bd. 76-4.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 1.05, ElBd 1.11, ElBd1.15, ElBd 1.20, ElBd 1.26, ElBd 1.30, ElBd 1.43, ElBd 1.46, ElBd 1.56, ElBd 1.60, and ElBd 1.65; and
Decline to reaffirm administrative rule ElBd 1.55.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.3.) Campaign Finance Registration

MOTION: Board adopted staff recommendations to:
Decline to reaffirm opinion El.Bd.74-3;
Reaffirm administrative rules ElBd 1.02, and ElBd 6.02; and
Modify administrative rule ElBd1.41.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.4.) Ballots

MOTION: Board adopted staff recommendations to:
Reaffirm opinions El.Bd. 76-09, El.Bd. 78-14, El.Bd. 79-1, El.Bd. 88-1 and
position articulated in ElBd. Cpt 2005-08; and
Decline to reaffirm opinion El.Bd. 78-16, El.Bd. 78-17, El.Bd. 80-2 and
El.Bd. 87-1.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.5.) Challenging Electors

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 9.01, ElBd 9.02, ElBd 9.04, ElBd 9.05
and ElBd 9.06; and
Modify administrative rule ElBd 9.03 to delete the reference to lever voting
machines.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.6.) Polling Place Observers

MOTION: Board adopted staff recommendations to:
Decline to reaffirm administrative rule ElBd 4.01

*Board directed staff to commence the development of administrative rules
that delineate the proper conduct of election observers at the polling place
and other locations where voting is conducted or ballots are processed.
Present to Board for review at their August meeting.*

Moved by Nichol, seconded by Eich. Motion carried unanimously.

K.7.) Voting Equipment Approval

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 7.01, ElBd 7.02, and ElBd 7.03.

*Board directed staff to commence the revision of the administrative rules
relating to the approval of voting equipment to address the concerns raised
by local election officials, Mr. Malischke and the staff. Present to Board for
review at their August meeting.*

Moved by Nichol, seconded by Eich. Motion carried unanimously.

Hearing no objections, the Chairman called a 10 minute break and reconvened the meeting at 2:35 p.m.

L.) Director's Report

Elections Division Report

(Presented by Nathaniel E. Robinson)

Report was presented for informational purposes; the Board took no action.

Ethics and Accountability Division Report

(Presented by Jonathan Becker)

Report was presented for informational purposes; the Board took no action.

Agency Administrative Activities

(Presented by Kevin Kennedy and Sharrie Hauge)

Report was presented for informational purposes; the Board took no action.

M. Move to Closed Session

MOTION: Move to closed session pursuant to Sections 5.05(6a), 19.85 (1) (c), (g), (h), and 19.851 Wis. Stats. to consider written requests for advisory opinions, the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; confer with counsel concerning pending litigation; and consider compensation and performance of Legal Counsel.

Moved by Nichol, seconded by Brennan. Motion carried unanimously.

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

Motion carried, 4-0.

The Board went into closed session at 3:15 p.m.

Summary of Significant Actions Taken in Closed Session Meeting

- A. Requests for Advice: Four items considered.
- B. Investigations: Eight items considered; three items closed.

MOTION: Adjourn the meeting.

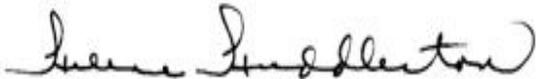
Moved by Eich, seconded by Nichol. Motion carried unanimously.

The meeting was adjourned at 4:55 p.m.

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The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday, June 9, 2008, in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Boulevard, Madison, Wisconsin.

May 5, 2008 Government Accountability Board meeting minutes prepared by:



Helena Huddleston

May 7, 2008

Date

May 5, 2008 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

June 9, 2008

Date

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June 2, 2008

STATE OF WISCONSIN
ELECTIONS BOARD

VIA HAND DELIVERY

Government Accountability Board
17 West Main Street, Suite 310
Madison, WI 53703

June 9 Review of Ethics Board Guidelines

Dear Board Members:

On behalf of the Association of Wisconsin Lobbyists (“AWL”), we write to the Government Accountability Board (the “Board”) in advance of the Board’s review of certain Ethics Board opinions and guidelines at its June 9, 2008 meeting. In its review, we request that the Board note the following:

Use of “Guidelines” Instead of Administrative Rules

During its existence, the Ethics Board published a multitude of “guidelines” providing the agency’s interpretation of lobbying and ethics law in Wisconsin. At the same time, the agency promulgated only a handful of administrative rules. While the guidelines are instructive, they have not gone through the transparent administrative rulemaking process under Chapter 227 of the Wisconsin Statutes. As the Legislative Audit Bureau stated last year in a report to the Elections Board: “While memoranda and similar forms of information can be useful, they do not contain the force of law and may be confusing to local election officials. . . . Administrative rules are an effective way to provide a consistent message statewide.” “An Evaluation: Compliance with Election Laws, Elections Board,” *Legislative Audit Bureau, Report 07-16* (Nov. 2007), pp. 67-68.

In its interactions with the Ethics Board, the regulated lobbying community often experienced a lack of clarity and consistency in the agency’s interpretation and application of state law. To avoid such confusion in the future, AWL requests that the Board determine (during its review of the Ethics Board guidelines) what guidance would be more appropriate if promulgated as administrative rules.

Based on the guidelines before the Board at its June 9 meeting, AWL believes that the following interpretations of state law by the Ethics Board should be addressed by administrative rule:

- A definition of “furnish” and restrictions on lobbyists involving campaign contributions;

- A definition of “solicit” and restrictions on candidates seeking campaign contributions;
- The ability of candidates to solicit campaign contributions for legislative campaign committees and political party committees;
- The ability of individuals who are not agents to solicit contributions on behalf of candidates;
- The ability of a lobbying principal to work with a candidate on fundraising events;
- A lobbyist’s role as conduit administrator or PAC treasurer; and,
- A lobbying principal’s role as the sponsor of a PAC or conduit.

Campaign Finance, Ethics and Lobbying Law Advice

Given its lack of jurisdiction at the time, the existing Ethics Board guidelines and advisory opinions do not address campaign finance law issues. In fact, this lack of jurisdiction is explicitly noted in several Ethics Board documents and was a justification cited by the legislature for creating the Board. Accordingly, AWL requests that the Board determine how it could provide better guidance to the regulated community by including a discussion of the relevant campaign finance law issues when addressing related lobbying law topics.

For example, advisory opinions that should address campaign finance law include:

- 2006 Wis Eth Bd 02 – As drafted, this advisory opinion results in more confusion than guidance. It discusses campaign contributions by “lobbying principals.” However, given the prohibition on corporate contributions in Wis. Stat. § 11.38, the vast majority of lobbying principals cannot make campaign contributions. Moreover, nonlobbyist employees or members of a lobbying principal may work with a candidate on a fundraiser provided that the assistance is voluntary or provided to the candidate as an in-kind contribution from a permissible source. This ability of individuals is not addressed.
- 1992 Wis Eth Bd 30 – As drafted, this advisory opinion confuses many because it does not address member communications under state campaign finance law, the ability of a conduit administrator to make suggestions on contributions or a PAC to solicit contributions.
- 1992 Wis Eth Bd 13; 1992 Wis Eth Bd 21; and, 1997 Wis Eth Bd 18 – These advisory opinions discuss the ability of a lobbying principal and lobbyist to administer a conduit or a PAC without any recognition of how these entities generally operate.

Broad Interpretation of “Furnish”

Under state law, a lobbyist may not “furnish” anything of pecuniary value to certain public officials and such items may not be “solicited” from these officials. *See* Wis. Stat. § 13.625(1),

(3). A lobbyist, however, is allowed to make lawful campaign contributions, with limitations on the timing of contributions to certain candidates for partisan elective state office.¹

Under its broad interpretation, the Ethics Board has stated that:

- a lobbyist and a candidate may not discuss any campaign contributions or fundraising events; and,
- a lobbyist may not deliver contributions from other individuals, PACs or conduits

unless the “contribution window” is open during an election year.

AWL disagrees with the Ethics Board’s broad interpretation of “furnish” and believes that the statute only restricts a lobbyist from personally making a campaign contribution outside the contribution window. At all other times, a lobbyist should be allowed to discuss campaign contributions and deliver contributions from other nonlobbyist individuals, PACs and conduits.

The Ethics Board’s interpretation of “furnish” directly discriminates against small organizations that do not have the staff, members or resources to have multiple individuals interact with candidates for partisan elective state office. While the Ethics Board suggested that a candidate may ask a lobbyist for a nonlobbyist contact, that person practically may not exist in a small organization. (*See* 2007 Wis Eth Bd 06, ¶ 7.)

In a large organization, a candidate can still communicate with nonlobbyists about campaign contributions. In a small organization, however, there often is one individual whose position as executive director also requires he or she to act as the organization’s lobbyist, political director and membership coordinator. In these situations, there is not a nonlobbyist employee for the candidate to contact and the organization depends on this single individual to coordinate and make recommendations on otherwise lawful campaign contributions.

PAC Treasurers and Conduit Administrators

The Ethics Board has provided impractical guidance on lobbyist involvement as PAC treasurers and conduit administrators.

- In 1992 Wis Eth Bd 13, the Ethics Board states that a lobbyist may serve as a conduit administrator but “recommends that someone other than a lobbyist sign and convey the check provided to the candidate.”

¹ A lobbyist may make a contribution to a partisan elective state official only during the “contribution window” – generally, between June 1 and the date of the November general election in the year of the candidate’s election. In the case of legislative candidates, this statutory “window” for campaign contributions by lobbyists does not begin until the legislature has concluded its final floor period and is not in special or extraordinary session. *See* Wis. Stat. § 13.625(1)(c).

- In 1997 Wis Eth Bd 18, the Ethics Board clarifies that while a lobbyist may serve as a conduit administrator, the lobbyist is limited on when they can sign and convey a check or transmittal letter to certain candidates.
- In 1997 Wis Eth Bd 21, the Ethics Board states that a lobbyist may serve as a treasurer of a PAC and even have his or her name appear on the PAC's letterhead provided the lobbyist does not sign the transmittal letter or the check.

In most instances, a conduit administrator is the person who signs the checks as well as the transmittal letters. Similarly, a PAC treasurer is the person who most often signs the PAC checks and conveyance letters. Moreover, in small organizations, it is often practically difficult to find another individuals who can sign PAC and conduit checks as well as the transmittal letters. And, many organizations are confused on why the lobbyist could still appear on the letterhead but just not the signature line.

AWL requests that the Board adopt clear administrative rules on lobbyists serving as PAC treasurers and conduit administrators. The rules should permit lobbyists to serve in these positions, conducting all of the activities typically associated with an individual's role as PAC treasurer and conduit administrator – including signing checks and transmittal letters.

Invitations Should be Allowed to Be Sent to Lobbyists

The Ethics Board has provided impractical guidance on invitations to candidate fundraising events.

- In 2004 Wis Eth Bd 03, ¶¶ 11-12, the Ethics Board interprets state law to include fundraising invitations from candidates as prohibited “solicitations” of campaign contributions from lobbyists. In this opinion, the Ethics Board makes clear that the use of a disclaimer stating that the invitation is “not a solicitation” is not sufficient to avoid the restrictions under state law.
- In 2007 Wis Eth Bd 06, ¶¶ 10-11, however, the Ethics Board suggests that a disclaimer may be used in an invitation is “inadvertently” sent to a lobbyist. As a result, most invitations sent by candidates now include a disclaimer that the mailing “is not a solicitation of lobbyist campaign contributions.”

AWL recommends that the Board adopt administrative rules making clear that a candidate may send written invitations to individuals who are lobbyists. Under the Ethics Board interpretation, candidates are not prohibited from mailing the invitations blindly to a lobbying principal. By not allowing a candidate to also list the individual lobbyist on the address line of the mailing label, the Ethics Board's guidance is only delaying – not preventing – the information from getting to the right person within the organization.

Barker Decision and 1993 Wis Eth Bd 03

Given the likelihood of confusion, AWL requests that the Board not “modify” 1993 Wis Eth Bd 3 to reflect the court’s holding in *Barker v. State Ethics Board*. Instead, this advisory opinion should be withdrawn. Any guidance to lobbyists on volunteer services should be addressed by administrative rule or in a new advisory opinion that takes into account state campaign finance and lobbying law.

Conclusion

For the reasons stated above, AWL requests that the Board *not* affirm:

- 2007 Wis Eth Bd 06
- 2004 Wis Eth Bd 03
- 1997 Wis Eth Bd 8

- 2006 Wis Eth Bd 02
- 1992 Wis Eth Bd 30
- 1992 Wis Eth Bd 13

- 1997 Wis Eth Bd 21
- 1997 Wis Eth Bd 18
- 1996 Wis Eth Bd 5
- 1993 Wis Eth Bd 3

- Guidelines: 250, 255, and 510 (to the limited extent it references campaign contributions)

AWL requests that the Board reject the Ethics Board’s broad interpretation of “furnish.” Alternatively, if the Board concurs in the Ethics Board interpretation of “furnish,” the Board should at least promulgate administrative rules on the solicitation and furnishing of campaign contributions that take into account the impracticalities of the Ethics Board’s past advice and relevant principles under state campaign finance law.

I will be making a public appearance at the June 9 meeting and can answer any questions that the Board may have at that time.

Sincerely

GODFREY & KAHN, S.C.



Mike B. Wittenwyler

cc: Association of Wisconsin Lobbyists
3064923_2

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Treatment of Ballot Access Challenges

This memorandum discusses the treatment of challenges to a candidate's qualification to appear on the ballot. The filing deadline for candidates to appear on the ballot for the Fall elections is Tuesday, July 8, 2008 at 5:00 p.m. All ballot access documents must be in the physical possession of the filing officer by the deadline. (Statements of Economic Interests for candidates for state office must be in the physical possession of the Government Accountability Board by 4:30 on Friday, July 11, 2008.)

At the Board's last meeting, staff presented a memorandum on the confidentiality of complaints filed with the agency. A copy of the memorandum accompanies this memo. The staff concluded that complaints related to election administration are treated in the same manner as complaints alleging a violation of other statutes administered by the agency. The discussion of this policy raised concerns about the treatment of challenges to a candidate's qualification to appear on the ballot.

The procedure for challenging the eligibility of a candidate to appear on the ballot is set out in GAB 2.07, Wis. Admin. Code. The Board reaffirmed the provisions of this rule and the other 3 rules in this chapter at its February 25, 2008 meeting. A challenge is initiated by filing a sworn complaint with the Board within the required time period – 3 business days following the filing deadline. The Board is required by rule to provide a copy of the complaint to the challenged candidate.

The practice of the Elections Board has been to provide the challenged candidate with the opportunity to respond to the complaint within two business days following the filing of the complaint. The Board has scheduled a meeting for the Wednesday following the challenge deadline to address any ballot access challenges. The challenges are resolved by a vote of the Board in open session following a presentation from the challenger and the challenged candidate or their representative.

The Board is required to certify the candidates eligible for ballot placement no later than the Tuesday following the filing deadline. §10.06 (1)(h), Wis. Stats. The Board may amend its certification after the deadline if it determines a candidate has died or does not qualify for ballot placement. §7.08 (2)(a), Wis. Stats. The staff presents a list of candidates to the Board for

certification at the meeting. The Board's decision may be challenged in court by a writ of mandamus.

This expedited process for reviewing ballot access challenges is driven by the tight deadlines for certification of candidates, printing ballots and making absentee ballots available to local election officials. §§10.06 (1)(h); 7.10 (3)(a); 7.15 (1)(cm); Wis. Stats.

The Board needs to establish procedures for the review of ballot access challenges consistent with its administrative rules and the statutes. The primary issue to resolve is whether ballot access challenges are treated as an investigation of a violation of laws administered by the Board. If so are ballot access challenges subject to the restriction on access to Board records set out in §5.05(5s), Wis. Stats. Staff believes records related to ballot access challenges are open to inspection.

A challenge to a candidate's qualifications to appear on the ballot is a request for the Board to review its determination on a candidate's ballot eligibility. It is not an investigation into a violation of the laws administered by the Board. A ballot access challenge may lead to an investigation, but the primary issue is whether the Board should certify a candidate to appear on the ballot.

In order to qualify to appear on the ballot, a candidate must file nomination papers containing sufficient signatures with the filing officer by the filing deadline. The signatures on the nomination papers must be gathered from qualified electors of the district the candidate seeks to represent. A qualified elector is a U.S. citizen, age 18 or older, who has resided in the district for at least 10 days and is not otherwise disqualified to vote – for example, a convicted felon who has not completed the terms of his or her sentence. Signatures must be gathered between June 1, 2008 and July 8, 2008.

The candidate must also file certain other documents to qualify for the ballot – a campaign registration statement, a declaration of candidacy and candidates for state office must also file a Statement of Economic Interests. §8.30, Wis. Stats. The staff reviews the ballot access documents to determine if they are facially sufficient and timely filed. A challenge generally raises issues requiring supporting evidence.

Issues often identified in a challenge are whether the address of a signer is actually in the district, whether the signer signed another nomination paper for the same office earlier and whether the papers were properly circulated. Staff may disqualify nomination papers because the heading does not contain sufficient information to comply with the law or if it determines the papers do not have enough eligible signatures.

These issues do not go to violations of the law, but rather to whether the ballot access documents meet the standards required by law for the candidate to qualify for access to the ballot. For this reason the staff believes ballot access challenge documents should be public and the disposition of the challenge should be reviewed in open session by the Board.

Recommendation

Staff recommends the Board adopt the following procedures to resolve ballot access complaints and make its certification of candidates eligible for ballot placement:

1. Staff will review ballot access documents filed with the agency and document any issues it determines may have an impact on the eligibility of a candidate to qualify for the ballot.

2. Staff will provide notification to candidates who do not qualify for ballot access based on its review.
3. Staff will present a list of candidates eligible for ballot placement to the Board for certification at its July 16, 2008 meeting.
4. Staff will also present a list of candidates ineligible for ballot placement to the Board for review at the July 16, 2008 meeting.
5. Staff will present any properly filed challenges along with an analysis of the challenges and any response to the Board for its review at the July 16, 2008 meeting.
6. Challenge documents and the staff analysis will be available for public inspection.
7. Because of the tight timeframe for filing and reviewing any ballot access challenge, the staff will post all challenges and any responsive documents on the website after the close of business on Friday, July 11, 2008. The staff analysis will be distributed to the Board at the July 16, 2008 meeting.
8. Challengers and challenged candidates or their representative will have 5 minutes to present their position at the July 16, 2008 meeting.
9. Any supplemental materials must be submitted to the staff by the close of business, 4:30 p.m., on Tuesday, July 15, 2008.
10. The Board will resolve all challenges and certify candidates eligible for placement on the September ballot at the July 16, 2008 meeting.

Attachments:

Staff Memorandum on Confidentiality of Complaints
Related Statutes
GAB Chapter 2, Wis. Admin. Code

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For May 5, 2008 meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Confidentiality of complaints and informal disposition of investigative actions

There are two issues for the Board: (1) the extent to which staff may and should comment about the receipt of a complaint alleging a violation of the laws administered by the Board and (2) the extent to which the Board's open minutes should reflect the disposition of investigative matters handled informally in closed session. Two statutory provisions are pertinent. Section 5.05 (5s), *Wisconsin Statutes*, provides:

Records obtained or prepared by the board in connection with an investigation, including the full text of any complaint received by the board, are not subject to the right of inspection and copying under s. 19.35 (1), except as provided

The exceptions pertain generally to records made public in the course of a prosecution and any record of the action of the Board authorizing a complaint, referring a matter to a district attorney, finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred, or finding no probable cause.

The second pertinent statute is §12.13 (5), *Wisconsin Statutes*, which provides, with limited exceptions,

{N}o . . . member or employee of the board may disclose information related to an investigation or prosecution . . . or provide access to any record of the investigator, prosecutor, or the board that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the board prior to presentation of the information or record in a court of law.

Complaints. Plainly, the Board may not make a copy of a complaint available to the press or public. (I note that complaints relating to election administration are treated no differently than other complaints under the statute, except that such complaints may result in an administrative contested case hearing). Moreover, Board members and employees may not disclose information related to an investigation. The question is whether acknowledging receipt of a complaint, before the Board has acted to authorize an investigation, is disclosing information related to an investigation. It may not be but, on the whole, I believe the better policy is to not comment on whether or not the Board has received a complaint. Some complaints may lead to investigations, at which point information related to the complaint becomes information related to an investigation. The intent of the Legislature, as evidenced by §5.05 (5s), appears to be to

treat complaints as investigation records. Declining to acknowledge receiving a complaint avoids having to address follow-up questions; is a clear, easily-followed policy; and does not deny the public any particularly meaningful information.

General information about closed session matters. We have been indicating in open session minutes a general description of the Board's actions in closed session informally disposing of investigative matters. Section 5.05 (5s), *Wisconsin Statutes*, provides that a record of the action of the Board authorizing a complaint, referring a matter to a district attorney, finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred, or finding no probable cause is open to the public. The statute does not provide for a record to be open of any other action of the Board in connection with an investigation. In particular, the statute does not address instances in which the Board may dispose of matters in which there has been no complaint filed or matters the Board determines in its discretion not to pursue without making a formal finding. I believe these actions are not subject to the exceptions to the general prohibition on disclosing a record (such as closed session minutes) prepared by the Board in connection with an investigation.

Having said this, there is a case to be made that simply indicating that the Board has closed some number of matters, without specifying what those matters are, is not disclosing information about an investigation because there is no information that is tied to any specific investigation. Rather, it is simply a general description of Board activity and provides at least some information to the public about the Board's work.

I also note that we have been indicating the number of requests for advice the Board has addressed in closed session. This does not violate the confidentiality provisions pertaining to advisory opinions which prohibit making public the identity of a requester (§5.05 (6a)) and which provide that requests for advice and the Board's responses are generally not open to public inspection (§5.05 (5s) (f)). The confidentiality provisions do not apply to requests for advice relating to election matters. §5.05 (5s) (f) 2. c. and (6a).

Attachment for Ballot Access Memo

§5.05(5s), Wisconsin Statutes

Access to records. Records obtained or prepared by the board in connection with an investigation, including the full text of any complaint received by the board, are not subject to the right of inspection and copying under [s. 19.35 \(1\)](#), except as provided in [pars. \(d\)](#) and [\(e\)](#) and except that:

(a) The board shall permit inspection of records that are distributed or discussed in the course of a meeting or hearing by the board in open session.

(b) Investigatory records of the board may be made public in the course of a prosecution initiated under [chs. 5 to 12, subch. III](#) of ch. 13, or [subch. III](#) of ch. 19.

(c) The board shall provide information from investigation and hearing records that pertains to the location of individuals and assets of individuals as requested under [s. 49.22 \(2m\)](#) by the department of children and families or by a county child support agency under [s. 59.53 \(5\)](#).

(d) If the board commences a civil prosecution of a person for an alleged violation of [chs. 5 to 12, subch. III](#) of ch. 13, or [subch. III](#) of ch. 19 as the result of an investigation, the person who is the subject of the investigation may authorize the board to make available for inspection and copying under [s. 19.35 \(1\)](#) records of the investigation pertaining to that person if the records are available by law to the subject person and the board shall then make those records available.

(e) The following records of the board are open to public inspection and copying under [s. 19.35 \(1\)](#):

1. Any record of the action of the board authorizing the filing of a civil complaint under [sub. \(2m\) \(c\) 6](#).
2. Any record of the action of the board referring a matter to a district attorney or other prosecutor for investigation or prosecution.
3. Any record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred.
4. Any record containing a finding, following an investigation, that no probable cause exists to believe that a violation of the law has occurred.

(f) 1. Except as authorized or required under [subd. 2.](#), records obtained in connection with a request for an advisory opinion issued under [s. 5.05 \(6a\)](#), other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested, are not subject to the right of inspection and copying under [s. 19.35 \(1\)](#). Except as authorized or required under [subd. 2.](#), the board shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the opinions.

2. a. The board may make records under [subd. 1.](#) public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested.

b. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the board in connection with the request for an advisory opinion.

c. The board shall make public advisory opinions and records obtained in connection with requests for advisory opinions relating to matters under the jurisdiction of the elections division.

§7.08(2)(a), Wisconsin Statutes

As soon as possible after the closing date for filing nomination papers or after the canvass of the primary vote, but no later than the deadlines established in [s. 10.06](#), transmit to each county clerk a certified list of all candidates on file in its office for which electors in that county may vote. The list shall designate the order of arrangement and contain each candidate's first name, middle initial or initials and last name, unless the candidate on his or her nomination papers or declaration of candidacy specifies that the middle initial be deleted, that a full middle name or former legal surname be substituted for the middle initial, that an initial be substituted for the candidate's first name or that a nickname be substituted for a

first or middle name or for a first initial or middle initial or initials, but no other abbreviations or titles are permitted. The list shall also include each candidate's residence and post-office address; the office for which the person is a candidate; and, the party or principle the candidate represents, if any, in 5 words or less. Names of candidates nominated under [s. 7.38](#) or [8.35](#) shall be certified by the board upon filing of the necessary papers with it. At any time prior to an election, the board may transmit an amended certification if a candidate dies or is determined not to qualify for ballot placement.

§7.10(3)(a), *Wisconsin Statutes*

The county clerk shall distribute the ballots to the municipal clerks no later than 31 days before each September primary and general election and no later than 22 days before each other primary and election. Election forms prepared by the board shall be distributed at the same time. If the board transmits an amended certification under [s. 7.08 \(2\) \(a\)](#) or if the board or a court orders a ballot error to be corrected under [s. 5.06 \(6\)](#) or [5.72 \(3\)](#) after ballots have been distributed, the county clerk shall distribute corrected ballots to the municipal clerks as soon as possible.

§7.15(1)(cm), *Wisconsin Statutes*

Prepare official absentee ballots for delivery to electors requesting them, and send an official absentee ballot to each elector who has requested one no later than the 30th day before each September primary and general election and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send an official absentee ballot within one day of the time the elector's request is received.

§8.30, *Wisconsin Statutes*

8.30 Candidates ineligible for ballot placement.

(1) Except as otherwise provided in this section, the official or agency with whom declarations of candidacy are required to be filed may refuse to place the candidate's name on the ballot if any of the following apply: (a) The nomination papers are not prepared, signed, and executed as required under this chapter.

(b) It conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected.

(c) The candidate, if elected, could not qualify for the office sought within the time allowed by law for qualification because of age, residence, or other impediment.

(2) If no registration statement has been filed by or on behalf of a candidate for state or local office in accordance with [s. 11.05 \(2g\)](#) or [\(2r\)](#) by the applicable deadline for filing nomination papers by such candidate, or the deadline for filing a declaration of candidacy for an office for which nomination papers are not filed, the name of the candidate may not appear on the ballot. This subsection may not be construed to exempt a candidate from applicable penalties if he or she files a registration statement later than the time prescribed in [ss. 11.01 \(1\)](#) and [11.05 \(2g\)](#).

(2m) The official or agency with whom nomination papers and declarations of candidacy are required to be filed shall not place a candidate's name on the ballot if the candidate's name is ineligible for ballot placement under [s. 5.05 \(2m\) \(d\) 2.](#) or [15.60 \(6\)](#).

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

(4) The official or agency with whom a declaration of candidacy is required to be filed may not place a candidate's name on the ballot if the candidate fails to file a declaration of candidacy within the time prescribed under [s. 8.21](#).

§10.06(1)(h), *Wisconsin Statutes*

As soon as possible after the deadline for determining ballot arrangement for the September primary on the 3rd Tuesday in July, the board shall send a type B notice to each county clerk certifying the list of candidates for the September primary.

GAB Chapter 2, Wis. Admin. Code

ELECTION RELATED PETITIONS

GAB 2.05 Treatment and sufficiency of nomination papers.

(1) Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.

(2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. Each of the nomination papers shall be numbered, before they are filed, and the numbers shall be assigned sequentially, beginning with the number "1". Notwithstanding any other provision of this chapter, the absence of a page number will not invalidate the signatures on that page.

(3) The filing officer shall review all nomination papers filed with it, up to the maximum number permitted, to determine the facial sufficiency of the papers filed. Where circumstances and the time for review permit, the filing officer may consult maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information on a nomination paper.

(4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

(5) Where any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.

(6) Nomination papers shall contain at least the minimum required number of signatures from the circuit, county, district or jurisdiction which the candidate seeks to represent.

(7) The filing officer shall accept nomination papers which contain biographical data or campaign advertising. The disclaimer specified in s. [11.30 \(2\)](#), Stats., is not required on any nomination paper.

(8) An elector shall sign his or her own name unless unable to do so because of physical disability. An elector unable to sign because of physical disability shall be present when another person signs on behalf of the disabled elector and shall specifically authorize the signing.

(9) A person may not sign for his or her spouse, or for any other person, even when they have been given a power of attorney by that person, unless [sub. \(8\)](#) applies.

(10) The signature of a married woman shall be counted when she uses her husband's first name instead of her own.

(11) Only one signature per person for the same office is valid. Where an elector is entitled to vote for more than one candidate for the same office, a person may sign the nomination papers of as many candidates for the same office as the person is entitled to vote for at the election.

(12) A complete address, including municipality of residence for voting purposes, and the street and number, if any, of the residence, (or a postal address if it is located in the jurisdiction that the candidate seeks to represent), shall be listed for each signature on a nomination paper.

(13) A signature shall be counted when identical residential information or dates for different electors are indicated by ditto marks.

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the certificate of circulator and does so after, not before, the paper is circulated. No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.

(15) An individual signature on a nomination paper may not be counted when any of the following occur:

(a) The date of the signature is missing, unless the date can be determined by reference to the dates of other signatures on the paper.

(b) The signature is dated after the date of certification contained in the certificate of circulator.

(c) The address of the signer is missing or incomplete, unless residency can be determined by the information provided on the nomination paper.

(d) The signature is that of an individual who is not 18 years of age at the time the paper is signed. An individual who will not be 18 years of age until the subject election is not eligible to sign a nomination paper for that election.

(e) The signature is that of an individual who has been adjudicated not to be a qualified elector on the grounds of incompetency or limited competency as provided in s. [6.03 \(3\)](#), Stats., or is that of an individual who was not, for any other reason, a qualified elector at the time of signing the nomination paper.

(16) After a nomination paper has been filed, no signature may be added or removed. After a nomination paper has been signed, but before it has been filed, a signature may be removed by the circulator. The death of a signer after a nomination paper has been signed does not invalidate the signature.

(17) This section is promulgated pursuant to the direction of s. [8.07](#), Stats., and is to be used by election officials in determining the validity of all nomination papers and the signatures on those papers.

GAB 2.07 Challenges to nomination papers.

(1) The board shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for state office that is filed with the board under ss. [5.05](#) and [5.06](#), Stats.; and the local filing officer shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for local office that is filed with the local filing officer under s. [8.07](#), Stats. The filing officer shall apply the standards in [s. GAB 2.05](#) to determine the sufficiency of nomination papers, including consulting extrinsic sources of evidence under [s. GAB 2.05 \(3\)](#).

(2)(a) Any challenge to the sufficiency of a nomination paper shall be made by verified complaint, filed with the appropriate filing officer. The complainant shall file both an original and a copy of the challenge at the time of filing the complaint. Notwithstanding any other provision of this chapter, the failure of the complainant to provide the filing officer with a copy of the challenge complaint will not invalidate the challenge complaint. The filing officer shall make arrangements to have a copy of the challenge delivered to the challenged candidate within 24 hours of the filing of the challenge complaint. The filing officer may impose a fee for the cost of photocopying the challenge and for the cost of delivery of the challenge to the respondent. The form of the complaint and its filing shall comply with the requirements of [ch. GAB 20](#). Any challenge to the sufficiency of a nomination paper shall be filed within 3 calendar days after the filing deadline for the challenged nomination papers. The challenge shall be established by affidavit, or other supporting evidence, demonstrating a failure to comply with statutory or other legal requirements.

(b) The response to a challenge to nomination papers shall be filed, by the candidate challenged, within 3 calendar days of the filing of the challenge and shall be verified. After the deadline for filing a response to a challenge, but not later than the date for certifying candidates to the ballot, the board or the local filing officer shall decide the challenge with or without a hearing.

(3)a) The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to

establish its sufficiency. The invalidity or disqualification of one or more signatures on a nomination paper shall not affect the validity of any other signatures on that paper.

(b) If a challenger establishes that an elector signed the nomination papers of a candidate more than once or signed the nomination papers of more than one candidate for the same office, the 2nd and subsequent signatures may not be counted. The burden of proving that the second and subsequent signatures are that of the same person and are invalid is on the challenger.

(c) If a challenger establishes that the date of a signature, or the address of the signer, is not valid, the signature may not be counted.

(d) Challengers are not limited to the categories set forth in [pars. \(a\)](#) and [\(b\)](#).

(4) The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.

(5) Where it is alleged that the signer or circulator of a nomination paper does not reside in the district in which the candidate being nominated seeks office, the challenger may attempt to establish the geographical location of an address indicated on a nomination paper, by providing district maps, or by providing a statement from a postmaster or other public official.

GAB 2.09 Treatment and sufficiency of election petitions.

(1) Except as expressly provided herein, the standards established in [s. GAB 2.05](#) for determining the treatment and sufficiency of nomination papers are incorporated by reference into, and are made a part of, this section.

(2) In order to be timely filed, all petitions required to comply with [s. 8.40](#), Stats., and required by statute or other law to be filed by a time certain, shall be in the physical possession of the filing officer not later than the time set by that statute or other law.

(3) All petitions shall contain at least the number of signatures, from the election district in which the petition was circulated, equal to the minimum required by the statute or other law establishing the right to petition

(4) Only one signature per person for the same petition, is valid.

(5) This section applies to all petitions which are required to comply with [s. 8.40](#), Stats., including recall petitions, and to any other petition whose filing would require a governing body to call a referendum election.

GAB 2.11 Challenges to election petitions.

(1) Except as expressly provided herein, the standards established in [s. GAB 2.07](#) for determining challenges to the sufficiency of nomination papers apply equally to determining challenges to the sufficiency of petitions required to comply with [s. 8.40](#), Stats., including recall petitions, and to any other petition whose filing requires a governing body to call a referendum election

(2)(a) Any challenge to the sufficiency of a petition required to comply with [s. 8.40](#), Stats., shall be made by verified complaint filed with the appropriate filing officer. The form of the complaint, the filing of the complaint and the legal sufficiency of the complaint shall comply with the requirements of [ch. GAB 20](#); the procedure for resolving the complaint, including filing deadlines, shall be governed by this section and not by [ch. GAB 20](#).

(b) The complaint challenging a petition shall be in the physical possession of the filing officer within the time set by the statute or other law governing the petition being challenged or, if no time limit is specifically provided by statute or other law, within 10 days after the day that the petition is filed.

(3) The response to a challenge to a petition shall be filed within the time set by the statute or other law governing that petition or, if no time limit is specifically provided by statute or other law, within 5 days of the filing of the challenge to that petition. After the deadline for filing a response to a challenge, the filing officer shall decide the challenge with or without a hearing.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Action on Review of Formal Opinions and Administrative Rules of the State Elections Board

Following this memorandum are a series of reports describing formal opinions and administrative rules of the State Elections Board. These formal opinions and administrative rules are presented for review and reaffirmation by the Government Accountability Board pursuant to 2007 Wisconsin Act 1, Section 209 (2), (3). The materials address the following subject areas: contribution limits, source identification, campaign spending, absentee voting and electioneering.

The staff recommendations for action by the Board are set out below.

Contribution Limits

Staff recommends the Board reaffirm:

Opinion El.Bd. 74-02, Opinion El.Bd. 75-07, Opinion El.Bd. 78-04, Opinion El.Bd. 78-15, GAB 1.04, GAB 1.25, GAB 1.32, GAB 1.385, GAB 1.95

Staff recommends the Board reaffirm the specific language of the opinion related to the correct procedure for a candidate to provide personal funds to the candidate's own campaign and the treatment of contributions from family members. Opinion El.Bd. 74-05

Staff recommends the Board decline to reaffirm:

Opinion El.Bd. 77-01, Opinion El.Bd. 81-02, Opinion El.Bd. 97-01

Source Identification

Staff recommends the Board reaffirm:

Opinion El.Bd. 74-06, Opinion El.Bd. 77-10

Staff recommends the Board reaffirm the specific language of the opinion related to the responsibility of the individual or entity who prepares the communication on behalf of a registrant to ensure the required attribution statement is on the communication. Opinion El.Bd. 76-14

Campaign Spending

Staff recommends the Board reaffirm:

Opinion El.Bd. 76-07, GAB 1.44, GAB 1.70, GAB 1.75

Staff recommends the Board decline to reaffirm:

Opinion El.Bd. 74-19, Opinion El.Bd. 75-04

Absentee Voting

Staff recommends the Board reaffirm:

Opinion El.Bd. 77-04

Staff recommends the Board reaffirm the specific language of the opinion related to the absentee voting duties of the municipal clerk. Opinion El.Bd. 88-02

Electioneering

Staff recommends the Board reaffirm:

Opinion El.Bd. 81-03, Opinion El.Bd. 07-01

Staff recommends the Board reaffirm the opinion and add language noting the statutory changes relating to the distance prohibition and the placement of signs on private property. Opinion El.Bd. 78-07

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Formal Opinions and Administrative Rules of the State Elections Board Relating to Contribution Limits

This memorandum presents 8 formal opinions and 5 administrative rules of the State Elections Board presently in effect relating to contribution limits for review and reaffirmation by the Government Accountability Board (GAB).

Formal Opinions Related to Contribution Limits

Opinion El.Bd. 74-2

A committee may make maximum contributions to a candidate in a primary calculated from his total disbursement limitation in both the primary and election, provided that no further contributions are made after the primary. (Issued to Alfred G. Goldberg, July 24, 1974)

This opinion provides that a political committee may make the maximum campaign contribution to a candidate in the primary, but then the committee may not make any additional contribution for the rest of the campaign period. Since the opinion was originally written, the provision tying a contribution to a percentage of a statutory disbursement limit has been eliminated and a section defining "campaign period" for calculating contribution limits has been established. §11.26 (17), Wis. Stats.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 74-5

A candidate's contributions to his own campaign for local office (except in Milwaukee County) are limited to 7½ % of his disbursement limitation. A candidate may receive individual contributions not exceeding 5% of the limitation from a spouse, children, or relative, provided that the funds or property are their own. (Issued to Richard C. Kelly, August 28, 1974)

This opinion discusses issues related to contributions by a candidate to the candidate's own campaign. There is no longer a limit on self-contributions by a candidate to the candidate's own campaign unless the candidate accepts a grant from the Wisconsin Election Campaign Fund. The opinion contains an excellent discussion of the correct method for a candidate to provide personal funds to the candidate's own campaign. Staff recommends the Board reaffirm this language.

The opinion also addresses concerns about laundering personal funds through family members. Staff recommends the Board reaffirm this language.

Opinion El.Bd. 75-7

The contribution limitations of secs. 11.26(1) and (10), Stats., apply per campaign and not per calendar year. (Issued to Eunice Niemi, December 17, 1975)

This opinion provides that contribution limits to candidate committees apply per campaign not per calendar year. A specific statutory section defining “campaign period” for calculating contribution limits has been established since the opinion was originally written. §11.26 (17), Wis. Stats.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 77-1(Rev)

Co-signing a commercial loan: The guaranty of a commercial loan to a registrant becomes a personal loan and contribution from the guarantor only when the registrant defaults; the loan-contribution is then prorated among the various guarantors. Sec. 11.01(5), Stats. (Issued to Scott Herrick, July 1, 1977)

This opinion provides that a loan guarantee is not a contribution unless there is a default on the loan. The opinion has been superseded by a statutory change. §11.17, Wis. Stats.

Staff recommends the Board decline to reaffirm the opinion.

Opinion El.Bd. 78-4

Limits on Contributions to Political Party Committees and Retirement of Debts: El.Bd. 1.04, Wis. Adm. Code does not apply to political party committees; a political party committee may not accept a contribution in excess of the limits in sec.11.26(8), Stats., in any calendar year, even if part of such contribution is used for retirement of debts outstanding from a previous calendar year. Sec. 11.26(8), Stats. (Issued to David M. Travis, May 18, 1978)

This opinion clarifies the application of debt retirement rules with respect to political party committees. The administrative rule has been changed to reflect the statutory section defining “campaign period” for calculating contribution limits. §11.26 (17), Wis. Stats.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 78-15

Application of contribution limits to affiliated committees: Where affiliated committees are prohibited by the terms of their affiliation with a parent organization from supporting statewide or state legislative office candidates other than those chosen through an endorsement procedure controlled by the parent, the contributions of the affiliated organizations to statewide or state legislative candidates must be charged to the contribution limits of the parent. Sec. 11.26, Stats. (Issued to Robert Friebert, August 17, 1978)

This opinion discusses the application of contribution limits to affiliated committees. The opinion clearly articulates that affiliated committees may not circumvent committee contribution limits when they act together to determine contributions for candidates.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 81-2

A political party committee or legislative campaign committee may make direct disbursements to pay the recount-related expenses of a party candidate. The payment of these expenses will not count against the contribution limits set out in 11.26(9)(a), Stats., but must be reported pursuant to s.11.06(1), Stats. The candidate may also set up a separate fund to cover recount-related expenses which is not subject to the reporting requirements of s.11.06(1), Stats., but a registered political committee may not make any contributions to the fund. (Issued to David Travis, February 19, 1981)

This opinion discusses the application of contribution limits to funds used to pay the recount related expenses of a candidate. The law has changed to recognize in-kind contributions paid on behalf of a candidate for recount related expenses and direct contributions to a candidate to pay recount related expenses are not subject to limitation. §11.26 (13m)(a), Wis. Stats.

The law has also changed to define the payment of recount related expenses as covered under the definition of political purpose. §11.01 (16)(intro), Wis. Stats. As a result, a candidate may no longer set up a separate committee to collect funds to pay recount related expenses.

Staff recommends the Board decline to reaffirm the opinion.

Opinion El.Bd. 97-01

Committee Contributions as Related to s.11.26, Stats.: A committee (other than a political party or legislative campaign committee) may not contribute more than \$6,000 to a county or local affiliated committee of a state party like the Republican Party of Wisconsin or the Democratic Party of Wisconsin. But a committee may make unlimited contributions, i.e., up to \$6,000, and more, to each separate county, local, or other unaffiliated committee. Which committees are affiliated and which are not affiliated is not provided by statute.

This opinion discusses the application of the contribution limits to political parties and their affiliated committees. Current law limits the amount a committee may contribute to a political party committee to \$6,000 in a calendar year. §11.26 (8)(c), Wis. Stats. The definition of a political party committee includes “county, congressional, legislative, local and other affiliated committees authorized to operate under the same name.” §5.02 (13), Wis. Stats.

The opinion focuses on the lack of a definition of “affiliated” in the statutes. The opinion suggests there is no limit on the application of contribution limits if there is no affiliation between the state party and sub-units. This opinion was used to permit state officeholders to use their campaign committees to make \$6,000 contributions to several county parties and the state party.

I believe this opinion was not well founded. The opinion should establish a presumption that a local political party operating under the same name as the state party is affiliated unless the state party can show it does not recognize the local party for membership or other purposes.

Staff recommends the Board decline to reaffirm the opinion. The Board can choose to deal with future questions on a case by case basis or direct the staff to develop a proposed policy on the determination of affiliation for political party committees.

Administrative Rules Related to Contribution Limits

GAB 1.04 Debt retirement; treatment of contributions received and accepted after election.

(1) Contributions received and accepted for the purpose of retiring debts incurred in a prior campaign should be counted against the contributor's contribution limit for said campaign. Contributions received and accepted in excess of the amount needed to retire such debt shall be counted against the contributor's contribution limits applicable to the next campaign on a first-in first-out basis with the contributions received and accepted first applied to debt retirement.

(2) Notwithstanding the above, a contribution received and accepted between the period that begins on the day after the closing date for the pre-election campaign finance report period and ends on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations shall be counted against the limits for the campaign in which the election took place, regardless of whether all campaign debts have been retired at the time the contribution is received.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2), Register, February, 1986, No. 362, eff. 3-1-86.

This rule provides direction on the use of contributions to retire debts. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

GAB 1.25 Loan treatment respecting limitations. *A loan when made by any person, committee or group (except a loan of money by a commercial lending institution made by the institution in accordance with applicable banking laws and regulations in the ordinary course of business) shall be reported as a contribution or disbursement, and also as an incurred obligation by the debtor. When such a loan is received by a registrant, it is counted within the contribution limitation of the creditor while outstanding, but is not counted within the limitation after repayment. The amount or value of any such outstanding loans and any other contributions or disbursements shall at no time exceed any limitation specified in ss. [11.26](#) and [11.31](#), Stats.*

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, February, 1986, No. 362, eff. 3-1-86.

This rule provides direction on the process for reporting loans as contributions. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

GAB 1.32 Contribution of partnership funds.

(1) As used in this rule, "partnership" includes all associations organized for profit and all other partnerships.

(a) A contribution in the name of a partnership shall be treated as an individual contribution from each partner in relation to each partner's interest in the partnership profits or losses unless the partners agree to apportion the contribution otherwise.

(b) When a contribution is made in the name of a partnership, the registrant must obtain the information as to each partner's share thereof within 30 days after receiving the contribution or return the contribution.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

This rule provides direction on the treatment of contributions from partnerships. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

GAB 1.385 Return of contributions to contributors by candidates when candidates file nomination papers for offices that have lower contribution limits than the limits that applied at the time of the contributions. A candidate shall be subject to the contribution limits that apply to the candidate at the time of the primary election at which the candidate's name appears on the ballot. If a candidate for any office has unspent contributions in his or her campaign depository at the time of filing nomination papers that were lawful at the time of receipt but exceeded the contribution limit that applies to the office for which the candidate is seeking nomination, the candidate shall dispose of the unspent contributions. The candidate shall either return the excess contribution to the contributor on a reasonable basis that the candidate determines or donate the excess contribution to either the common school fund or a charitable organization.

History: *Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.*

This rule provides clear direction on the treatment of excess contributions when a candidate raises funds for an office with higher contribution limits, but then registers and runs for an office with lower contribution limits. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

GAB 1.95 Contributions of individuals under the age of 18. For purposes of campaign finance regulation under [ch. 11, Stats.](#), the contribution to a candidate for election or nomination to any of the offices specified in [s. 11.26, Stats.](#), of any individual less than 18 years of age at the time of contribution, shall be treated as follows:

(1) The contribution of individual contributors less than 14 years of age at the time of the contribution shall be treated as the contribution of the contributor's parents or legal guardians. If the contributor has more than one parent or one legal guardian, the contribution shall be attributed to each parent or each guardian in equal shares or in such shares as the parents or the guardians determine by written agreement.

(2) The contribution of individual contributors who are 14 years of age or older at the time of the contribution shall be treated for all purposes of campaign finance regulation under [ch. 11, Stats.](#), as the contribution of the individual contributor.

(3) This section shall not affect the determination of an individual's right or authority to make contributions from a multi-party account at a financial institution.

History: *Cr. Register, January, 1992, No. 433, eff. 2-1-92.*

This rule provides clear direction on the treatment of contributions from minors. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Formal Opinions and Administrative Rules of the State Elections Board Relating to Source Identification

This memorandum presents 3 formal opinions and 1 administrative rule of the State Elections Board presently in effect relating to source identification for review and reaffirmation by the Government Accountability Board (GAB).

Formal Opinions Related to Source Identification

Opinion El.Bd. 74-6

A candidate-incumbent who distributes business cards to members of the public who are without normal cause to have business with him would be required to include statutory identification. If such a person places newspaper ads identifying himself, the information may also be required, absent a non-political rationale for such placement. (Issued to Richard C. Kelly, August 28, 1974)

The opinion discusses the requirements to provide a disclaimer or attribution statement on certain communications. The opinion focuses on communications which may not be paid for with campaign funds, but appear to have a political purpose. Current law requires any communication paid for with campaign funds, with some specific exceptions, to have an attribution statement. §11.30 (2), Wis. Stats. There is also a clearly articulated provision limiting the distribution of 50 or more substantially similar items paid with government funds. §11.33, Wis. Stats.

The opinion provides guidance for registrants and the Board in analyzing similar situations. Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 76-14

Disclaimers; Political Advertising: Roadside billboards carrying political advertisements must carry disclaimers readable from the road; the party designing, printing, and erecting such billboards, and the source of the advertisement are each subject to the disclaimer requirement. Sec. 11.30(2), Stats. (Issued to Sandra Hafenbraedl, September 16, 1976)

The opinion discusses the readability of attribution statements on billboards. The law has changed to require attribution statements to be readable, legible and readily accessible. §11.30

(2)(h), Wis. Stats. The purpose of this provision was to overrule this portion of the Board's opinion.

The opinion also discusses responsibility of the individual or entity who prepares the communication on behalf of a registrant to ensure the required attribution statement is on the communication.

Staff recommends the Board reaffirm this portion of the opinion.

Opinion El.Bd. 77-10

Scope of disclaimer requirements. The statutory identification of political material required in s.11.30(2), Stats., applies to material which is not produced by mechanical means. (Issued to Eldon J. Broehm, December 15, 1977)

This opinion discusses the application of the source identification requirement to handwritten communications and to communications produced in quantity by an iterative process. The opinion provides good guidance for addressing similar issues that may arise.

Staff recommends the Board reaffirm the opinion.

Administrative Rule Related to Source Identification

GAB 1.655 Identification of the source of communications paid for with money raised for political purposes.

(1) Definitions: as used in this rule:

(a) "Bona fide poll" means a poll which is conducted for the purpose of identifying, or collecting data on, voter attitudes and preferences and not for the purpose of expressly advocating the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

(b) "Communication" means any printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, telephone call, and any other form of communication that may be utilized by a registrant for the purpose of influencing the election or nomination of any individual to state or local office or for the purpose of influencing a particular vote at a referendum.

(bm) "Political party" has the meaning provided in s. [5.02 \(13\)](#), Stats.

(c) "Political purpose" has the meaning provided in s. [11.01 \(16\)](#), Stats.

(d) "Registrant" has the meaning provided in s. [11.01 \(18m\)](#), Stats.

(e) "Source" means the individual who, or committee which, pays for, or the individual who takes responsibility for, a communication that is required, by s. [11.30](#), Stats., to be identified.

(2) Pursuant to s. [11.30 \(2\) \(a\)](#), Stats., any communication paid for with money that has been raised for political purposes must identify the source of that communication, subject to the following exceptions:

(a) The source identification requirements of s. [11.30](#), Stats., do not apply to communications paid for by an individual who, or a committee which, is not subject to the registration requirements of s.11.05, Stats.

(b) A bona fide poll or survey under s. [11.30 \(5\)](#), Stats., concerning the support for or opposition to a candidate, political party, referendum or a position on issues, may be conducted without source identification unless the person being polled requests such information. If requested, the person conducting the poll shall disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. [11.05](#), Stats., the name of the treasurer or the person making the payment.

(c) Incidental administrative communications need not identify their source if such communications are singular in nature and are not intended to communicate a political message.

(d) Communications for which reporting is not required under s. [11.06 \(2\)](#), Stats., are not required to identify their source.

(3) When making communications requiring source identification, disclosure is not required to be made at any particular place within or time during the communication. In the case of telephone calls, or other audio communications, the required disclosure may be made at any time prior to the end of the call or other communication.

(4) A registrant who conducts a bona fide poll must report the expense of conducting the poll on its campaign finance reports, whether or not the registrant is required to identify the source of that poll under s. [11.30 \(5\)](#), Stats., and this rule.

*(5) If a political party makes a communication supporting the election of more than one candidate, the source identification for that communication shall be as follows:
"Paid for by the (name of party) Party as an in-kind contribution to the candidates named."*

History: Cr. Register, September, 1996, [No. 489](#), eff. 10-1-96; cr. (1) (bm) and (5), Register, April, 1998, [No. 508](#), eff. 5-1-98.

This rule provides clear direction on the application of source identification requirements to a wide range of communications. It is consistent with current statutes and provides guidance for registrants.

Staff recommends the Board reaffirm the rule.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Formal Opinions and Administrative Rules of the State Elections Board Relating to Campaign Spending

This memorandum presents 3 formal opinions and 3 administrative rules of the State Elections Board presently in effect relating to campaign spending for review and reaffirmation by the Government Accountability Board (GAB).

Formal Opinions Related to Campaign Spending

Opinion El.Bd. 74-19

The term "district" contained in sec. 1131(1)(j), Stats., as it related to the limitation on disbursements by a candidate elected at large from throughout a city, means the entire city. (Issued to Ted Fisher, November 27, 1974)

The law has changed with respect to the use of disbursement limits to set contribution limits.

Staff recommends the Board decline to reaffirm the opinion.

Opinion El.Bd. 75-4

The term "general election" as used in sec 11.315, Stats., refers to "election" in contradistinction to "primary" and should not be construed to refer to only the November election in even-numbered years. (Issued to Eunice Niemi, December 19, 1975)

The provision of the law discussed in this opinion has been repealed.

Staff recommends the Board decline to reaffirm the opinion.

Opinion El.Bd. 76-07

Campaign funds may be utilized only for political purposes as defined in sec. 11.01(16), Stats. (Issued to Tim Cullen, March 17, 1976)

This opinion discusses the use of campaign funds to supplement a legislator's office account. The discussion is instructive and the conclusion is still applicable. The opinion could be more assertive that campaign funds may never supplement a legislator's office account.

Staff recommends the Board reaffirm the opinion.³³

Administrative Rule Related to Campaign Spending

GAB 1.44 Disbursement levels.

(1) Limitation Imposed. Except as authorized in s. [11.50 \(2\) \(i\)](#), Stats., applying to disbursement levels, no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign which exceed the amounts specified below.

(2) The following levels of disbursements are established with reference to the candidates listed below until the disbursement levels are adjusted pursuant to s. [11.31](#), Stats. Except as provided in [sub. \(1\)](#), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$323,450 in the primary, and \$754,750 in the election.

(b) Candidates for lieutenant governor, \$215,650 in the primary, and \$107,825 in the election.

(c) Candidates for attorney general, \$269,500 in the primary, and \$269,500 in the election.

(d) Candidates for secretary of state, state treasurer, justice of the supreme court and state superintendent of public instruction, \$86,250 in the primary, and \$129,375 in the election.

(e) Candidates for court of appeals judge, \$32,350 in the primary, and \$53,900 in the election.

(f) Candidates for state senator, \$34,500 total in the primary and election, with disbursements not exceeding \$21,575 for either the primary or the election.

(g) Candidates for representative to the assembly, \$17,250 total in the primary and election, with disbursements not exceeding \$10,775 for either the primary or the election.

(h) Candidates for circuit judge, \$86,250 total in the primary and election.

(i) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more, according to the most recent federal census covering the entire jurisdiction or district:

1. For the following county offices:

a. Candidates for county executive, \$269,550 total in the primary and election.

b. Candidates for district attorney, \$161,725 total in the primary and election.

c. Candidates for county supervisor, \$17,250 total in the primary and election.

d. Candidates for any other countywide elective office, not specified in counties of this size, \$107,825 total in the primary and election.

2. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$269,550 total in the primary and election.

b. Candidates for city attorney, \$161,725 total in the primary and election.

c. Candidates for alderperson, \$17,250 total in the primary and election.

d. Candidates for any other citywide office, \$107,825 total in the primary and election.

(j) Candidates for any local office who are elected from a jurisdiction or district with less than 500,000 inhabitants, according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of:

1. \$1,075, or

2. 53.91% of the annual salary for the office sought, rounded to the nearest \$25, or

3. 32.35 cents per inhabitant of the jurisdiction or district, rounded to the nearest \$25, but in no event more than \$43,125 in the primary and election.

History: Emerg. cr. eff. 4-27-78; cr. Register, August, 1978, No. 272, eff. 9-1-78; emerg. am. eff. 2-19-80; emerg. am. eff. 6-17-80; emerg. am. eff. 2-18-82; emerg. r. and recr. eff. 5-1-84; am. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. (1), eff. 5-1-86; am. (2), Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) (i) 2. c. made under s. 13.93 (2m) (b) 5., Stats., Register, January, 1994, No. 457; correction in (2) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, [No. 524](#).

This rule tracks the statutory disbursement limits. Most proposals for campaign finance reform include a cost of living adjustment to disbursement limits. It is practical to maintain this rule as a vehicle for implementing the requirement if enacted.

Staff recommends the Board reaffirm the rule.

GAB 1.70 Travel reimbursements.

(1) A candidate for or a person elected to a state or local office does not make an in-kind contribution to another candidate for a state or local office in another district when a candidate or election official travels to the district of the other candidate for political purposes. The candidate for or person elected to state or local office may be reimbursed from his or her personal campaign committee subject to the applicable spending limits of s. [11.31 \(2\)](#), Stats., and [s. GAB 1.44](#) and is deemed to provide non-reportable volunteer services to the candidate in the other district.

(2) If the candidate or elected official is reimbursed by another individual, personal campaign committee, political action committee, or legislative campaign committee for travel, the reimbursement is a reportable contribution to the candidate.

(3) If the candidate or elected official is an officer or employee of a legislative campaign committee who travels on committee business, the reimbursement is not a reportable contribution to the candidate or elected official, but is a reportable disbursement of the legislative campaign committee.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

The rule provides direction for reporting travel costs associated with campaigns. The rule is consistent with current law and brings a practical resolution to the allocation of travel costs.

Staff recommends the Board reaffirm the rule.

GAB 1.75 Purchase of capital assets by campaign registrants.

(1) In this section:

(a) "Capital asset" means any asset, purchased by, or contributed to, a campaign committee, which has a useful life greater than the campaign period in which the asset was purchased, received or otherwise acquired.

(b) "Non-political use" means any usage, by a registrant, for purposes other than those specified in s. [11.01 \(16\)](#), Stats.

(c) "Political purposes" has the meaning provided in s. [11.01 \(16\)](#), Stats.

(d) "Registrant" has the same meaning as provided in s. [11.01 \(18m\)](#), Stats.

(2) No capital asset may be purchased with campaign funds by a registrant unless the asset will be used principally for political purposes.

(3) Any non-political use of a capital asset purchased with campaign funds shall be incidental.

(4) A capital asset purchased and owned by an individual for personal use may be leased by a campaign registrant for use for political purposes only.

(5) Any rent or reimbursement paid for the use of a capital asset, by a registrant, shall be comparable to the commercial rate paid for the lease or rent of a similar item.

(6) The cost of materials, supplies or other expenses incurred in the use of a capital asset for political purposes may be paid with campaign funds by a registrant.

(7) If campaign funds are used by a registrant to pay for the lease and service of a capital asset, the terms of the lease or other rental agreement, including those of a service or maintenance contract, shall be in writing.

History: *Cr. Register, January, 1992, No. 433, eff. 2-1-92*

The rule provides direction for reporting the use of capital assets in a campaign. The rule is consistent with current law and provides a practical direction on the allocation of the costs of capital assets.

Staff recommends the Board reaffirm the rule.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Formal Opinions of the State Elections Board Relating to Absentee Voting

This memorandum presents 2 formal opinions of the State Elections Board presently in effect relating to absentee voting for review and reaffirmation by the Government Accountability Board (GAB).

Formal Opinions Related to Absentee Voting

Opinion El.Bd. 77-4

Preparation and distribution of absentee ballot application by candidates and others is permissible. State election law is not applicable to the question of whether such application may be accepted by the municipal clerk if they carry political messages. S. 6.86, Stats. (Issued to Dan A. Ramsey, July 21, 1977)

This opinion discusses the preparation and distribution of absentee ballot applications by candidates. The opinion is still an accurate description of the law with one exception. The reference to the lack of a requirement for a disclaimer is not correct. If the candidate uses campaign funds to prepare the application it requires an attribution statement. If the application form contains a political message, it should have been prepared with campaign funds.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 88-2

An absentee ballot application should not be denied where it can be reasonably determined from the written information provided that the elector is qualified to vote absentee even though the elector has failed to specifically indicate in the written application the statutory basis on which the elector is entitled to vote absentee. (Issued to Gail Procarione, May 25, 1988)

This opinion discusses the requirements for applying for an absentee ballot. The law was changed effective July 1, 2000 to eliminate the requirement a voter articulate a reason for requesting an absentee ballot. The language in the last paragraph about the duties of the municipal clerk provides valuable guidance on the clerk's responsibilities to facilitate voter participation and protect the integrity of the absentee voting process.

Staff recommends the Board note the change in the requirement to state a reason for requesting an absentee ballot and reaffirm the language in the last paragraph of the opinion.

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KEVIN J. KENNEDY
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MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Formal Opinions of the State Elections Board Relating to Electioneering

This memorandum presents 3 formal opinions of the State Elections Board presently in effect relating to electioneering for review and reaffirmation by the Government Accountability Board (GAB).

Formal Opinions Related to Electioneering

Opinion El.Bd. 78-7

Scope of prohibition on electioneering at or near polling place on election day. Campaign signs placed within 500 feet of the entrance to a polling place on election day are unlawful, even if located on private property. Violating signs may be removed from public property and from open area on private property, but not from private dwellings or other privately owned buildings. The mere presence of a candidate at or within 500 feet of the polling place is not prohibited, provided that the candidate does not engage in electioneering. Car-top carriers and campaign buttons bearing campaign messages at or within 500 feet of the polling place are prohibited. One who engages in electioneering should not be thereby disenfranchised. Sec.12.03, Stats. (Issued to Richard J. Steffens, June 22, 1978)

This opinion discusses the general rules about the prohibition on electioneering at or within a specified distance from any entrance to a building containing a polling place. The law has changed with respect to two aspects discussed in the opinion. The distance in which electioneering is restricted has been reduced to 100 feet from any entrance to a building containing a polling place. The restriction does not apply to signs placed on private property. §12.03, Wis. Stats.

Staff recommends the Board reaffirm the opinion and add language noting these changes.

Opinion El.Bd. 81-3 (Rev 7/20/1983)

An incumbent municipal clerk who is running for re-election should not be stationed at the polling place while ballots are being cast. This preserves the integrity of the election, removes the appearance of impropriety, and eliminates the opportunity to violate the statutory prohibitions on electioneering. (Issued to Jesse McKinnon, June 18, 1981)

This opinion provides guidance to local election officials who are also candidates for election. The opinion provides direction on balancing their responsibilities to administer the election with the potential for creating the appearance of undue influence through their extended presence at the polling place during voting.

Staff recommends the Board reaffirm the opinion.

Opinion El.Bd. 07-01

The solicitation of signatures, on a petition that is not related to the election at hand, without any attempt to influence that day's vote of the voter solicited, is not, per se, "electioneering" within the meaning of ss. 12.03 and 12.035, Stats. and, therefore, not a violation of those statutes.

This opinion provides guidance to local election officials and citizens concerning the scope of restrictions on political activity at and around the polling place on election day.

Staff recommends the Board reaffirm the opinion.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Review of Ethics Board opinions and guidelines concerning campaign activities and contributions

Wisconsin's lobbying law governs campaign contributions and activities by lobbyists and lobbying principals and state officials' solicitation of lobbyists and principals. The Ethics Code governs use of state resources, including staff time, for campaign activities.

Lobbying law opinions

The lobbying law generally prohibits a lobbyist or lobbying principal to furnish anything of pecuniary value to a state government official. There is an exception for campaign contributions. Section 13.625 (1) and (2), *Wisconsin Statutes*, provides, in substance, that a lobbyist or lobbying principal may furnish a campaign contribution to anyone but may furnish a campaign contribution to a partisan elected state official (running for any office) or a candidate for partisan elective state office only between June 1 and the date of the general election in the year of the candidate's election. §13.625 (1) (b) 3 and (c). For a candidate to the Legislature, this "window" closes if the Legislature has not ended its final floorperiod or if the Legislature is in special or extraordinary session.

Section 13.625 (3), *Wisconsin Statutes*, provides that no candidate or elected state official "may solicit or accept anything of pecuniary value from a lobbyist or principal, except as permitted under subs. (1) (b) (3) and (c)"

The key issues that have arisen over the years are:

1. What does it mean to furnish? Does it only mean to contribute one's own money? May a lobbyist physically furnish to a legislator a bundle of checks from other people? The Ethics Board said that furnishing includes physically furnishing and a lobbyist may not physically furnish others' contributions except during the June 1 to election day window. 1997 Wis Eth Bd 18, 1996 Wis Eth Bd 5.
2. Does the lobbying law's prohibition apply to a PAC controlled by, and operating as the agent of, a principal? Since a lobbying principal is usually incorporated, it may not generally make campaign contributions because of campaign finance laws. Principals establish PACs to make contributions. The Ethics Board said the law applies to a PAC controlled by a principal. In *Plumbers and Gasfitters Local 75 Political Action Fund, et al. v. State of Wisconsin Ethics Board*, 93-CV-3984 (February 23, 1994), *summarily aff'd*, District IV Court of Appeals, 94-0826 (May 19, 1995), *rev. den.*, Supreme Court,

94-0826 (September 27, 1995), the court overturned the Ethics Board's ruling and held that a PAC is not a principal and is not subject to the lobbying law. 1992 Wis Eth Bd 29, 1992 Wis Eth Bd 27.

3. May a lobbyist furnish services to a campaign? Campaign finance laws provide that personal services are not a campaign contribution. The Ethics Board said that personal services generally have pecuniary value and a lobbyist may not furnish such services to a candidate. In *Barker v. State Ethics Board*, 841 F. Supp. 255 (W.D. Wis. 1993), the court said that the prohibition on furnishing personal services to a campaign is unconstitutional insofar as it applied to non-professional services. 1993 Wis Eth Bd 3.
4. Does the prohibition on an official's soliciting a lobbyist apply to asking a lobbyist to obtain contributions from others? Does the prohibition apply to soliciting before June 1 for a contribution to be given after June 1? Does the prohibition apply to an official soliciting a contribution at a time when the official may not accept a contribution, but the solicitation is for another individual or entity that may accept a contribution at that time? The Ethics Board has answered each of these questions in the affirmative. Some legislators have expressed disagreement with the Board's interpretations. 2007 Wis Eth Bd 6, 2004 Wis Eth Bd 3.

Staff recommendations:

Solicitation of campaign contributions

Affirm each opinion.

Lobbying principal's campaign activities

Affirm each opinion.

Lobbyist's campaign activities

Modify 1993 Wis Eth Bd 3 to apply only to non-professional services in light of *Barker*.

Affirm other opinions.

Legislators running for Congress

Affirm each opinion.

Political Action Committees

Withdraw each opinion in light of *Plumbers and Gasfitters Local 75*.

Ethics Code opinions

The Ethics Code prohibits an official to use public position or office to obtain anything of substantial value for private benefit, §19.45 (2), *Wisconsin Statutes*, or to obtain an unlawful benefit, advantage, or privilege for anyone, §19.45 (5), *Wisconsin Statutes*. A campaign purpose is a private purpose. The "public purpose" doctrine makes it unlawful to use government resources for a non-public purpose. Rules of the Legislature, enacted after the caucus scandals, specifically make it unlawful to use legislative resources for a campaign purpose. Since the caucus scandals, there has been little controversy as to the meaning of the law in this area.

Staff recommendations:

Appointed officials running for state office

Affirm opinion.

Campaign activities by state officials and employees

Affirm each opinion.

Use of state resources

Affirm opinion.

Referenda

Affirm opinion.

Miscellaneous

Affirm each opinion.

Guidelines

Staff recommends that the Board affirm each Guideline.

CAMPAIGN ACTIVITY & CONTRIBUTIONS

Solicitation of campaign contributions

CAMPAIGN ACTIVITIES[2007 Wis Eth Bd 6](#)

The Ethics Board advises that a legislator may not ask a lobbyist to pass along information to others about the legislator's desire for a campaign contribution except during the time that the legislator may accept a campaign contribution from a lobbyist. A legislative campaign committee may solicit a campaign contribution from a lobbyist at any time. A legislative campaign committee's employee, not employed by the Legislature, may solicit a campaign contribution from a lobbyist for a legislative candidate at any time if the committee is acting independent of the legislator for whose campaign the contribution is sought. A lobbyist may arrange a fundraising event for a legislative campaign committee at any time.

LOBBYING LAW, SOLICITATION[2004 Wis Eth Bd 03](#)

The Ethics Board advises that a legislator may not solicit a lobbyist for a personal or PAC campaign contribution for a legislative candidate or a legislative campaign committee except during the time that the legislator may accept a campaign contribution. A solicitation can include an invitation to a fundraiser even if the invitation has a disclaimer on it that it is not a solicitation to a lobbyist. A legislator may solicit a campaign contribution from a non-lobbyist employee of an organization that employs a lobbyist at any time. A legislator may accept a campaign contribution from a lobbyist's spouse at any time.

LOBBYING LAW[1997 Wis Eth Bd 8](#)

The Ethics Board advises that, consistent with the lobbying law:

- (1) a legislator may direct a letter to a lobbyist asking the lobbyist to ask others to endorse the legislator's candidacy or to provide volunteer personal services to the legislator's campaign such as erecting yard signs, delivering campaign literature, and stuffing envelopes (but not business or professional services); and
- (2) a legislator not direct a letter to a lobbyist asking the lobbyist to ask others to make a campaign contribution to the legislator's campaign, except between June 1 and the day of the general election in the year of the election and then, if the legislator is running for reelection to the legislature, only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.

Lobbying principal's campaign activities

CAMPAIGN ACTIVITIES, LOBBYING LAW[2006 Wis Eth Bd 02](#)

A lobbying principal may, consistent with the lobbying law, urge its members to contribute to a candidate, as long as the organization is not acting in concert with the candidate. A lobbying principal may not bundle and furnish contributions from its members to legislators except between June 1 and the general election in the year of the member's election and, then, only if the Legislature has concluded its final floorperiod and is not in special or extraordinary session.

CAMPAIGN ACTIVITIES [1992 Wis Eth Bd 30](#)

A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection:

1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or
2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board.

CAMPAIGN ACTIVITIES [1992 Wis Eth Bd 13](#)

A lobbying principal may, without violating laws administered by the Ethics Board, operate a conduit on behalf of campaign contributors for making contributions to partisan elective state officials or candidates for partisan elective state office. A lobbyist may administer a conduit. The Ethics Board recommends that someone other than a lobbyist sign and convey the check provided to the candidate.

Lobbyist’s campaign activities

LOBBYING LAW [1997 Wis Eth Bd 21](#)

The Ethics Board advises that Wisconsin’s lobbying law does not prohibit the appearance of a lobbyist’s name as the treasurer of a political action committee on letterhead transmitting a campaign contribution to a member of the legislature.

LOBBYING & LOBBYISTS [1997 Wis Eth Bd 18](#)

The Ethics Board advises:

- (1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and
- (2) that a lobbyist may sign a conduit check and transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only between June 1 and the date of the general election in the year of a candidate’s election and to a legislative candidate during that period only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.

LOBBYING [1996 Wis Eth Bd 5](#)

A lobbyist may, without restriction from the lobbying law, advise a lobbying organization’s members, or their employees, about making campaign contributions as long as the lobbyist is acting independent of any candidate or candidate’s campaign committee.

Campaign contributions collected from members of a lobbying organization, a circumstance popularly known as “bundling”, are best delivered by one of the contributors on behalf of the contributors without reference to the organization. Neither a lobbyist (nor anyone acting at a lobbyist’s behest) nor anyone representing himself or herself as acting on behalf of the lobbying organization should physically convey campaign contributions to partisan elected state officials, or candidates for partisan state elective office, except during the statutorily authorized period.

CAMPAIGN ACTIVITIES [1993 Wis Eth Bd 3](#)

A lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer.

LOBBYING & LOBBYISTS – PROHIBITED PRACTICES..... [1991 Wis Eth Bd 8](#)

The lobbying law prohibits a lobbyist from making a campaign contribution during a prohibited time period if it is from a personal campaign committee account over which the lobbyist exerts control or which acts at the direction or as an agent of the lobbyist.

Legislators running for Congress

LOBBYING LAW..... [1997 Wis Eth Bd 9](#)

While serving as a member of Wisconsin’s legislature, a candidate for Congress may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting the legislator’s candidacy for election to Congress only during the year of the Congressional election between June 1 and the date of the general election and only if the Wisconsin Legislature has concluded its final floorperiod and is not in special or extraordinary session.

CAMPAIGN ACTIVITIES..... [1992 Wis Eth Bd 25](#)

A lobbyist may make a campaign contribution to a legislator for the purpose of promoting the legislator’s candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session.

CANDIDATES..... [1993 Wis Eth Bd 9](#)

A state legislator may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting his or her candidacy for federal office only during the year of the election between June 1 and the date of the general election.

Political Action Committees

LOBBYING & LOBBYISTS..... [1993 Wis Eth Bd 6](#)

The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law.

LOBBYING AND LOBBYISTS..... [1992 Wis Eth Bd 29](#)

The Ethics Board advises that the lobbying law's restrictions on the timing of campaign contributions applies to a lobbying principal whether the principal is a corporation or an unincorporated association. A principal is subject to the lobbying law's restrictions on campaign contributions whether it makes a contribution directly or through its alter ego or agent, such as a PAC. Corporate lobbying principals that have created and registered PACs under §11.38, *Wisconsin Statutes*, may utilize those PACs to make campaign contributions to the full extent permitted under campaign finance laws and within the time periods permitted under Wisconsin's lobbying statute. Businesses, organizations, and individuals that are not lobbying principals are free to make campaign contributions through their PACs without restraint from laws administered by the Ethics Board.

CAMPAIGN ACTIVITIES..... [1992 Wis Eth Bd 27](#)

A political action committee [PAC] that is not controlled by an organization employing a lobbyist, either in law or in fact, may, consistent with laws administered by the Board, make a campaign contribution at any time.

A political action committee controlled, either in law or in fact, by an organization employing a lobbyist may make a campaign contribution only when Wisconsin's lobbying laws permit a

lobbying principal to contribute directly. Thus, a PAC controlled by a lobbying principal may contribute to a partisan elective state official or to a candidate for election to a partisan state office or to the personal campaign committee of either only in the year of the candidate's election between June 1 and the day of the general election (and, in the case of a candidate for legislative office, only if the legislature has concluded its final floorperiod, and is not in special or extraordinary session).

Appointed officials running for state office

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; LOBBYING LAW; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES [1997 Wis Eth Bd 7](#)

The Ethics Board advises:

- (1) that neither the Ethics Code nor lobbying law restrict an individual from running for a partisan elective state office nor establishing a personal campaign committee for the individual's candidacy while the individual is a full-time appointed state public official;
- (2) that the lobbying law provides that an individual may not solicit or accept from a lobbyist or a lobbying principal a contribution for the individual's candidacy for a partisan elective state office except between June 1 and the day of the general election in the year of the candidate's election;
- (3) that the Ethics Code provides that a state public official may not rely on the state's time, facilities, services, or supplies in soliciting campaign contributions;
- (4) that although not compelled by the Ethics Code, a state public official should not solicit or accept campaign contributions from individuals, businesses, or organizations that (a) are subject to regulation by, or apply for contracts with, or grants or loans from, the official's agency; (b) are members of the immediate family of such individuals; or (c) are associated with such businesses or organizations as principal shareholders, officers, or directors; and
- (5) that although not compelled by the Ethics Code, a full-time appointed state public official should not simultaneously hold appointed state public office and seek election to a different government position without first obtaining the appointing authority's informed consent that the individual's candidacy will neither unduly affect the performance of official duties nor adversely and unduly affect the effectiveness of the individual's agency.

Campaign activities by state officials and employees

CAMPAIGN ACTIVITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The Ethics Code ordinarily will not pose an obstacle to a legislative staff person's engaging in campaign activities as long as such individual does not rely on the state's resources to perform the activities. If the individual receives compensation both from the state and from the campaign, care should be taken to insure that the state is not subsidizing the salary the individual receives from the campaign. Eth. Bd. 607, Volume **XII**, Page 5

CAMPAIGN ACTIVITIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; Providing a legislative aide receives the approval of his or her hiring authority, the Ethics Code poses no obstacle to an aide continuing to serve on the board of directors of a private organization which endorses candidates for public office and contributes to their campaigns. Eth. Bd. 264, Volume **VI**, Page 31

LEGISLATORS; CAMPAIGN ACTIVITIES; The Ethics Code does not prohibit a legislator's preparation and distribution of a newsletter that mentions the reason the legislator is not seeking reelection as long as the information is presented as an unadorned statement of fact that could not

reasonably be considered an attempt to solicit support for his or her election to another elective office. Eth. Bd. 247, Volume V, Page 111

CAMPAIGN ACTIVITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; LEGISLATORS; The Ethics Code will not ordinarily pose an obstacle to a legislator's using the Legislature's word processing center to prepare letters inviting his or her constituents to discuss state government and pending legislation. The normal test for determining whether an official's reliance upon the state's resources is whether the actions arise independently of official functions or because of them. Candidacy for reelection or for election to another post is not material to the Ethics Code's application as long as a legislator's use of the legislature's word processing equipment arises because of official duties and encourages discussion of state government and pending legislation. However, both Wisconsin's election laws and the Legislature's own guidelines might have some application to those circumstances. Eth. Bd. 230, Volume V, Page 49

CAMPAIGN ACTIVITIES; BOARDS, COMMISSIONS AND AGENCIES; JURISDICTION; IMPROPER USE OF OFFICE; It is not inconsistent with the Code of Ethics for Public Officials and Employees for a commission to adopt voluntarily a resolution identifying the "do's" and "don'ts" of campaign activities. Eth. Bd. 198, Volume III, Page 87

CAMPAIGN ACTIVITIES; LEGISLATIVE EMPLOYEES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislative employee should not engage in campaign activities (a) with the use of the state's facilities, supplies or services not generally available to all citizens, (b) during hours for which he or she is compensated for service to the State of Wisconsin, or at his or her office in the Capitol regardless of whether the activity takes place during regular office hours. The employee should attempt to refer campaign inquiries received at the Capitol to the legislator or the legislator's campaign committee. Eth. Bd. 138, Volume II, Page 41

Use of state resources

STATE-OWNED VEHICLES; CAMPAIGN ACTIVITIES; A state public official should use a state plane only for official business; while on official business, he or she may schedule a campaign activity in order to fill gaps in his or her schedule as long as reimbursement for any additional costs is promptly made. Eth. Bd. 132, Volume I, Page 130

Referenda

IMPROPER USE OF OFFICE; INFLUENCING OFFICIAL JUDGMENT; LEGISLATORS; LOBBYING AND LOBBYISTS; REPRESENTATION OF CLIENTS..... [1993 Wis Eth Bd 4](#)

A legislator may not accept anything of pecuniary value from a lobbying principal. To the extent that a referendum committee is an intermediary, agent, or alter ego for a lobbying principal, a legislator should treat the referendum committee as if it were a lobbying principal and be guided by the advice given in 1992 Wis Eth Bd 26. A legislator should not bid or negotiate for, nor should anyone offer him or her, work on behalf of a referendum committee if it involves a matter on which the legislator is authorized to take any discretionary action unless the Legislature has completed its final action on that matter. Because referenda are part of the work of the Legislature, we recommend that a legislator not take pay to work on a referendum unless the legislator is confident that he or she can demonstrate that the employment is unrelated to being a

For review June 9, 2008

member of the Legislature and is unlikely to influence the judgment the legislator exercises as a state official.

Miscellaneous

LEGISLATORS; EXPENSES; CAMPAIGN ACTIVITIES; *THE* Code of Ethics for Public Officials is not violated when a legislator who is a member of an organization's political action committee receives an allowance from the organization to meet the costs of transportation, lodging and meals incurred by the legislator in connection with his or her attendance at a meeting of the political action committee. Eth. Bd. 111 Volume I, Page 107

CAMPAIGN ACTIVITIES; A state officer or employee may not solicit or receive from any other officer or employee of the state while on state time or engaged in official duties, contributions or services which are not incidental to the performance of the official's or employee's duties and are intended primarily for political purposes. Eth. Bd. 52, Volume I, Page 42

CAMPAIGN ACTIVITIES; LEGISLATORS; JURISDICTION; IMPROPER USE OF OFFICE; *THE* Code of Ethics for Public Officials does not specifically govern government mailing privileges. Eth. Bd. 6, Volume I, Page 4

GUIDELINES: SCHEDULING, SOLICITATION, CAMPAIGN CONTRIBUTIONS & REFERENDUMS

[Ethics Board Guideline 247](#)

[Ethics Board Guideline 250](#)

[Ethics Board Guideline 252](#)

[Ethics Board Guideline 255](#)

[Ethics Board Guideline 258](#)

LOBBYING GUIDELINES: REGISTRATION & OTHER REQUIREMENTS

[Ethics Board Guideline 510](#)

[Ethics Board Guideline 511](#)

[Ethics Board Guideline 513](#)

[Ethics Board Guideline 514](#)

[Ethics Board Guideline 532](#)

Wisconsin Ethics Board

For elected state officials, candidates for election to state offices, legislative employees, and agency officials with rulemaking responsibilities

Attending events at a political party's national convention

A Guide to Wisconsin's Law

This guideline provides general advice about an official's¹ attending an event held in conjunction with a political party's national convention.

IF EVENT'S SPONSOR EMPLOYS A LOBBYIST

A state elected official, candidate for election to state office, legislative employee, or appointed official whose responsibilities include rulemaking, may *not* attend an event sponsored by an organization that employs a lobbyist in Wisconsin, unless the event is open to the general public and, then, only under the same terms and conditions available to the public. [§13.625, *Wisconsin Statutes*].² An event is open to the general public if:

1. anyone who wants to attend the event may do so;
2. the organization can demonstrate its genuine attempt to attract the general public to the event; and
3. there is no offer or notice of the event directed to an official that would confer an advantage to the official.³

IF EVENT'S SPONSOR DOES NOT EMPLOY A LOBBYIST

A state official should not attend an event, or should pay the full value of an event, if the official is invited to the event because he or she is a state official, even if others are also invited. [§§19.45 (2) and (3m), 19.56 (3), *Wisconsin Statutes*].⁴

A state official may attend a reception, meal, hospitality suite, or the like sponsored by an organization that does not employ a lobbyist if the invitation is unrelated to the official's holding a government position – for example, an event:

1. for all delegates to the convention;
2. for all delegates from Wisconsin or from the Midwest; or
3. for all delegates pledged to a particular candidate.

¹ This guide applies to elected state officials, candidates for elective state offices, legislative employees, and to other state officials and employees who have rule-making responsibilities. See §§13.62(3) and 19.42(13), *Wisconsin Statutes*.

² Wisconsin's lobbying law prohibits a state official to accept anything of pecuniary value from a business or organization that employs a lobbyist unless the item is also made available to the general public. §13.625, *Wisconsin Statutes*.

³ 80 Op. Att'y Gen. 205 (1992); 97 Wis Eth Bd 12.

⁴ Wisconsin's Ethics Code for State Public Officials prohibits a state public official to accept food, beverages, or anything of more than inconsequential value for private benefit unless the official can clearly and convincingly demonstrate that the item is offered for reasons unrelated to the official holding a state public office. §§19.45 (2) and (3), 19.56 (3), *Wisconsin Statutes*.

This is a guide. For authoritative information consult Wisconsin Statutes.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: George A. Dunst, Staff Counsel

SUBJECT: Settlement Offer Schedule for Violations of Chapters 11, 13 and 19 (Campaign Finance, Ethics and Lobbying)

Attached is the proposed Settlement Offer schedule for violations of Chapters 11, 13, and 19 (Campaign Finance, Ethics and Lobbying). The Board's members have actually reviewed the contents or substance of the Schedule at its February 25, 2008 meeting. The Schedule has now been put into rule format. The Board's staff has not made any major changes in the text of the rule except that in that portion of the rule relating to Lobbying violations, the failure of a principal to timely notify the Board of the subject matter of Lobbying (i.e., violations of s.13.67, Stats.), is now determined on a case-by-case basis using the forfeiture table for such violations as a guideline: taking into consideration whether the principal's violation is a first, second, or third offense; taking into consideration the number of late-reported interests, and taking into consideration the time period in which the violation or violations occurred.

The purpose of the settlement offer schedule is to establish a standard offer that will be extended to a registrant to resolve a specific campaign finance, lobby or ethics violation, without commencing an enforcement action. Although the rule gives the Board's staff some discretion to consider factors in mitigation and aggravation, most settlement offers for a particular violation will be those set forth in the rule.

The Board's authority to resolve violations of Chapters 11, 13 and 19 (Campaign Finance, Ethics and Lobbying) by settlement is set forth in s.5.05(1)(c), Stats., as follows:

5.05 Government accountability board; powers and duties. (1) General authority.

*(c) Bring civil actions to require a forfeiture for any violation of [chs. 5 to 12, subch. III](#) of ch. 13, or [subch. III](#) of ch. 19 or a license revocation for any violation of [subch. III](#) of ch. 13 for which the offender is subject to a revocation. The board may compromise and settle any civil action or potential action brought or authorized to be brought by it which, in the opinion of the board, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. **Notwithstanding s. 778.06, a civil action or proposed civil action authorized under this paragraph may be settled for such sum as may be agreed between the parties. Any settlement made by the board shall be in such amount as to deprive the alleged violator of any benefit of***

Chapter GAB 22

Settlement Offer Schedule

22.01 Definitions. In this chapter:

- (1) “Board” means the Wisconsin government accountability board.
- (2) “Campaign finance registration statement” means the statement required to be filed by individuals, committees and groups under s.11.05, Stats.
- (3) “Continuing campaign finance report” means the semi-annual campaign finance report required under s.11.20(4), Stats.
- (4) Contribution has the meaning given in s.11.01(6), Stats.
- (5) Contributor means an individual or committee who makes a contribution under s.11.01(6), Stats.
- (6) “Contributor information” means the information required by s.11.06(1), Stats., regarding contributions greater than \$20 or greater than \$100.
- (7) “Disbursement” has the meaning given in s.11.01(7), Stats.
- (8) “Disbursement information” means the information required by s.11.06(1), Stats., regarding disbursements greater than \$20.
- (9) “Excess contribution” means a contribution that exceeds any of the limits set in s.11.26, Stats.
- (10) “File a paper copy” means the requirement in s.11.21(16), Stats., that registrants who are required to file a copy of their campaign finance reports in electronic format must also file a paper copy of their campaign finance reports.
- (11) “File electronically” means the requirement in s.11.21(16), Stats., that registrants subject to that section file a copy of their campaign finance reports in electronic format.
- (12) “Filing fee” means the fee required by s.11.055, Stats.
- (13) “Last-minute contribution” means the contribution or contributions described in s.11.12(5), Stats., that are made later than 15 days prior to a primary or an election.
- (14) “Lobbyist” has the meaning given in s.13.62(11), Stats.

(15) “Pre-primary report and pre-election report” means the campaign finance reports referred to in s.11.20(2), Stats., that are due no earlier than 14 days before a primary or election and no later than 8 days before a primary or election.

(16) “Principal” has the meaning given in s.13.62(12), Stats.

(17) “Registrant” has the meaning given in s.11.01(18m) Stats.

(18) “Statement of economic interests” has the meaning given in s.19.43, Stats.

22.02 Settlement of campaign finance violations.

(1) Violations of s.11.05, Stats., failure to timely file a campaign registration statement.

- a. If a campaign finance registration statement is received within 5 days of the due date for that registration, no penalty will be imposed on the registrant.
- b. If a campaign finance registration statement is received within 6 to 10 days of the due date for that registration, a settlement offer of \$100 will be extended to the registrant.
- c. If a campaign finance registration statement is received within 11 to 15 days of the due date for that registration, a settlement offer of \$250 will be extended to the registrant.
- d. If a campaign finance registration is received more than 15 days after the due date for that registration, a settlement offer of \$500 will be extended to the registrant.
- e. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating circumstances, including the registrant’s low level of activity, in determining the amount of the settlement offer that will be extended to the registrant.

(2) Violations of s.11.20(4), Stats., failure to timely file the continuing campaign finance report.

- a. If a continuing campaign finance report is received within 5 days of the due date for that report, no penalty will be imposed on the registrant.
- b. If a continuing campaign finance report is received within 6 to 10 days of the due date for that report, a settlement offer of \$200 will be extended to the registrant.

- c. If a continuing campaign finance report is received within 11 to 15 days of the due date for that report, a settlement offer of \$500 will be extended to the registrant.
- d. If a continuing campaign finance report is received within 16 to 30 days of the due date for that report, a settlement offer of \$500 plus the greater of \$25 per day, or .5% of the salary for the office for which registered (for a candidate committee) per day, will be extended to the registrant.
- e. If a continuing campaign finance report is received more than 30 days after the due date for that report, a settlement offer of \$500 plus the greater of \$50 per day, or 1% of the salary for the office for which registered (for a candidate committee), per day, will be extended to the registrant.
- f. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating circumstances, including the registrant's level of activity under \$1,000 in receipts, in determining the amount of the settlement offer that will be extended to the registrant.

(3) Violations of s.11.20(2), Stats., failure to timely file the pre-primary and pre-election campaign finance reports.

- a. If a pre-primary or pre-election campaign finance report is received within 1 day of the due date for that report, no penalty will be imposed on the registrant.
- b. If a pre-primary or pre-election campaign finance report is received within 2 days of the due date for that report, a settlement offer of \$250 will be extended to the registrant.
- c. If a pre-primary or pre-election campaign finance report is received within 3 days of the due date for that report, a settlement offer of \$500 will be extended to the registrant.
- d. If a pre-primary or pre-election campaign finance report is received more than 3 days after the due date for that report, a settlement offer of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day, will be extended to the registrant.
- e. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating circumstances, including the registrant's failure to win the primary election, in determining the amount of the settlement offer that will be extended to the registrant.

(4) Violations of s.11.12(5), Stats., failure to timely file the 24-hour report of last-minute contributions.

- a. If a 24-hour report of last-minute contributions is received within 1 day of the due date for that report, a settlement offer of \$500 will be extended to the registrant.
- b. If a 24-hour report of last-minute contributions is received more than 1 day after the due date for that report, a settlement offer of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day, will be extended to the registrant.

(5) Violations of s.11.21(6), Stats., failure to timely file any campaign finance report electronically when required to do so. The board will extend a settlement offer based on treating the failure to timely file electronically the same as the failure to file a campaign finance report in any other format.

(7) Violations of s.11.055, Stats., failure to timely pay the filing fee.

- a. If a registrant has not paid the filing fee within the time provided by s.11.055, Stats., but does pay the fee within 10 days after notice of nonpayment from the Board, a settlement offer of \$300 will be extended to the registrant.
- b. If a registrant has not paid the filing fee within the time provided by s.11.055, Stats., but does pay the fee within 11 to 18 days after notice of nonpayment from the Board, a settlement offer of \$500 will be extended to the registrant.
- d. If a registrant has not paid the filing fee within the time provided by s.11.055, Stats., and does not pay the fee within 18 days after notice of nonpayment from the Board, a settlement offer of \$500 plus three times the payable fee will be extended to the registrant.

(8) Violations of s.11.06, Stats., failure to report all required contributor information on a campaign finance report.

- a. If the contributor information required by s.11.06, Stats., is not included on a campaign finance report and is not provided within 10 days of the board's notice of failure to comply – the registrant shall be extended a settlement offer consisting of the registrant's donation of the contribution to charity.
- b. If a report of the donation to charity of the prohibited contribution is not provided within 20 days of notice of the board's settlement offer – a

settlement offer of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day, will be extended to the registrant, and the prohibited contribution must be paid to charity.

- c. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating circumstances, including the registrant's inability to obtain the required information from the contributor, in determining the amount of the settlement offer that will be extended to the registrant.

(9) Violations of s.11.06, Stats., failure to report all required disbursement information on a campaign finance report.

- a. If the disbursement information required by s.11.06, Stats., is not included on a campaign finance report and is not provided within 10 days of the board's notice of failure to comply, the registrant will be extended a settlement offer consisting of \$100 plus 10% of the disbursement amount up to a maximum settlement offer of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day.
- b. If disbursement information required by s.11.06, Stats., is not included on a campaign finance report and is not provided within 20 days of the board's notice of failure to comply, the registrant will be extended a settlement offer consisting of \$100 plus 25% of the disbursement amount up to a maximum settlement offer of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day.
- c. If the disbursement information required by s.11.06, Stats., is not included on a campaign finance report and is not provided within 30 days of the board's notice of failure to comply, the registrant will be extended a settlement offer consisting of \$500 plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee) per day.

(10) Violations of s.11.06(5), Stats., failure to timely report the receipt of a contribution.

- a. If a contribution has not been included on a campaign finance report and the late report of the contribution is filed within 10 days of the due date for reporting the contribution, a settlement offer of 10% of the contribution will be extended to the registrant, up to a maximum settlement offer consisting of \$500, plus the greater of \$50 per day, or 1% of the annual

salary for the office for which registered (for a candidate committee), per day.

- b. If the late report of the contribution is filed within 11 to 20 days of the due date for reporting the contribution, a settlement offer of 25% of the contribution will be extended to the registrant, up to a maximum settlement offer consisting of \$500, plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee), per day.
- c. If the late report of the contribution is filed more than 20 days after the due date for reporting the contribution, a settlement offer of consisting of \$500, plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee), per day, will be extended to the registrant.
- c. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating or aggravating circumstances, including the board's discovery of the receipt of the contribution without disclosure by the registrant, in determining the amount of the settlement offer that will be extended to the registrant.

(11) Violations of s.11.06(5), Stats., failure to timely report a disbursement.

- a. If a disbursement has not been included on a campaign finance report and the late report of the disbursement is filed within 10 days of the due date for reporting the disbursement, a settlement offer of 10% of the disbursement will be extended to the registrant, up to a maximum settlement offer consisting of \$500, plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee), per day.
- b. If the late report of the disbursement is filed within 11 to 20 days of the due date for reporting the disbursement, a settlement offer of 25% of the disbursement will be extended to the registrant, up to a maximum settlement offer consisting of \$500, plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee e), per day.
- c. If the late report of the disbursement is filed more than 20 days after the due date for reporting the disbursement, a settlement offer of consisting of \$500, plus the greater of \$50 per day, or 1% of the annual salary for the office for which registered (for a candidate committee), per day, will be extended to the registrant.

- d. Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating or aggravating circumstances, including the board's discovery of the making of the disbursement without disclosure by the registrant, in determining the amount of the settlement offer that will be extended to the registrant.

(12) Violations of s.11.26, Stats., for receiving or making contributions in excess of statutory limits. Any committee that receives a contribution in excess of the limits set by s.11.26, Stats., may be required to pay the excess portion of the contribution to any organization recognized as a charity by the Internal Revenue Code and will also be extended a settlement offer of 50% of the excess contribution up to a maximum of \$500. Any individual or committee who makes a contribution in excess of the limits set by s.11.26, Stats., may be required to pay a forfeiture of one and one-half times the excess portion of the contribution, up to a maximum forfeiture of \$500.

(13) Other violations of chapter 11 of the Wisconsin Statutes. Settlement offers to resolve all other violations of chapter 11 of the Wisconsin Statutes will be determined on a case-by-case basis.

22.03 Violations of Subchapter III of Chapter 19, Stats., the Code of Ethics for Public Officials and Employees: The failure to timely file the statement of economic interests as required by s.19.43, Stats.,

- (1) If a statement of economic interests is received within 5 days of the due date for that statement, no penalty will be imposed on the official.
- (2) If a statement of economic interests is received within 6 to 10 days of the due date for that statement, a settlement offer of \$10 will be extended to the official.
- (4) If a statement of economic interests is received within 11 to 25 days of the due date for that statement, a settlement offer of \$50 will be extended to the official.
- (5) If a statement of economic interests is received within 26 to 30 days of the due date for that statement, a settlement offer of \$100 will be extended to the official.
- (6) If a statement of economic interests is received more than 30 days after the due date for that statement, a settlement offer of \$250 will be extended to the official.
- (7) Notwithstanding the settlement terms provided by the preceding paragraphs, the board may consider mitigating circumstances, including the fact that the

board's staff failed to notify the person filing the statement of the requirement to file the statement of economic interests, in determining the amount of the settlement offer.

22.04 Violations of Subchapter III of Chapter 13, Stats., the Regulation of Lobbying in Wisconsin

(1) Violations of s.13.64, Stats., failure of a principal to timely file a registration statement .

- a. If the registration statement of a principal, as required by s.13.64, Stats., is received within 7 days of the due date for that registration, no penalty will be imposed on the registrant, but a warning, that any future failure to timely file could lead to a forfeiture, will be issued.
- b. If the registration statement of a principal is received within 8 to 14 days of the due date for that registration, a settlement offer of \$250 will be extended to the registrant.
- c. If the lobbying registration statement of a principal is received within 15 to 21 days of the due date for that registration, a settlement offer of \$500 will be extended to the registrant.
- d. If the lobbying registration statement of a principal is received within 22 to 28 days of the due date for that registration, a settlement offer of \$750 will be extended to the registrant.
- e. If the lobbying registration statement of a principal is received more than 28 days after the due date for that registration, a settlement offer of \$1,000 will be extended to the registrant.

(2) Violations of s.13.66, Stats., failure of a lobbyist to timely obtain a license to act as a lobbyist.

- a. If a lobbyist fails to timely obtain a license to act as a lobbyist under s.13.66, Stats., but obtains that license within 7 days of the due date for obtaining that license, no penalty will be imposed on the lobbyist, but a warning, that any future failure to timely file could lead to a forfeiture, will be issued.
- b. If a lobbyist fails to timely obtain a license to act as a lobbyist under s.13.66, Stats., but obtains that license within 8 to 14 days of the due date for obtaining that license, a settlement offer of \$75 will be extended to the lobbyist.

- c. If a lobbyist fails to timely obtain a license to act as a lobbyist under s.13.66, Stats., but obtains that license within 15 to 21 days of the due date for obtaining that license, a settlement offer of \$125 will be extended to the lobbyist.
- d. If a lobbyist fails to timely obtain a license to act as a lobbyist under s.13.66, Stats., but obtains that license within 22 to 28 days of the due date for obtaining that license, a settlement offer of \$250 will be extended to the lobbyist.
- e. If a lobbyist fails to timely obtain a license to act as a lobbyist under s.13.66, Stats., and does not obtains that license until more than 28 days of the due date for obtaining that license, a settlement offer of \$500 will be extended to the lobbyist.

(3) Violations of s.13.65 Stats., failure of a principal to timely file a written authorization for a lobbyist to represent the principal.

- a. If a principal fails to timely file a written authorization for a lobbyist to represent the principal under s.13.65, Stats., but files that authorization within 7 days of the due date for filing that authorization, no penalty will be imposed on the principal, but a warning, that any future failure to timely file could lead to a forfeiture, will be issued.
- b. If a principal fails to timely file a written authorization for a lobbyist to represent the principal under s.13.65, Stats., but files that authorization within 8 to 14 days of the due date for filing that authorization, a settlement offer of \$125 will be extended to the principal.
- c. If a principal fails to timely file a written authorization for a lobbyist to represent the principal under s.13.65, Stats., but files that authorization within 15 to 21 days of the due date for filing that authorization, a settlement offer of \$250 will be extended to the principal.
- d. If a principal fails to timely file a written authorization for a lobbyist to represent the principal under s.13.65, Stats., but files that authorization within 22 to 28 days of the due date for filing that authorization, a settlement offer of \$375 will be extended to the principal.
- e. If a principal fails to timely file a written authorization for a lobbyist to represent the principal under s.13.65, Stats., and does not file that authorization until more than 28 days after the due date for filing that authorization, a settlement offer of \$500 will be extended to the principal.

(4) Violations of s.13.68, Stats., failure of a principal to timely file the semi-annual report of lobbying expenditures and incurred obligations.

- a. If a principal fails to timely file the semi-annual report of lobbying expenses as required by s.13.68, Stats., but files that report within 2 days of the due date for filing that report, no penalty will be imposed on the principal.
- b. If a principal fails to timely file the semi-annual report of lobbying expenses as required by s.13.68, Stats., but files that report within 3 to 6 days of the due date for filing that report, a settlement offer of \$50 will be extended to the principal.
- c. If a principal fails to timely file the semi-annual report of lobbying expenses as required by s.13.68, Stats., but files that report within 7 to 14 days of the due date for filing that report, a settlement offer of \$200 will be extended to the principal.
- d. If a principal fails to timely file the semi-annual report of lobbying expenses as required by s.13.68, Stats., but files that report within 14 to 21 days of the due date for filing that report, a settlement offer of \$500 will be extended to the principal.

(5) Violations of s.13.67, Stats., failure of a principal to timely report the subject matter of lobbying. If a principal has failed to timely report the subject matter of lobbying, as required by s.13.67, Stats., the Board's staff will determine a settlement offer on a case-by-case basis, taking into consideration whether the principal's violation is a first, second, or third offense and taking into consideration the number of late-reported interests and the time period in which the violation or violations occurred.

(6) Violations of s.13.625, Stats.: Prohibited campaign contributions by lobbyists. If a lobbyist makes a campaign contribution prohibited by s.13.625, Stats., the recipient will be required to donate that contribution to charity and a settlement offer of \$500 will be extended to the lobbyist.

(7) The board's staff shall have the authority to increase or decrease any settlement offer extended for violations of Subchapter III of Chapter 13, Stats., based on mitigating or aggravating circumstances surrounding the violation.

his or her wrongdoing and may contain a penal component to serve as a deterrent to future violations. In settling civil actions or proposed civil actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. . . .

One change from the old Elections Board schedule has been to increase penalties if the violator has not responded to the opportunity to bring the committee into compliance. There is clear incentive under the rule to bring the committee into compliance as soon as possible and a disincentive to “drag one’s feet” in responding to a settlement offer.

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: May 30, 2008

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, Administrator
Elections Division

SUBJECT: Elections Division Activities

Elections Administration Update

Introduction

Since the last GAB meeting, the Elections Division has been taking advantage of this election lull by evaluating what we need to do in order to be prepared, and make sure our customers (the 1,923 clerks and other elections officials) are prepared for the fall elections. For example,

1. On Tuesday, May 20, from 10:30-11:50 – a WISline series titled, "Absentee Voting: Emphasis on the Special Requirements Associated with Military and Overseas Voters" was held. Note that on April 15, a WISline series titled, "Fall Elections – The Peculiarities and Differences" was also held.
2. Our communications team's weekly meetings are now focused entirely on identifying strategies and resources needed between May and August, to ensure a problem-free fall election season.
3. Mostly, we communicate to the general voting public through our 1,923 customers (the clerks) and through our periodic news releases. However, our communications team is studying ways to make sure voters know their rights as well as their responsibilities, and urge voters to register now instead of waiting until election day on September 9 or November 4. We have an excellent training/informational resource program for our primary customers (the clerks), but not a systematic training and educational program for the general public.
4. Poll workers – We are zeroing-in on how we can better help clerks get the word out about the need for poll workers. One crippling stumbling block is that as the current law now reads, poll workers are only allowed to work within the jurisdiction in which they are

registered to vote. This law needs to be changed to allow more flexibility for poll workers to go wherever there is a need. We also are discussing how we can provide better training tools to clerks whose primary duty it is to recruit, train and retrain qualified, knowledgeable poll workers.

5. Special Registration Deputy Training (SRD) -- As the news gets around that qualified voters are eligible to be trained and appointed as Special Registration Deputies as provided under 2005 Wisconsin Act 451, interest in this training is rapidly growing. This trend is expected to continue and increase between now and the fall elections. The GAB provides the training. We have a three-person training team right now but, only one team member actually conducting session as the other two are learning. The third member of this team (David Buerger, who just joined the elections administration team) was assigned only last week. We are analyzing ways to balance the significant increase in SRD training requests with on-going competing tasks.
6. We are also focusing on the most effective and efficient ways to get over 130,000 voters to share their date of birth so our SVRS voter data may be updated.
7. During the past two weeks especially, we provided a lot of hands-on assistance to walk-ins and technical assistance via the telephone to candidates regarding nominations papers for partisan office for the November 4 general election. Candidates could legally commence circulating nominations papers on Sunday, June 1, for the November 4 general election.

Key Metrics

Training, technical assistance and public information/education initiatives to our customers, constituents and partners continued.

1. Training

Attachment # 1.

2. Public Information/Education

Attachment # 2.

Noteworthy Activities

1. At the last GAB meeting, we shared with you the fact that staff had expended a significant number of hours working to write, develop and submit a competitive data collection grant application for \$2 million dollars. The purpose of the grant is to improve election day data collection during the November 4, 2008 general election. We are one of five states to receive a \$2 million no-match grant.
2. We received a positive letter from the Joint Legislative Audit Committee praising us for the progress we made addressing and implementing findings contained in the Legislative Audit Report, in its evaluation of compliance with election laws (report 07-16). The letter also noted the progress we are making on assessing polling place accessibility.
3. Continued to meet with the GAB Accessibility Advisors to revise our Disability/Accessibility Survey.

4. Sharing the GAB story with a neighboring state: Barbara made a presentation on Election Day Registration on May 8 in Bloomington, IL to the Association of Election Commission Officials of Illinois.
5. The Elections Division Administrator made a presentation on the new GAB and the new Special Registration Deputy Program to a group called “Communities United.”
6. Responded to a Mequon High School Student’s request to provide thoughts on whether 17 year old residents should be allowed in primary elections prior to general elections for which they will be 18.
7. The Elections Division Administrator made a presentation to the GAB SVRS Standards Committee Meeting on May 14. This is the committee that advises on SVRS technical readiness.
8. Coordinated key points to be included in the Director and General Counsel’s prepared testimony to the U.S. Congress, House Subcommittee on elections preparedness and contingency planning.
9. Coordinated Director and General Counsel’s talking points used for presentation in a Town-Hall meeting discussion, “From Registration to Recounts: The Election Ecosystems of Five Midwestern States.” The discussion was led by the League of Women Voters of Wisconsin.

30-day Forecast

1. Oversee and organize the commencement of the implementation process of our \$2 million data grant.
2. Continue to orient a new Elections Specialist, David Buerger, who received a promotion from our Help Desk Specialist position to our elections administration team. In addition to providing training and election support for our clients, David will focus on HAVA compliance and voting equipment issues.

For your information, John Hoeth, another one of our Help Desk Specialist, graduated from the Madison Area Technical College last month. He received an Associate Degree in IT Computer Systems Administration.
3. Continue to meet with the GAB Accessibility Advisors to finalize the draft accessibility survey.
4. The Elections Division Administrator is coordinating the preparation for a meeting with/and providing a briefing to a 22-member African Delegation who are interested in Wisconsin’s elections administration and ethics. The meeting is scheduled for Thursday, June 19.
5. On behalf of the Director and General Counsel, the Elections Division Administrator will lead a GAB Team to make presentations on different topics of interests requested by the Wisconsin County Clerks Association, at their Annual Symposium in Manitowoc on June 24.
6. Continue to plan summer initiatives to help clerks and the general public prepare for the fall elections. Also, we are poised to achieve Help America Vote Act (HAVA) compliance with SVRS. Convene meeting of the GAB Election Administration Council to amend the

HAVA Plan in order to qualify for an additional \$2.1 million Federal dollars due Wisconsin.

Statewide Voter Registration System Update

Barbara A. Hansen, SVRS Project Director

Introduction

This update describes the preparations within the Statewide Voter Registration System (SVRS) Project to implement the HAVA-required Interfaces which will make Wisconsin HAVA compliant.

Background: The Help America Vote Act (HAVA) of 2002 required states to establish a statewide voter registration system that would interface with other state agencies to improve the quality of the voter list. The SVRS is designed to interface with the Department of Transportation (DOT) to validate voter information based on driver license, state ID or social security numbers, the Department of Corrections (DOC) for felon information, and the Department of Health and Family Services (DHFS) for data on deceased voters. The SVRS application has continued to be tested over the last several months to improve the functionality of these HAVA-required Interfaces. Clerk users of SVRS are currently not able to use the Interfaces.

The Department of Administration's Division of Enterprise Technology (DET) provides "middleware" to enable the process of transferring data between the IT systems in the other state agencies and the SVRS. DET has been working over the last several months to rewrite this middleware, to improve processing and to replace obsolete software.

SVRS Application

In the last month, two software updates for the SVRS application have been successfully tested that improve the reports and mailings that are used as part of the business process for the HAVA-required Interfaces. A third patch and test were conducted the last week of May. This patch provides updates to the letter that is sent to voters whose information does not match DOT records.

SVRS Infrastructure, Application and Middleware

The SVRS application and infrastructure was upgraded during the weekend of May 30 – June 1. This upgrade included moving the application to a newer version of the operating system and database software. Included with this upgrade is the installation of new database servers that should improve the reliability of processing data within the SVRS application. This upgrade will provide improvements to several SVRS reports and mailings, overall processing improvements, and new reports and mailings that will be used to support the business process for the HAVA-required Interfaces. The upgrade does not include the installation of the DET developed "middleware" because it is still being tested. The middleware moves the data between the state agencies and the SVRS. We are unable to "go live" with the HAVA-required Interfaces until the middleware performs correctly and reliably.

During the week of May 26, the Elections Division Administrator and SVRS Director held a meeting with DET management staff, and a separate meeting with the DET Division Administrator, to discuss the importance of the stability of a problem-free infrastructure and the concerns over delays in completing the middleware for the Interfaces. As the fall election cycle nears, GAB needs assurances that the Interfaces are running properly and the SVRS

infrastructure is sound. GAB staff will continue to monitor DET's activity and meet with DET representatives as necessary.

Standards Committee

Staff met on May 14, 2008, with the SVRS Standards Committee to demonstrate the new Interface functionality in the SVRS. The 16 clerks also participated in a pilot training session that will eventually be used to train clerks statewide in how to use the HAVA-required Interfaces. The Standards Committee members provided valuable feedback for improving the training materials, and on the business processes and application functionality of the Interfaces. Feedback from the clerks will enhance the quality of our materials and our presentations. The clerks were overwhelmingly pleased to be part of this process. Small group meetings and the entire Standards Committee will meet throughout the summer to review and comment on additional improvements that may be needed to the SVRS application in preparation for the fall elections.

HAVA related Interfaces Training

The curriculum for training of the use of HAVA related Interfaces is being finalized based on comments from the Standards Committee members and should be completed during the week of June 2. The training program is designed to be delivered to clerk users via a website broadcast. Details are being finalized with training planned to become available in mid-June. Included in the training will be modules for use of the HAVA-required Interfaces in SVRS. This will be available to clerks through our preexisting program: WBETS, the Web-Based Election Training System. Clerks will be able to access the approximately 2 hour training from their office or home computer at a time convenient for them.

HAVA-Compliant SVRS Preparing to "Go Live"

Exactly when we are able to "go live" with HAVA-required Interfaces depends on when the DET middleware is successfully tested and operational for use with SVRS Interface functionality. Expectations at this time are that we will be able to "go live" by July 1. Our first phase will include a small group of clerks who will pilot the Interface functionality before all clerks in the state are required to use the Interfaces.

Action Items

No action is required of the Board at this time.

ATTACHMENT #1

GAB Election Division's Training Initiatives
4/25/2008-5/30/2008

Training Type	Description	Class Duration	Target Audience	Number of Classes (since 4/25/2008)	Number of Students (since 4/25/2008)
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.	1 class conducted in Elkhorn. Future classes pending in Green Bay. Additional classes scheduled on an "as needed" basis.	16
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; Reports, Labels & Mailings; 4 hours each	Experienced users of the SVRS application software.	Seven classes to be conducted in August.	0
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.
Business Process	Instruction in voter registration and election management roles and responsibilities	3 hours	Municipal and county clerks and staff.	0	0
Absentee Workshops	Advanced training in using the absentee function of SVRS.	5 hours	Users of the SVRS application who use the absentee functionality.	1 class conducted in LaCrosse. Classes being scheduled for August.	10
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal	3 hours	1851 Municipal clerks; other staff.	None pending, non-compliant clerks and	1789 clerks completed training;

ATTACHMENT #1

GAB Election Division's Training Initiatives
4/25/2008-5/30/2008

Training Type	Description	Class Duration	Target Audience	Number of Classes (since 4/25/2008)	Number of Students (since 4/25/2008)
	clerks attend a state-sponsored training program at least once every 2 years.			new clerk training to be addressed.	64 non-compliant.
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.	Scheduling to be done for the September election.	0
Special Registration Deputy	2005 Wisconsin Act 451 allows a qualified elector of Wisconsin to be appointed as a Special Registration Deputy (SRD) for the purpose of registering electors of any municipality in Wisconsin during periods of open voter registration.	2 hours	Qualified electors in Wisconsin.	Training conducted in Madison (2), UW Madison campus, West Bend, Stevens Point, Racine (2), Milwaukee, Green Bay, Kenosha (2). Future classes scheduled for the annual League of Women Voters convention (2), Milwaukee, and Rhineland (2).	300
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.	May 13, 2008 and May 22, 2008. – Nuts and Bolts of Filling Out Campaign Finance Reports; May 20, 2008: Absentee	c. 200 per class

ATTACHMENT #1

GAB Election Division's Training Initiatives
4/25/2008-5/30/2008

Training Type	Description	Class Duration	Target Audience	Number of Classes (since 4/25/2008)	Number of Students (since 4/25/2008)
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.	Voting-Emphasis on the Special Requirements Associated with Military and Overseas Voters. Phase 1 of eLearning training plan close to completion; Phase 2 under discussion.	Site is available for clerks to train temp workers in date entry; relies are also able to access the site upon request.
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. Production of web-based training scheduled for the week of June 2, 2008.	Eventually 2000+

ATTACHMENT #1

GAB Election Division's Training Initiatives
4/25/2008-5/30/2008

Training Type	Description	Class Duration	Target Audience	Number of Classes (since 4/25/2008)	Number of Students (since 4/25/2008)
Other Activities	<ul style="list-style-type: none"> ➤ Recruitment has started to fill a vacant trainer position in the Election Division. 	c. 4 weeks	n/a	n/a	n/a
	<ul style="list-style-type: none"> ➤ An Ad Hoc Committee is meeting to plan training logistics for the rest of 2008, particularly in regard to the use of state vehicles in the most economic and efficient fashion. 	By June 30, 2008	n/a	n/a	n/a

ATTACHMENT #2

**GAB Elections Division
Communications Initiatives
May 5 – May 30, 2008**

Topic	Message	Media	Audience	Follow-up Activities
Supreme Court Photo ID decision, military elector sample letter, SVRS confidentiality agreement.	Variety of issues that clerks should stay abreast of this month	<i>Election Update:</i> 5/2/08	Municipal and county clerks.	Posted to the website.
GAB Director Testifies before Congress.	Kevin Kennedy speaks to House subcommittee about election contingency plans	News release: 5/13/08	General public, news media, Legislature.	Interviews with XM Radio network and the Milwaukee Journal Sentinel.
“From Registration to Recounts” League of Women Voters discussion with OSU professors	Wisconsin is taking steps to assure concerns raised by the book are or will be addressed before November election	Director’s remarks /presentation to roundtable in Milwaukee: 5/21/08	30 attendees of the roundtable	
U.S. EAC grant	G.A.B. wins federal grant to improve election results reporting	News release: 5/28/08	General public, Legislature, local election officials.	Interview with Milwaukee Journal Sentinel; brief in the Capital Times. Posted to the website.
U.S. EAC grant	The benefits of the EAC grant to the state and local election officials	Memos to the Legislature and to Local Election Officials: 5/30/08	Senate, Assembly (and Governor); municipal and county clerks.	
SVRS Standards Committee Meeting, May 14, 2008	Standards Committee members give feedback on elections planning and other issues.	Memo to G.A.B. Director: 6/2/08	Division staff, and G.A.B. Director	Notice to local election officials of the meeting in the June <i>Election Update</i> .
SVRS Data Interfaces, Non-candidacy deadline, Nomination papers, May 14 SVRS Standards Committee meeting.	Remember summer deadlines for elections and campaign finance activities.	<i>Election Update:</i> 6/9/08	Municipal and county clerks.	Posted to the website.

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KEVIN J. KENNEDY
Director & General Counsel

MEMORANDUM

DATE: June 9, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Activities

Campaign Finance Update

Sharrie Hauge, Special Assistant to the Legal Counsel

Introduction

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

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

Key Metrics

1. **Audits**

Staff completed 134 audits this reporting period. Four committees were terminated and 3 committees were put on "R" status. The committees on "R" status are no longer required to file campaign finance reports, however, they are required to be available to answer questions and resolve any violations prior to termination being granted.

2. **January 2008 Continuing Report**

The January 2008 Continuing report for all registrants (Candidates, PACs, Parties, Referendum Committees, Conduits and Corporations) was due in the GAB office on January 31, 2008. Of the 1250 registrants required to file, 1164 timely filed and 86 failed to file. On February 11, staff sent 10-day reminder notices to 32 Candidate committees, 20 PACs, 14 Corporations, 9 Parties, 7 Conduits and 1 Referendum.

On February 13, staff sent settlement offer letters to 3 candidate committees for failure to file their election-related report. As a result of the settlement offer letters, two committees filed their reports and paid their settlement offers. One settlement offer was waived because the committee's report was timely postmarked.

On March 7, staff sent 30-day reminder notices to the remaining 16 Candidate committees, 7 PACs, 5 Corporations, 5 Parties and 4 Conduits for the non-filing of their January continuing report.

To date, there is one committee and one corporation that have not filed their continuing report.

3. **2007 Annual Filing Fee**

Each individual, committee, group, or corporation that is registered with the Government Accountability Board whose spending exceeds a total of \$2,500 in any year, shall pay an annual filing fee of \$100. *This provision does not apply to candidates or personal campaign committees.* It does apply to PACs, Conduits, Corporations and Political Party committees. The \$100 filing fee was due on January 31, 2008 with the committees January 2008 continuing report.

Of the approximately 328 registrants required to pay the 2007 filing fee 277 timely paid. On March 4, 2008 staff sent filing fee reminder notices to 51 committees.

To date, there are three outstanding committees that owe the 2007 annual filing fee. Audit staff has been instructed to call the remaining committees to inform them the Board may commence legal action to obtain both the \$500 forfeiture and treble the amount of the "filing fee" (\$300) plus court costs if we don't receive payment by June 6, 2008.

To date, \$41,200 has been collected for the 2007 annual filing fees.

Noteworthy Activities

1. **Campaign Finance Information System**

Project Accomplishments

Significant progress continues to be made in the implementation of the Campaign Finance Information System (CFIS).

The Contractor submitted a draft of the Functional Requirements Document (FRD) to the GAB. GAB staff and Contractor team members spent four days reviewing the document, making changes. The FRD is the document that *contractually* defines how the system should perform. Thus, if the GAB needs to assert a warranty claim, for example, we will go to the FRD and require the vendor to fix the system according to the specifications in that document. This phase of the project is on schedule.

The GAB team received "Segment 2" of the new system. This segment has functionality related to recording campaign finance transactions. This segment was received on schedule.

The GAB team has begun aspects of data conversion; preparing legacy electronic files received from registrants over the years for import into the new system. Initial steps have been made to convert registrant data from the existing SWEBIS system to the new system.

The GAB team continues to develop scripts and data for testing the application. These efforts are ahead of schedule.

All agencies engaged in major IT projects are required to submit a Dashboard report to the Division of Enterprise Technology monthly. On June 6th, staff will submit its fifth CFIS Dashboard report. The report summarizes the schedule status, scope status, budget status and risk status of the project.

Looking Ahead

The following activities are in process for the next three months.

- Segment 3 of the system (audit and reports) is scheduled for June 6th delivery
- Segment 4 of the system (transaction processing aspects) is scheduled for June 13th delivery.
- Data conversion will begin (in earnest) in June, once the electronic files are prepared.
- User acceptance testing is scheduled for July.
- Writing content for Help screens and re-writing campaign finance treasurers' manuals will begin in August.

Action Items

No action is required of the Board at this time.

Contract Sunshine Update

Tommy Winkler, Contract Sunshine Program Director

INTRODUCTION

Wisconsin's Contract Sunshine Act (2005 Act 410) calls for the creation and maintenance of an Internet site at which anyone may access information about every state contract, purchase, and solicitation of bids or proposals that involves an annual expenditure of \$10,000 or more.

Wisconsin Statutes direct the Wisconsin Government Accountability Board to create and maintain this site. In enacting the Contract Sunshine Act, the Legislature's intention was to enhance citizens' confidence in the State's procurement process by providing a one-stop Internet location where citizens, the press, vendors, and others can learn about current procurement activities. The legislature intended that the Act provide potential vendors of goods and services with ready access to information about the State's purchases and confirm that the State's procurement programs are operating fairly and efficiently.

KEY MEASUREMENTS

- \$75,000,000** The estimated upper boundary value of the largest contract reported to the Contract Sunshine website. The contract is a Department of Transportation contract for road salt that is procured with three different vendors. The contract's range is between 35,000,000 and 75,000,000.
- 619** The number of vendors state agencies have contracted with and reported to the Government Accountability Board using the Contract Sunshine website.

MILESTONES

Government Accountability Board staff completed a user acceptance testing and review process for the new version of the Contract Sunshine application. Staff also solicited feedback on the new version of the application from procurement officials at DOA. Upon receiving this feedback, staff will submit the final system modifications to Sundial Software Corporation developers. GAB staff has also asked the system's developers to prepare to construct an import/export function that will allow users to more efficiently enter large amounts of data into the Contract Sunshine application.

LOOK AHEAD

After Sundial implements the final changes and releases the updated version of the website, GAB staff will meet with DOA personnel to train procurement staff in reporting information using the updated version of the program. After completing this training, correspondence will be sent to all agencies communicating the changes made to current version of the application; the updated version of the application will be released for all agencies to use. It is staff's goal to have all agencies required to report information to the GAB under the Contract Sunshine law do so using the new website by the end of Summer 2008.

ACTION ITEMS

No action is required of the Board at this time.

Financial Disclosure Update

Tommy Winkler, Financial Disclosure Program Director

INTRODUCTION

State officials and candidates file Statements of Economic Interests under Chapter 19 of Wisconsin Statutes. These statements are filed on an annual basis with the Government Accountability Board, and they are open for public inspection at the time they are filed. A statement identifies a filer's, and his or her immediate family's, employers, investments, real estate, commercial clients, and creditors. The idea is to identify which businesses and individuals an official is tied to financially. The focus is on identifying a filer's financial

relationships, not on identifying the individual's wealth. This information is entered into an online index that is managed by Government Accountability Board staff.

KEY MEASUREMENTS

- 98.9%** The percentage of Statements of Economic Interests entered into the Eye on Financial Relationships online index in relation to the number of statements received by the GAB.
- 8** The remaining number of state public officials who still need to file a 2008 Statements of Economic Interests with the Government Accountability Board as of noon on April 28, 2008.
The filing deadline for all state public officials required was 4:30 pm April 30, 2008.
- 2073** The number of annual statements of economic interests filed with the Government Accountability Board as of noon on April 28, 2008.
- 2052** The number of annual statements of economic interests processed by GAB staff into the Eye on Financial Relationships website for the public to view an index of state public officials' financial interests.
- 123** The number of challengers running for state offices this Fall who recently received a packet of information from the Board communicating to them that they must file a complete Statement of Economic Interests with the Board by July 11, 2008, in order for their name to appear on the ballot.

MILESTONES

As of 4:30 p.m. on Monday, June 2, 2008, 99.7% of those state public officials required to file a Statement of Economic Interests with the Government Accountability Board did so. Those officials who have yet to file a Statement are:

Richard Bostwick	Blackhawk Technical College
Anthony L. Brown	WHEDA
Noelle Delaine	WHEDA
Allan K. Kehl	Wisconsin Technical College System Board
Thomas P. Shields	University of Wisconsin System
Robert Smith	WHEDA
Linda Stewart	WHEDA
Kristin Walker	WHEDA

Of the eight filers listed above, only three of the filers are currently active (Bostwick, Brown, and Stewart). Brown is very ill and has been on medical leave for several months. With regards to Bostwick and Stewart, staff is still following up with.

LOOKING AHEAD

Government Accountability Board staff will receive and process Campaign Registration Forms in order to communicate with those challengers running for state office the Statement of

Economic Interests filing requirements. A list of all candidates for who have filed their Statement of Economic Interests in order to have their name appear on the ballot this Fall will appear on the Ethics and Accountability Division's website. This list will be updated by staff on a daily basis leading up to the July 11, 2008 filing deadline. Additionally, staff will be in communication with SunDial Software Corporation to discuss proposed changes to the Eye on Financial Relationships website in order to improve efficiency in reporting information to the online index. A major part of the proposed enhancement to the website is allowing filers the ability to file their Statements of Economic Interests online.

ACTION ITEMS

No action is required of the Board at this time.

Lobbying Update

Katharine Lang, Assistant Lobbying Administrator

Introduction

Wisconsin has some of the most structured lobbying laws in the country. Lobbyists and organizations that employ lobbyists are governed under Chapter 13 of the *Wisconsin Statutes*. They are required to complete a Statement of Lobbying Activities and Expense Report every 6 months. The report for January – June is due July 31 and the report for July – December is due January 31. They are also required to report within 15 days of lobbying on a specific legislative and administrative proposal and topic.

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

Key Metrics

- 782** The number of principal lobbying organizations registered with the Government Accountability Board.
- 689** The number of lobbyists registered to lobby on behalf of one organization.
- 144** The number of lobbyists registered to lobby on behalf of more than one organization.
- 1,762** The number of individual authorizations of lobbyists representing a principal organization.

Noteworthy Activities

Due to the close of the legislative session, lobbying interest has declined. To prepare for the start of the 2009-2010 session, Katharine is working on an analysis of the FOCUS subscriptions in order to improve the marketing tools used to promote and advertise the service, as well as the overall design and layout of the FOCUS emails.

Looking Ahead

Staff will be working on updating the database in preparation for the filing of Statements of Lobbying Activities and Expenditures and Liaison Reports due July 31.

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the June 9, 2008 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, Special Assistant to the Director

SUBJECT: Administrative Activities

Agency Organization

Introduction

This has been a very busy time since the last meeting. The primary administrative focus has been on the appointment of the new Government Accountability Board members, issuing a Request for Proposal for privately leased space and getting approval to fill the two attorney positions at a confidential level.

Noteworthy Activities

1. Space Planning

We are making steady progress on finding new space. On Friday, May 23 a Request for Proposal (RFP) was issued for lease space. On Thursday, May 29 a Proposer's Meeting was conducted to review the RFP, to better define site details, to go over the RFP process and to answer specific questions from potential proposers. Approximately 10 firms participated in the meeting.

The timetable with specific dates is listed below:

Issued RFP	Friday, May 23, 2008
Proposer Meeting	Thursday, May 29, 2008
Proposal Deadline	Thursday, June 26, 2008 at 3:00 p.m.
Proposer Presentations	Mon. & Tues., June 30 and July 1
Selection	Tuesday, July 8, 2008
Building Commission Request due*	Friday, July 11, 2008
Building Commission Action	Wednesday, August 6, 2008
Executed Lease	Within 10 days after BC action
Lease Commences	December 1, 2008 or February 1, 2009

* Because GAB is requesting over 10,000 square feet in privately-lease space, the Building Commission has to approve the lease.

Prior to reviewing the proposals, staff will establish evaluation criteria/benchmarks for evaluating the proposals and identify an evaluation committee.

2. Staffing

Sharrie Hauge is working with Pat Thysee from the Bureau of Personnel to fill the two-attorney positions. We are trying to get the positions classified as confidential and are working with the Office of State Employment Relations to get the classifications changed. George Dunst has postponed his retirement date to October 13, 2008, but we are exploring the option of creating a surplus position so George can assist in the transition of the incoming attorneys.

We are still working on filling one vacant Trainer and three vacant Information Technology positions. We are also recruiting for a limited term employee to assist us in developing tools to improve disability accessibility at polling sites.

3. Presentations

On May 8, 2008 I made two presentations at the annual convention of the State Bar of Wisconsin to the Administrative and Local Government Law Section of the Government Lawyers Division. The first presentation focused on the new agency and the second presentation focused on election preparedness. When I returned from the State Bar presentation, I had a call from the Subcommittee on Elections of the Committee on House Administration asking me to provide testimony on *Election Contingency Plans: What have we learned, and is America prepared?* I made the presentation to the Congressional Subcommittee on Wednesday, May 14, 2008. I also met with staff of the U.S. Election Assistance Commission while I was in Washington.

On May 21, 2008 I participated in a panel discussion on Wisconsin's Election Ecosystem at a Town Hall meeting organized by the League of Women Voters of Wisconsin. Two of the authors of the book *From Registration to Recounts: The Election Ecosystems of Five Midwestern States*, participated on the panel along with the Andrea Kaminsky, Executive Director of the League of Women Voters of Wisconsin, and Neil Albrecht, the Deputy Director of the City of Milwaukee Board of Election Commissioners.

4. Government Accountability Board Member Appointments

On May 8, 2008 Governor Doyle appointed Judge Victor Manian and Judge Gordon Myse to the Government Accountability Board. Judge Manian's term expires on May 1, 2009 and Judge Myse's term expires on May 1, 2011. On May 26, 2008 staff met with Judge Manian and Judge Myse to provide them with an orientation on the subject matter under the Board's jurisdiction along with a briefing on some of the key issues pending for the Board's consideration.

The staff will be preparing for the July 16, 2008 Board meeting. There are a number of key subject areas for review including a discussion of soliciting and accepting items and services of substantial value; improper use of state resources; Statements of Economic Interests; ethics and financial disclosure guidelines; counting votes and election costs. The Board will also review challenges to ballot access and certify candidates for the September primary ballot.

The staff has a number of presentations for local election officials, legislative staff and outside groups including the County Clerks Symposium, League of Women Voters and the Municipal Attorneys Institute.

I will continue to work on organizational matters including staff assignments, office space relocation and staff recruitment.

Action Items

1. None.