

State of Wisconsin Government Accountability Board

Meeting of the Board

Monday, October 6, 2008

9:30 A.M.

Risser Justice Center, Room 150

120 Martin Luther King Jr. Boulevard

Madison, Wisconsin

Agenda
Open Session

9:30 A.M.

**Page
#**

A. Call to order.

B. Director's report of appropriate notice of meeting.

C. Approval of minutes of previous meeting.

See accompanying minutes

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D. Public comment.

Break

E. Wisconsin Election Campaign Fund Grants.

10

F. My Vote Performs – Performance Art at the Polling Place.

G. Blind Trusts – Possible Administrative Rule.

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H. Proposed Administrative Rule Relating to Definition of “Political Purposes”.

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I. Policy on Communications about Investigations.

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J. Review of select former Elections Board Administrative Rules, Operating Procedures, and Formal Opinions Related to:

25

1. Conduits

2. Corporations and Political Action Committees (PACs)

3. Earmarking

4. Joint Fundraising

**K. Application of § 7.23 Stats. - Maintenance of Electronic Voting Records
(separate cover)**

L. Director's Report

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Elections Division Report – election administration and SVRS

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

Office of General Counsel Report – general administration and orders

- | | |
|--------------------------------|---|
| 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 Tuesday, November 11, 2008 at the State Capitol, Room 201 Southeast, Madison, Wisconsin beginning at 9:30 a.m.

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



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
August 27 and 28, 2008
9:30 a.m.

DRAFT

Not yet approved
by the Board

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved proposed administrative rules relating to voter registration.	3
B. Continued SVRS 'HAVA Check' procedure in effect since August 6, 2008, through the fall election.	4
C. Approved proposed administrative rules relating to election observers.	4
D. Reaffirmed four former Elections Board opinions relating to the Wisconsin Election Campaign Fund.	5
E. Reaffirmed five former Elections Board administrative rules relating to the Wisconsin Election Campaign Fund.	5
F. Reaffirmed two formal opinions for the former Elections Board relating to campaign finance solicitation.	5
G. Reaffirmed four informal former Elections Board opinions relating to MCFL organizations.	
H. Approved draft recount manual and requested further review.	5
I. Reaffirmed former Elections Board staff opinion on exit polls.	5
J. Reaffirmed nine opinions of the former Ethics Board.	5
K. Reaffirmed opinions of the former Ethics Board discussed at its July meeting.	6
L. Reaffirmed GAB 1.28 (issue ads) and directed staff to draft a revised rule.	8

Present: Judge Thomas Cane, Judge Michael Brennan, Judge William Eich, Judge Victor Manian, Judge Gordon Myse, Judge Gerald Nichol

Staff present: Kevin Kennedy, Jonathan Becker, Nat Robinson, George Dunst, Rich Bohringer, Barbara Hansen, Sharrie Hauge, Kyle Richmond and Tommy Winkler

A. Call to order

Chairman Cane called the meeting to order at 9:36 a.m.

B. Director's confirmation of appropriate notice of meeting

The G.A.B. Director informed the Board that a proper notice of meeting was given for the two-day Board meeting.

C. Approval of Minutes of Previous Meeting.

MOTION: Approve the minutes of the July 15 & 16, 2008, Government Accountability Board meeting. Moved by Nichol, seconded by Eich. Motion carried.

D. Public Comment

1. **Bob Ohlsen**, Dane County Clerk, appeared to comment about proposed administrative rules relating to voter registration. Materials related to this topic can be found on page 11 of the G.A.B. meeting packet for the August 27 & 28 meeting.
2. **Mike Wittenwyler**, Association of Wisconsin Lobbyists, appeared to comment about the Board's on-going review of administrative rules promulgated by the former Ethics Board. Materials related to this topic can be found on page 97 of the G.A.B. meeting packet for the August 27 & 28 meeting.

Jonathan Becker, Ethics & Accountability Division Administrator, discussed Mr. Wittenwyler's comments with the Board, and the Board agreed by consensus to take up the issues at its December 17, 2008, meeting or in January 2009.

3. **Robert Marchant**, Wisconsin Senate Chief Clerk, appeared to comment on select former Ethics Board opinions and guidelines, and provided the Board with a handout. Materials related to this topic can be found on page 97 of the G.A.B. meeting packet for the August 27 & 28 meeting.
4. **John Washburn** appeared to comment about proposed emergency administrative rules relating to election observers. Materials related to this topic can be found on page 40 of the G.A.B. meeting packet for the August 27 & 28 meeting.
5. **Matt O'Neill**, Democratic Party of Wisconsin, appeared to comment about proposed emergency administrative rules relating to election observers. Materials related to this topic can be found on page 40 of the G.A.B. meeting packet for the August 27 & 28 meeting.
6. **Mark Jefferson**, representing the Republican Party of Wisconsin, and **Christopher Mohrman**, representing the Michael Best Law Firm and attorney for

the Republican Party of Wisconsin and the McCain Campaign, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.

7. **Robert Freibert**, Freibert, Finerty and St. John Law Firm and representing Obama for America and Democratic Party of Wisconsin, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.
8. **Andrea Kaminski**, League of Women Voters of Wisconsin, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.
9. **Julee Helt**, past president, Wisconsin Municipal Clerks Association and Village of Waunakee clerk, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.
10. **Kim Bushey**, president of the Wisconsin County Clerks Association and Walworth County Clerk, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.
11. **Bob Ohlsen**, Dane County Clerk, appeared to comment about the Republican Party's request for the Board to review proposed 'HAVA Check' procedures. Materials related to this topic can be found on page 35 of the G.A.B. meeting packet for the August 27 & 28 meeting.

Judge Myse arrived just after noon.

Hearing no objections, the Chairman called a recess at 12:10 p.m. and reconvened the meeting at 1:07 p.m.

E. Proposed Administrative Rules Relating to Voter Registration
(presented by Nathan Judnic)

MOTION: Approve the proposed administrative rules relating to voter registration.
Moved by Nichol, seconded by Eich. Motion carried.

F. Republican Party Request to Review Proposed HAVA Check Procedures

MOTION: Approve Option 1, which recommends beginning a five-step process with new voter applications processed on or after September 10, 2008 and the adoption of a proposed emergency administrative rule authorizing the issuance of a provisional ballot in limited circumstances as recommended by Elections Division staff memo. Moved by Eich, seconded by Nichol.

MOTION: Amend previous motion to change date of ‘HAVA Check’ to August 6, 2008. Moved by Myse, seconded by Eich. Motion to amend carried.

Hearing no objections, the Chairman called a recess at 2:40 p.m. and reconvened the meeting at 2:54 p.m.

MOTION: Approve the original motion as amended. Moved by Eich, seconded by Nichol.

Roll call vote:	Brennan:	No	Cane:	Aye
	Eich:	No	Myse:	No
	Nichol:	Aye	Manian:	Aye

Motion failed, 3-3.

MOTION: Continue with the ‘HAVA Check’ procedure in effect as of August 6, 2008, through the fall election, and correct the SVRS database later. A mismatch with Wisconsin DOT data, in and of itself, shall not result in disqualification of a voter. Moved by Myse, seconded by Eich.

Throughout the discussion on the “HAVA Check,” county and municipal clerks spoke from the audience on the difficulty and adverse impact of making the “HAVA Check” process retroactive back to January 1, 2006.

Roll call vote:	Brennan:	Aye	Cane:	Aye
	Eich:	Aye	Myse:	Aye
	Nichol:	Aye	Manian:	No

Motion carried, 5-1.

G. Proposed Administrative Rules Relating to Election Observers

MOTION: Amend Section GAB 4.01(19) to maintain language restricting observer attire that makes reference to a candidate, political party or a referendum group and delete references to rights and responsibilities of voters. Moved by Eich, seconded by Nichol.

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

Motion carried, 6-0.

MOTION: Approve staff proposal as amended. Moved by Eich, seconded by Manian. Motion carried.

H. Review of Select Former Elections Board Operating Procedures, Opinions and/or Rules Related to:

1. Wisconsin Election Campaign Fund
2. Campaign Finance Solicitation
3. Informal Elections Board Opinions on MCFL Organizations
4. Recount Manual
5. Exit Polls
6. Review of Ability of Municipal Clerk to Conduct Late Voter Registration at Alternate Locations

MOTION: Reaffirm four opinions relating to WECF. Moved by Eich, seconded by Nichol. Motion carried.

MOTION: Reaffirm five administrative rules relating to WECF. Moved by Eich, seconded by Myse. Motion carried.

MOTION: Reaffirm two formal opinions relating to campaign finance solicitation. Moved by Nichol, seconded by Myse. Motion carried.

MOTION: Reaffirm four informal opinions relating MCFL organizations. Moved by Myse, seconded by Manian. Motion carried.

MOTION: Approve the draft revised recount manual and place on the next agenda for further review. Moved by Eich, seconded by Nichol.

MOTION: Reaffirm staff opinion on exit polls. Moved by Brennan, seconded by Myse. Motion carried.

By consensus, the Board requested that staff draft an opinion regarding the review of the ability of the municipal clerk to conduct late voter registration at alternate locations.

I. Review of Select Former Ethics Board Opinions and/or Guidelines Related to:

1. Accepting meals and travel
2. Acceptance of fees and honoraria
3. Lobbying registration and reporting
4. Three miscellaneous opinions

By consensus, the Board allowed former Ethics Board opinions from 1978 to 1989 to lapse.

MOTION: Reaffirm nine opinions of the Ethics Board identified by the Senate Chief Clerk during testimony. Moved by Eich, seconded by Brennan.

MOTION: Affirm Ethics Board opinions referred to at July 15, 2008 G.A.B. meeting, except those objected to by Judge Myse, Mr. Whittenwyler and Mr. Marchant. Moved by Nichol, seconded by Eich. Motion carried.

J. Director's Report

Elections Division Report

(presented by Nathaniel E. Robinson)

By consensus, the Board agreed to respond to the Attorney General's letter regarding the 'HAVA Check' process. The Director will respond with an explanation of the Board's decision on August 27, 2008.

Hearing no objection, the Chair called a five-minute recess at 4:46 p.m.

Ethics & Accountability Division Report

(presented by Jonathan Becker)

Office of the General Counsel Report

(presented by Kevin J. Kennedy and Sharrie Hauge)

MOTION: Authorize Director to certify candidates for president and vice president. Moved by Myse, seconded by Eich. Motion carried.

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

MOTION: Move to closed session pursuant to 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 Eich, seconded by Nichol.

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

Motion carried. The Board convened in closed session beginning at 4:55 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: One item considered and closed.
- B. Investigations: Eleven items considered; six items closed.

The meeting adjourned at 5:58 p.m. until the next day.

Thursday, August 28, 2008 _____

Return to Open Session

Present: Judge Thomas Cane, Judge William Eich, Judge Michael Brennan, Judge Gerald Nichol, Judge Victor Manian, Judge Gordon Myse

Staff Present: Kevin Kennedy, Jonathan Becker, Nat Robinson, Rich Bohringer, Kyle Brown, George Dunst, Barbara Hansen, Sharrie Hauge, and Kyle Richmond.

L. Call to Order

Chairman Cane called the meeting to order at 9:15 a.m.

M. Review of Former Elections Board Administrative Rule Related to Scope of Regulation GAB 1.28. (Note: This includes the regulation of political communications described as “issues ads.”)

Jonathan Becker, Ethics & Accountability Division Administrator, presented a summary of GAB 1.28 and “issue ads” to the Board.

N. Public Comment

1. **Beverly Speer**, Wisconsin Democracy Campaign, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.
2. **Randy Elf**, James Madison Center for Free Speech, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.
3. **Steve Hoersting**, Center for Competitive Politics, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.

4. **Mike Wittenwyler**, Association of Wisconsin Lobbyists, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.

Hearing no objections, the Chair called for a break at 10:57 a.m. and reconvened the meeting at 11:18 a.m.

5. **Jay Heck**, Common Cause in Wisconsin, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.
6. **James Buchen**, Wisconsin Manufacturers and Commerce, appeared to comment about the rule related to the scope of regulation GAB 1.28. Materials related to this topic can be found on page 135 of the G.A.B. meeting packet for the August 27 & 28 meeting.

Hear no objections, the Chair called for a lunch break at 12:30 p.m. and reconvened the meeting at 1:08 p.m.

M. Review of Former Elections Board Administrative Rule Related to Scope of Regulation GAB 1.28. (continued) (Note: This includes the regulation of political communications described as “issues ads.”)

MOTION: Affirm GAB 1.28 as it is currently written. Moved by Nichol, seconded by Manian.

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

Motion carried, 6-0.

By consensus, the Board directed staff to draft a revised rule for consideration at the October Government Accountability Board meeting.

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

The meeting was adjourned at 1:30 p.m.

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday, October 6, 2008, in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Boulevard, Madison, Wisconsin.

August 27 and 28, 2008 Government Accountability Board meeting minutes prepared by:

A handwritten signature in black ink, appearing to read "K. Richmond", written over a horizontal line.

Kyle R. Richmond, Public Information Officer

August 27 and 28, 2008 Government Accountability Board meeting minutes certified by:

Judge Michael Brennan, Board Secretary

State of Wisconsin\Government Accountability Board

Post Office Box 2973
 17 West Main Street, Suite 310
 Madison, WI 53701-2973
 Voice (608) 266-8005
 Fax (608) 267-0500
 E-mail: gab@wisconsin.gov
 http://gab.wi.gov



JUDGE THOMAS CANE
 Chair

KEVIN J. KENNEDY
 Director and General Counsel

DATE: September 30, 2008

TO: Government Accountability Board Members

FROM: Richard W. Bohringer
 Campaign Auditor

SUBJECT: Wisconsin Election Campaign Fund Summary

On September 26, 2008, Wisconsin Election Campaign Fund (WECF) grant checks were mailed to 25 State Assembly candidates in the 2008 general election. The first chart below shows the maximum amount of the grant issued and the total amount of grant monies issued by office type. The total amount issued was \$161,689.56. A second chart on this memo shows the status of WECF grant applications as of September 30, 2008.

GRANT AMOUNTS ISSUED AS OF SEPTEMBER 26, 2008		
OFFICE	MAXIMUM AMOUNT OF GRANT PER CANDIDATE	TOTAL ISSUED FOR OFFICE
State Senate	\$15,525.00	\$ 0.00
State Assembly	\$7,763.00	\$161,689.56
TOTAL GRANT AMOUNT ISSUED:		\$161,689.56

STATUS OF WECF GRANT APPLICATIONS AS OF SEPTEMBER 26, 2008											
CANDIDATES	APPLIED	NOT ON BALLOT	WITH DRAWN	DENIED					APPROVED		
				LOST	NO OPPONENT	LACKED QUALIFYING CONTRIB.	EXCEEDED SELF LIMIT	LACKED 6% TOTAL VOTES	MAX.	PARTIAL	
State Senate	6	2	3		1						
Assembly	80		12	17	8	13	4	1	8	17	
Sub-Totals											
Totals	86	2	15			44				25	

Amount of Individual Contributions of \$100 or Less Necessary to Qualify:

State Senate	\$ 3,450
Assembly	\$ 1,725

There are two candidates that are appealing the staff denial of their grant application, and a third is still possible at the time of this memo. Appeals from Corrine Wiesmueller (7th Assembly) and Justin Krueger (3rd Assembly) are included in the materials for this meeting. The pending appeal is from Shirl LaBarre (74th Assembly).

FW: WECF grant eligibility

From: GAB HelpDesk [GABHelpDesk@wisconsin.gov]

Sent: Thursday, September 25, 2008 1:06 PM

To: Bohringer, Richard - GAB

Subject: FW: WECF grant eligibility

-----Original Message-----

From: jkrueger35@new.rr.com [<mailto:jkrueger35@new.rr.com>]

Sent: Thursday, September 25, 2008 12:50 PM

To: ehtics@state.wi.us; GAB HelpDesk

Cc: Tim Hales; richard.bohrnger@wi.gov

Subject: WECF grant eligibility

Hello,

I am a candidate for State Assembly, District 3. I have been working and raising funds to meet eligibility requirements to receive the WECF grant. I misunderstood the language of the WECF manual. My campaign plans were made with the understanding that eligible funds needed to be received by Sept. 16th, the same day that the Supplemental Campaign Finance Report was due. It was my understanding that it was the SCFR that would be reviewed to determine grant eligibility. I asked questions and was in contact with the office of the Accountability Board throughout the process.

I humbly request an appeal and ask that you reconsider my eligibility to receive the WECF grant. I am counting on this. I endured the many awkward experiences of asking friends and family for financial support. The SCFR shows that I have met eligibility requirements for the Grant, and also shows the confusion with the campaign deadline for receiving Grant eligible donations. I ask that you overlook this administrative error and allow this Government program to work the way it was intended...to level the playing field and encourage Government participation. I need a few minutes of your time, please contact me at (920)-841-2930 when you get a free minute. I appreciate the time taken, have a good afternoon.

Thankyou,

Justin Krueger

FAXED

RECEIVED

2008 SEP 29 PM 1:24

Corrine Wiesmueller
9089 W. Waterford Sq. N.
Greenfield, WI 53228
September 29, 2008

104710 STATE OF WISCONSIN
ELECTIONS BOARD

Wisconsin Government Accountability Board
P.O. Box 2973
17 West Main Street, Suite 310
Madison, WI 53701
Via Fax: (608) 267-0500

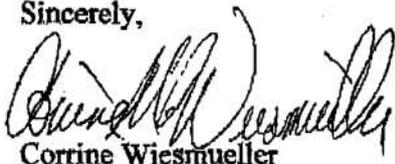
Members of the Board:

I am writing to appeal the Government Accountability staff's denial of my application for the WECF grant.

In preparing the July finance report, I realized that I had exceeded the self-contribution limit by \$100.00 exactly on July 3, 2008. This was an accounting error, and we proceeded to remedy this error immediately by repaying the \$100.00 excess, when it was discovered on July 25, 2008. This was an "over-loan" made in good faith, and it should be noted only un-repaid loans become contributions. Additionally, pursuant to Wis. Stat. § 11.26 (11), any other person who goes over the individual contribution limit can be refunded by a campaign. This statute seems to indicate some flexibility and acknowledgment of the fact that contributions may not always be perfect. The max penalty for going over the limit is 3 times the overage. I am certainly willing to accept a fine of up to \$300.00 for my inadvertence.

I was in substantial compliance with the statute during the months of June, August, and September. Further, since my opponent has declined to take the WECF grant, this \$100.00 excess is not prejudicial. I do not anticipate appearing at the Board's meeting on October 6, 2008. This is not indicative of my viewing this matter as unimportant. I am already committed to campaign matters in my district that day. As such, I respectfully ask the Board to consider the mistake remedied, and in light of my now continued compliance, approve my application for the grant.

Sincerely,


Corrine Wiesmueller

Shirl LaBarre
Go Far With LaBarre
10152 Abby Lane
Hayward, Wisconsin 54843
715-934-2441

September 30, 2008

State of Wisconsin/Government Accountability Board
PO Box 2973
17 West Main Street, Suite 310
Madison, Wisconsin 53701-2973

RE: GAB # 104425

Dear Government Accountability Board,

I am writing this letter to ask for an appeal in the decision of denial for my campaign's grant application from the Wisconsin Election Campaign Fund. My Campaign did meet the dollar amount of \$1,725.00, however, we did not know about the requirements to file the supplemental report by 09/16/2008. My Campaign was also not aware of the requirement to meet a certain dollar amount by that date. A lack of information to my Treasurer, as well as myself, made it difficult to know the requirements needed to receive the grant funds applied for. We apologize for any oversight on our part and hope you will reconsider your prior decision as the funds make it a 'fair' campaign process.

Thank you in advance for any consideration. Please see attached report in excel spreadsheet form showing my latest report.

Sincerely,

Shirl LaBarre
74th District Candidate
Hayward, Wisconsin

cc: Susan Sjostrom, Treasurer

Schedule 1-A Contributions Including Loans from Individuals
 Aug 26, 2008 -

GO FAR WITH LABARRE CAMPAIGN

in-kind conduit	date	Last	First	Address	City	State	Zip	Occupation
x	8/26/2008	LaBarre	Shirley	10152 Abby Ln	Hayward	WI	54843	
x								
x	8/31/2008	LaBarre	Ed	10152 Abby Lane	Hayward	WI	54843	Plumber
X		Fuller	Alan	16196 W. County Hill Rd	Hayward	WI	54843	Owner-Garage Doors
X		Fuller	Christina	16196 W. County Hill Rd	Hayward	WI	54843	
X		Jaderborg	Jon	P.O. Box 40	Spooner	WI	54801	Owner-Builder
X		Wright	Mary	2654 N Small Rd	Hayward	WI	54843	
	9/3/2008	Terry	Theresa	15979 Sean St	Hayward	WI	54843	
		Probst	Robert	2711E. Beverly Rd	Shorewood	WI	53211	Exec VP
X	9/8/2008	Sjostrom	Jack	13027 N. Larsen Rd	Hayward	WI	54843	President
	9/8/2008	Wordingham	George	11931N. Wilderness Ct	Mequon	WI	53092	Owner
		Drake	Harry	6947 N Elm Tree Rd	Glendale	WI	53217	Stock Broker
X	9/2/2008	Schleeter	Dale	16197W State Rd 77	Hayward	WI	54843	Owner-Well Driller
X		Rasmussen	Dennis	13190 Kavanaugh Rd	Cable	WI	54821	Owner-Plumb/Heat
X		Vreeland	Juel	15311 W. Hospital Rd	Hayward	WI	54843	Owner-Paint/Stain
X		Zietlow	Frederic	P.O. Box 13324	Hayward	WI	54843	Owner-Surveyor
X		Riedmann	Shirley	15536 Co. Rd b-Unit A3	Hayward	WI	54843	
X		Suzan	Anna	10437 N. Red Pine Lane	Hayward	WI	54843	
X		Marigold	Audrey	15567 W. Lakewood Dr	Hayward	WI	54843	
X		Sheehan	Gloria	14961 W. Hilltop Pl	Hayward	WI	54843	Loan Officer
X		LaCoy	Ken	12018 N Mosquito Brk Rd	Hayward	WI	54843	Owner

Employer	E. Address	Amount	YTD	IN KIND	Amt for Qualifying
		\$ 55.00	\$ 55.00	\$ 55.00	\$ -
		\$ 34.27	\$ 34.27	\$ 89.27	\$ -
		\$ 24.40	\$ 24.40	\$ 113.67	\$ -
Mr. Ed's Plumbing, LLC	Same	\$ 250.00	\$ 250.00		\$ 100.00
A. Fuller Garage Door	Same	\$ 50.00	\$ 50.00		\$ 50.00
		\$ 50.00	\$ 50.00		\$ 50.00
Jon Jaderborg Designer-Builder	Same	\$ 100.00	\$ 100.00		\$ 100.00
		\$ 15.00	\$ 15.00		\$ 15.00
		\$ 25.00	\$ 25.00		\$ 25.00
Tamarack Petro	Shorewood, WI	\$ 100.00	\$ 100.00		\$ 100.00
Sjostrom Construction, Inc.	same	\$ 500.00	\$ 500.00		\$ 100.00
		\$ 200.00	\$ 200.00		\$ 100.00
Phoenix Products	same	\$ 100.00	\$ 100.00		\$ 100.00
RBC Wealth Management	Milwaukee, WI	\$ 500.00	\$ 500.00		\$ 100.00
		\$ 200.00	\$ 200.00		\$ 100.00
Roscoe Butterfield Well & Pump, Inc	Same	\$ 100.00	\$ 100.00		\$ 100.00
Andy Rasmussen & Sons, Inc	P.O. Box 66 Cable	\$ 200.00	\$ 200.00		\$ 100.00
J & L Painting	Same	\$ 200.00	\$ 200.00		\$ 100.00
Apex Surveying	15621 Railroad St 202	\$ 50.00	\$ 50.00		\$ 50.00
		\$ 30.00	\$ 30.00		\$ 30.00
		\$ 30.00	\$ 30.00		\$ 30.00
Johnson Bank	P.O. Box 916-Hayward	\$ 100.00	\$ 100.00		\$ 100.00
Ken LaCoy Construction, Inc.	Hayward, WI	\$ 200.00	\$ 200.00		\$ 100.00
	TOTAL	\$2,913.67	\$ 2,913.67		\$ 1,450.00
					\$ 200.00
					\$ 145.00
					\$1,795.00
					\$1,725.00

Total Qualifying Contributions this report
Total Qualifying Contribution from August Rep
Total Qualifying Contribution from July
Total Qualifying Contributions this report
Total Qualifying Contributions Required

State of Wisconsin\Government Accountability Board

Ethics & Accountability Division
44 East Mifflin, Ste. 601
Madison, WI 53703
Phone (608) 266-8123
Fax (608) 264-9319
E-mail: ethics@ethics.state.wi.us



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For October 6, 2008 meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Blind trusts

From time to time, state public officials have established blind trusts. Currently, three officials – Supreme Court Justices Patience Roggensack and Annette Ziegler and Attorney General J.B. Van Hollen -- have established blind trusts. They have done so for the putative purpose of shielding themselves from conflict of interest situations on the theory that if one does not know that one has a financial interest in a matter, one cannot be influenced by that interest. As the federal rule on blind trusts notes, “It was envisioned that the use of those trusts by Government employees would reduce the real and apparent conflicts of interest between the financial interests held by those employees . . . and their official responsibilities.” The effect of having a blind trust presumably means that an official no longer need report financial interests as required by statute.

The Ethics Code for State Public Officials, §19.43, *Wisconsin Statutes*, requires annual financial disclosure of an official’s investments. Wisconsin law contains no provision for an official to establish a blind trust and not disclose trust holdings. The Ethics Board permitted blind trusts, but never promulgated any rules or policies governing them. Section 19.43 (8), *Wisconsin Statutes*, provides:

19.43(8) On its own motion or at the request of any individual who is required to file a statement of economic interests, the board may . . . waive any filing requirement if the board determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the . . . waiver is in the public interest. The board shall set forth in writing as a matter of public record its reason for the . . . waiver.

This provision could be read to give the Board authority to recognize blind trusts and to waive the disclosure of financial interests in a blind trust if specified conditions are met. The Board could proceed to promulgate an administrative rule that grants a waiver to those who establish a blind trust in accordance to specified provisions. Alternatively, the Board could determine that establishing a blind trust does not relieve an official from reporting the interests held in the trust – effectively prohibiting their use.

If the Board were to promulgate a rule in this area, I believe the rule should contain the following provisions: (1) that the official file with the Board the trust instrument creating the blind trust; (2) that an official continue to identify the assets placed in each trust until notified by the trustee that the asset has been sold or its value is less than \$5,000; (3) that the trustee of each trust be an

identified financial institution independent of the official and the official's family; (4) that only publicly traded or widely-held investments be placed in the blind trust; and (5) that the only communications that pass between the official and the trustee be in writing and be limited to the trustee's written report, with a copy to the Government Accountability Board, of the sale of an asset and any written summary required for tax purposes. Otherwise, the Board should direct that an official continue to identify all reportable assets regardless of whether they are held by the official directly or in a trust.

On the whole, I recommend against permitting blind trusts. I think blind trusts can do as much to undermine citizen confidence in government officials as enhance it, because such trusts simply hide assets from public view with no absolute assurance of hiding them from the official's view. The public is entitled to know the financial holdings of an official and the official's immediate family, as the statute requires. Placing assets in a blind trust does not mean an official somehow no longer knows what is in the trust – that is especially true of investments in closely-held entities or in real estate. If an official is concerned that holding certain assets may cause a conflict of interest, the official should shed those interests.

If the Board takes the recommended approach, the Board should permit a reasonable period of time for those officials who have already established a blind trust to revoke the trusts and re-order their affairs to enable them to report all financial interests. I suggest that the Board give officials until the end of the year to file amended Statements of Economic Interests.

State of Wisconsin\Government Accountability Board

Ethics & Accountability Division
44 East Mifflin, Ste. 601
Madison, WI 53703
Phone (608) 266-8123
Fax (608) 264-9319
E-mail: ethics@ethics.state.wi.us



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For October 6, 2008 Board meeting
TO: Members, Wisconsin Government Accountability Board
FROM: Jonathan Becker, Administrator, Division of Ethics and Accountability
SUBJECT: Board's statutory authority to more broadly define "political purpose"

Section 227.11 (2) (a), *Wisconsin Statutes*, provides:

227.11 (2) (a) Each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if it exceeds the bounds of correct interpretation.

No agency may promulgate a rule that conflicts with state law. §227.10 (2), *Wisconsin Statutes*.

The question is whether a proposed rule that defines "political purpose" so as to include at least some so-called "issue ads" exceeds the bounds of correct interpretation or conflicts with state law.

Legislative history

The issue has been raised whether the legislative history demonstrates an intent that the definition of political purpose must correspond precisely with the language the U.S. Supreme Court used in *Buckley v. Valeo*. While one can make this argument, it is not persuasive.

As originally enacted, §11.01 (16), *Wisconsin Statutes*, provided, in relevant part:

11.01 (16) An act is for "political purposes" when by its nature, intent or manner it directly or indirectly influences or tends to influence voting at an election. Such an act includes support or opposition to a person's present or future candidacy

The definition was changed to the present language by 1979 Wis Act 328. Section 11.01 (16), *Wisconsin Statutes*, now provides:

11.01 (16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office . . . or for the purpose of influencing a particular vote at a referendum.

* * *

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.
2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state and local office.

The Legislative Reference Bureau's analysis of the bill (1979 Assembly Bill 603) described the effect of this change:

The law is brought into better conformity in some respects with the decision of the U.S. Supreme Court in *Buckley v. Valeo* . . . and opinions of the attorney general [see O.A.G. 55-76 (8/16/76) and O.A.G. 82-76 (10/27/76)]. The bounds of reportable activity are narrowed so that reporting and identification of some activities which have an indirect effect on elections is not required.

One could argue that this legislative history suggests that the Legislature intended to provide a definition of "political purposes" that narrowly conformed to the language in *Buckley*. But that seems a lot of weight to give to two sentences in a Legislative Reference Bureau analysis. In my view, the legislative history clearly establishes that the Board may not regulate communications which may indirectly affect an election or look at intent to determine whether a communication falls within the regulatory ambit. But I do not believe the scanty legislative history must be read to do more than that.

The Board should note subsequent legislative history. In 2001 Wis Act 109, the Legislature added the following to the definition of "political purpose":

11.01 (16) (a) 3. A communication, other than a communication that is exempt from reporting under s. 11.29, that is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election and that includes a reference to or depiction of a clearly identified candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot for election or nomination to an office to be filled at that election.

This provision was part of a package of changes to campaign finance laws that contained a non-severability provision. When another provision was held unconstitutional, this definitional change was removed.

The Legislative Reference Bureau described the effect of the language as follows:

Currently, [those who] make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

With certain exceptions, this . . . imposes registration and reporting requirements, in addition, upon any individual who and organization that, within 60 days of an election and by means of communications media, makes communications which include a reference to a candidate at that election, an office to be filled at that election, or a political party.

One might argue that enactment of the additional language in 2001 demonstrates that the Legislature believed such language was necessary to capture communications that did not contain the “magic words” in *Buckley*. This, however, is simply conjecture.

Express advocacy vs. issue advocacy

It has been argued, in essence, that the Wisconsin statute permits the Board only to regulate express advocacy and that a communication is express advocacy only if it contains the “magic words.” I do not believe this argument is compelling.

First, the operative language of the statutory definition is not “a communication which expressly advocates” but, rather “[a]n act [that] is done for the purpose of influencing the election or nomination for election of any individual.”

Second, the argument that any speech that does not contain “magic words” is “issue advocacy” and the Wisconsin statute only covers “express advocacy” sets up a false dichotomy. The Court’s explication in *McConnell*, that express advocacy does not necessarily require that certain words be used, is instructive. As the Court said:

Nor are we persuaded, independent of our precedents, that the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy. That notion cannot be squared with our longstanding recognition that the presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad. . . . Indeed, the unmistakable lesson from the record in this litigation . . . is that *Buckley*’s magic-words requirement is functionally meaningless. . . . Not only can advertisers easily evade the line by eschewing the use of magic words, but they would seldom choose to use such words even if permitted. And although the resulting advertisements do not urge the viewer to vote for or against a candidate in so many words, they are no less clearly intended to influence the election.

McConnell, pp.85-86 (footnotes omitted).

Finally, and most significant, is language in the Wisconsin Court of Appeals decision in *Wisconsin Coalition for Voter Participation, Inc. v. State of Wisconsin Elections Board*, 605 N.W.2d 654 (Ct. App. 1999). In an opinion by Judge Eich, the Court said:

[W]hile, as plaintiffs point out, “express advocacy” on behalf of a candidate is one part of the statutory definition of “political purpose,” it is not the only part. Under §11.01(16), STATS., for example, an act is also done for a political purpose if it is undertaken “for the purpose of influencing the election . . . of any individual”

* * *

Contrary to plaintiffs’ assertions, then, the term “political purposes” is not restricted by the cases, the statutes or the code to acts of express advocacy. It encompasses many acts undertaken to influence a candidate’s election – including making contributions to an election campaign.

605 N.W.2d at 659 (footnote omitted).

Thus, as a matter of statutory interpretation, I believe the Board has the authority, constrained by constitutional considerations, to interpret the meaning of “political purpose” to include speech that does not necessarily contain “magic words” but that is for the purpose of influencing an election.

Proposed rule

Amend GAB 1.28 to read:

GAB 1.28 Scope of regulated activity; election of candidates. (1) Definitions. As used in this rule:

(a) “Political committee” means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) “Contributions for political purposes” means contributions made to 1) a candidate, or 2) a political committee or 3) an individual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for political purposes ~~the purpose of expressly advocating the election or defeat of an identified candidate.~~

(2) Individuals other than candidates and ~~committees~~ persons other than political committees are subject to the applicable ~~disclosure-related and recordkeeping-related~~ requirements of ch. 11, Stats., ~~only~~ when they:

(a) Make contributions or disbursements for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make a communication for a political purpose.

(3) A communication is for a “political purpose” if it:

(a) Contains ~~containing~~ terms such as the following or their functional equivalents with reference to a clearly identified candidate that expressly advocates the election or defeat of that candidate and that unambiguously relates to the campaign of that candidate:

1. “Vote for;”
2. “Elect;”
3. “Support;”
4. “Cast your ballot for;”
5. “Smith for Assembly;”
6. “Vote against;”
7. “Defeat;”
8. “Reject;” or

(b) Is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election or during the period beginning on the 30th day preceding a primary election and that includes a reference to or depiction of a clearly identified candidate and:

1. Refers to the personal qualities, character, or fitness of a specific candidate;
2. Refers to a specific candidate’s position or stance on issues;
3. Refers to a specific candidate’s public record;
4. Refers to a candidate’s supporters or opponents; or
5. Refers to campaign ads run by or on behalf of a candidate or a candidate’s opponents.

(4) Consistent with s. 11.05 (2), Stats., nothing in sub. (1) or (2) should be construed as requiring registration and reporting, under ss. 11.05 and 11.06, Stats., of an individual whose only activity is the making of contributions.

The intent of this rule will be to subject to regulation “ads that are susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” The impact will be to prohibit the use of corporate money for such ads and to require registration of those paying for such ads and the reporting of related expenditures. It would have applied to the Supreme Court ads whose transcripts were furnished to the Board at its last meeting.

State of Wisconsin\Government Accountability Board

Ethics & Accountability Division
44 East Mifflin, Ste. 601
Madison, WI 53703
Phone (608) 266-8123
Fax (608) 264-9319
E-mail: ethics@ethics.state.wi.us



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For October 6, 2008 meeting

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Communications about investigations

Statutes governing investigations by the Government Accountability Board have strict confidentiality provisions.

Closed

Records obtained or prepared by the Board in connection with an investigation, including a complaint, are not open to public inspection except as they are made public in open session, or during the course of a prosecution, or as authorized by the subject of an investigation if the records are available by law to that person. §5.05 (5s).

Open

Any record of the board's action

- (1) Authorizing the filing of a civil complaint,
- (2) Referring the matter to a district attorney or other prosecutor,
- (3) Finding that a complaint does not raise a reasonable suspicion that a violation of law has occurred, or
- (4) Finding no probable cause is open to public inspection. §5.05 (5s) (e). Settlement agreements are also open to inspection. §5.05 (1) (c).

Closed

No member or employee of the board, and no investigator, prosecutor, or employee thereof, may disclose information related to an investigation or prosecution except as follows:

Open

- (1) In the normal course of an investigation or prosecution;
- (2) Communications with local, state, or federal law enforcement or prosecutors; and
- (3) Communications to a person under investigation or such person's attorney. §12.13 (5).

Not covered

- Informing the filer of a complaint of the complaint's disposition.
- A finding of probable cause that does not result in a civil complaint or a referral for prosecution.
- A decision not to pursue a complaint for reasons other than a lack of reasonable suspicion.
- The Board's disposition of an investigation in which a complaint has not been filed (unless there is a settlement, civil complaint, or referral).

Discussion

The Board has created a policy that permits staff to acknowledge the receipt of a complaint, if the filing of a complaint is public knowledge.

I recommend that the Board adopt investigation procedures that provide that, as a normal part of an investigation, the Board will inform the filer of a complaint of the complaint's disposition.

I recommend that the Board seek legislation that permits a greater degree of openness and exercise of discretion concerning the disposition of complaints and investigations at their conclusion.

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For October 6, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Administrative Rules and Formal Opinions of the State Elections Board Relating to Conduits, Corporations, Political Action Committees, Earmarking and Joint Fundraising

This memorandum presents 4 administrative rules and 22 formal opinions of the State Elections Board presently in effect relating to the conduits, corporations, political action committees (PACs), earmarking and joint fundraising.

1. **Conduits** (5 formal opinions, 2 Administrative Rules)

Opinion El.Bd. 74-1

Local union affiliate which acts solely as a conduit in collecting and transferring pre-determined contribution to state organization need not register as a political committee. (Issue to Alfred G. Goldberg, July 30, 1974)

This was the first formal opinion issued by the State Elections Board. It established the concept of a conduit. A conduit is an intermediary that transfers campaign funds between a donor and a political committee without exercising any discretion on whether the transfer may be made, the amount of the transfer or the recipient of the transfer.

This concept enables certain organizations to facilitate the collection of campaign funds at the local level and transfer them to the regional, state or federal level without being subject to campaign finance registration and reporting requirements. The contributions are fully disclosed through reporting by the recipient organization. This opinion establishes a foundation for facilitating political participation through giving campaign contributions without adding unnecessary layers of redundant reporting.

The public generally gets a more complete picture of organizational fundraising when the transactions are disclosed at a single regional, state or federal level than having to aggregate the information across numerous local branches of the organization. It also reduces the burden on local organizations to file reports to account for a pass through transactions.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 76-15

Corporate conduits: A corporation which acts solely as a conduit in collecting and transferring predetermined contributions of its members to a state organization does not violate the prohibition on contributions by corporations. Sec. 11.38, Stats., Ops. El.Bd. 74-1, 75-6, 76-3, 76-6. (Issued to Robert H. Friebert, December 17, 1976)

This opinion applies the conduit concept to corporations in this case, a corporate labor union. This opinion is important because otherwise corporations would not be permitted to administer payroll deduction plans or facilitate the transfer of funds between local affiliates and regional, state or federal organizations. The opinion also relies on 3 other formal opinions discussed under other topics.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 78-1

Subcommittees of political committees: Local unions may terminate separate registrations and become subcommittees of political action committee operated by regional affiliate, so long as subcommittees do not engage in financial activity independent of the parent committee and a single depository and treasurer are used. Such subcommittees may act as fund-raising agents for the regional committee, provided they exercise no discretion in transfer of funds to the committee and meet the statutory time deadlines for reporting and transmittal of collected funds to the committee treasurer. Sec.11.10, 11.26(2)(c), Stats. (Issued to Lee Cullen, March 16, 1978)

This opinion clarifies the application of the conduit concept for local union affiliates. Its focus is on removing a layer of redundant reporting. The caveat on the last page does not reflect a legislative change that gives 15 days for an agent to transfer a contribution to the principal. A contribution is treated as received for the purpose of disclosure and application of limits if it is not returned within 15 days of receipt.

Staff believes this opinion should be reaffirmed with a notation directing the reader to the legislative change.

Opinion El.Bd. 89-1

Interest income from conduit and PAC depository account, properly invested under s.11.25(3), may be used in the same manner as other funds in the account, including payment of administration and solicitation expenses of a conduit if the conduit agreement so provides. (Issued to Brad Bauman, January 26, 1989)

This opinion clarifies the treatment of interest income earned by a conduit or a PAC.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 98-01

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

This opinion clarifies that conduit contributions while generally used to support candidates may also be used to support PACs.

Staff believes this opinion should be reaffirmed.

Staff recommends the Board reaffirm formal opinions: ElBd Op 74-1, ElBd Op 76-15, ElBd Op 89-1 and ElBd Op 98-1.

Staff recommends the Board reaffirm formal opinions: ElBd Op 78-1 with an annotation directing the reader to subsequent legislative changes.

Administrative Rules

GAB 1.85 Conduit registration and reporting requirements.

(1) A conduit, as defined in s. 11.01 (5m), Stats., is required to register no later than the date of the initial transfer of a contribution to a candidate, personal campaign committee, legislative campaign committee, or political party committee, or within 5 days of the receipt of a contribution from a conduit member, whichever event occurs first.

(2) A conduit shall register with the filing officer as defined in s. 11.02, Stats., on the conduit registration statement, form EB-9.

(3) A conduit shall send to each candidate or committee at the time funds are transferred a letter identifying itself as a conduit, the name and address of the transferee, and listing the name and address of each contributor and the date and amount of each contribution.

(4) A conduit shall report to the transferee the full name and address, the occupation and the name and address of the principal place of employment, if any, of the contributor if the contributor's cumulative contributions **exceed \$50** for the calendar year. EB-10, at the times specified in s. 11.20, Stats., except that the pre-primary or pre-election report is filed only when a contribution is made during that period. If the conduit has no reportable activity during the continuing report period, the conduit may report on the campaign finance report, short form, form EB-2a.

(5) A conduit shall file a campaign finance report, form EB-10, at the times specified in s. 11.20, Stats., except that the pre-primary or pre-election report is filed only when a contribution is made during that period. If the conduit has no reportable activity during the continuing report period, the conduit may report on the campaign finance report, short form, form EB-2a.

(6) A conduit shall file with its campaign finance report 2 copies of each letter of transmittal sent to each transferee during the reporting period.

(7) A conduit shall file with the filing officer a special report of late contribution, form EB-3, within 24 hours of making a transfer to a candidate or committee of **more than \$500** in a single amount or cumulatively received during the 15 day period before the primary or election.

History: Emerg. cr. eff. 7-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86; am. (1) and (4), Register, April, 1998, No. 508, eff. 5-1-98.

GAB 1.855 Contributions from conduit accounts.

(1) No contribution may be made from a conduit member's account without the conduit member's authorization which is specific as to the amount of the contribution and as to the identity of the candidate who is to receive the contribution. The conduit member's authorization may be made in writing, or may be made orally if a contemporaneous written record of the oral authorization is made by the conduit administrator.

(2) A contribution from a conduit account shall be in the form of a check or other negotiable instrument made out to the **named candidate or to the candidate's personal campaign**

committee, or to a legislative campaign committee, political party committee, or support committee under s. 11.18, Stats. A conduit may not make an in-kind contribution as defined in s. GAB 1.20 (1) (e).

(3) A contribution from a conduit account shall be transferred to a candidate, a personal campaign or legislative campaign committee, or a political party or support committee, within 15 days of the conduit administrator's receipt of the member's authorization.

History: Cr. Register, April, 1998, No. 508, eff. 5-1-98.

These rules provide direction to conduit administrators on the implementation of the statutes governing conduits along with the Board's opinions. However, I have highlighted in bold two areas in the rules that are inconsistent with current law or the Board's opinions.

In 1987, the Legislature changed the itemization threshold for contributions made through conduits to be consistent with contributions made directly. 1987 Wisconsin Act 370. Originally a contribution made through a conduit had to be itemized at the \$50 threshold with information on the contributor's occupation along with the name and address of the contributor's principal place of employment. The threshold for itemization of direct contributions is \$100. § 11.06 (1)(b), Wis. Stats.

Since the Elections Board opinion EIBd 98-01 (if reaffirmed) permits transferring conduit contributions to PACs, the highlighted language in GAB 1.55 (2), (3) needs to be modified to acknowledge this.

Staff recommends the Board reaffirm the administrative rules, but direct staff to review the rule and propose changes to harmonize the highlighted sections of the rules with current law and the implementation of the new Campaign Finance Information System.

2. Corporations and PACs (14 formal opinions; 2 Administrative Rules)

Opinion EI.Bd. 74-18

Corporations may make disbursements for political purposes for the purpose of communication only with members, shareholder, patrons, and subscribers thereof. Section 11.38(2), Stats., permits the establishment of a segregated fund for the purpose of making corporate contributions or disbursements for a political purpose. (Issued to Harry F. Franke, November 27, 1974)

This opinion pre-dates the U.S. Supreme Court decision in *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), which expressly permits corporations to make direct expenditures in support of or opposition to referenda.

Staff believes the Board should decline to reaffirm this opinion.

Opinion EI.Bd. 75-6

Establishment and administration of separate segregated funds under sec. 11.38(1)(a)2., Stats., discussed. (Issued to Richard S. Gallagher, December 19, 1975)

This opinion addresses general questions concerning the establishment and administration of PACs by a corporation. The opinion is the first discussion by the Elections Board on this issue. The Board suggested it would promulgate administrative rules governing registration and reporting of corporate expenditures for the cost of administering a PAC and solicitation expenses for contributions to the PAC. The rules were promulgated the following year. EIBd 1.06, Wis Admin. Code. However, statutory registration and reporting requirements for corporations were added by Chapter 328, Laws of 1979.

Staff believes this opinion should be reaffirmed with a notation directing the reader to the legislative change.

Opinion EI.Bd. 75-8

Discussion of separate segregated funds established pursuant to sec. 11.38(1)(a)2., Stats., and their incorporation for purposes of liability. (Issued to Richard S. Gallagher, December 19, 1975)

This opinion provides direction for corporations administering PACs with activity in more than one state. It also expressly permits a PAC to incorporate for liability purposes without contravening the restriction on corporate contributions.

Staff believes this opinion should be reaffirmed.

Opinion EI.Bd. 76-5

Section 11.16(2), Stats., not violated by payroll deduction plan if corporation supplied fund with list of contributors and amounts contributed. Corporation may transmit total payroll deduction in the form of a corporate check if list of names of contributors and amounts contributed is provided to fund. (Issued to Richard S. Gallagher, February 18, 1976)

This opinion provides direction for corporations administering a payroll deduction plan for PAC contributions.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 76-6

Labor organizations which have incorporated are prohibited by sec. 11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein. (Issued to John A. Lawton, March 17, 1976)

This opinion provides that an incorporated labor union may not make political contributions or disbursements without establishing a separate segregated fund. Following the issuance of this opinion the Legislature expressly authorized this activity for labor unions incorporated after January 1, 1978. § 11.38 (2)(c), Wis. Stats.

Staff believes this opinion should be reaffirmed with a notation directing the reader to the legislative change.

Opinion El.Bd. 77-8

“Convention Bureau” assistance to political party conventions. Corporate participation in the funding of a city’s “convention bureau” does not preclude a political party from accepting convention bureau assistance, so long as the corporation’s participation in such funding is undertaken in the ordinary course of business and not for political purposes. Convention bureau assistance to a political party is not a “contribution,” so long as such assistance is of substantially the same kind and degree as that provided for non-political conventions of similar scope. Non-corporate funding and municipal funding of a convention bureau which provides assistance to a political party convention do not constitute political “contributions,” unless circumstances indicate that the funding is done for political purposes. (Issued to George Innes, October 13, 1977)

This opinion discusses the implication of campaign finance laws with respect to the operation of a municipal convention bureau receiving funds from corporations, individuals and tax funds when the bureau is facilitating holding a political convention. The opinion provides the use of these funds arise in the ordinary course of business of the corporations and the convention bureau and do not trigger campaign finance regulation unless funding is provided to the bureau specifically to secure or promote the political convention.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 78-10

Limit on corporate solicitations for separate segregated fund: The \$500 annual limit on a corporation’s solicitation expenditures for its separate segregated fund may be applied to any period of 12 consecutive months, including the corporation’s fiscal year. Sec. 11.38(1)(a)2., Stats. (Issued to Floyd S. Keene, July 20, 1978)

This opinion clarifies a question on the establishment of the 12 month period for measuring the limit on solicitation funds provided by a corporation on behalf of its PAC.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 78-11

Establishment of separate segregated fund by affiliated corporations: Where two corporations are independently incorporated but affiliated for certain purposes, they may each establish a separate segregated fund if 1) neither corporation provides money or other assets for the operation of the other’s fund, and 2) neither corporation exercises a significant degree of control over the management of the other’s fund. Sec. 11.38(1)(a)2., Stats. (Issued to W. Pharis Horton, July 20, 1978)

The opinion discusses the criteria for affiliated corporations establishing more than one PAC. The criteria established in the opinion are consistent with current law.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 78-13

Corporate subsidies of candidate appearances: A corporation's provision of facilities, materials, services, and beverage in connection with a candidate's political appearance before members of the corporation's separate segregated fund and "other interested persons" is an impermissible corporate contribution or disbursement, rather than a permissible cost of administering the fund. A corporation may characterize its expenses in subsidizing such candidate appearances as permissible costs of administering the fund if the audience for the appearances is limited to those directly involved in determining how the fund is used. Secs. 11.38, 11.01(5), 11.01(6). (Issued to QuinnW. Martin, August 17, 1978)

The opinion describes the limits on a corporation subsidizing the appearance of candidates at a corporate event.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 79-5

A corporation which establishes and administers a separate segregated fund under sec.11.38(1)(a)2., Stats., may purchase and pay premiums on officers' and directors' liability insurance, general liability insurance, and fidelity bonds for the fund. (Issued to Thomas J. Sobota, December 13, 1979)

The opinion permits a corporation to pay certain expenses for corporate employees administering the corporation's PAC.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 80-3

The separate segregated fund of a corporation or association established pursuant to s.11.38(1)(a)2., Stats., may not accept contributions from other corporations to be used solely for the administrative expenses of the separate segregated fund. (Issued to Peter Coe Christianson, September 18, 1980)

The opinion restricts a corporation from accepting funds from another corporation to pay the administrative expenses of its PAC.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 82-1

A corporation sponsoring a nonresident separate segregated fund must register with the Elections Board pursuant to s.11.38(1)(a)2., Wis. Stats., and file semi-annual reports disclosing its administrative and solicitation expenses with respect to Wisconsin related campaign finance activities of the separate segregated fund. A corporation may not spend more than its separate segregated fund for Wisconsin related campaign finance activity. (Issued to James R. Klauser, September 23, 1982)

The opinion describes the procedures and guidelines that a nonresident PAC must follow to comply with state campaign finance law. These guidelines are consistent with current law.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 88-4

The exclusion set out in s.11.29(1), Stats., and the application of Wisconsin's campaign finance disclosure law is limited to communications from an organization to its members to the exclusion of all others for the purpose of communicating endorsements of candidates, positions on referenda, or an explanation of the organizations' views and interests. The funding of such communications must be paid for by the organization. (Issued to Robert H. Friebert and Brandon Scholz, October 18, 1988)

The opinion describes the limits on corporate communications for political purposes. These guidelines are consistent with current law.

Staff believes this opinion should be reaffirmed.

Opinion El.Bd. 91-1

Corporate Transfer of Employee-Agent Contributions to Political Action Committees: A corporation which acts solely in the nature of a conduit in collecting and transferring the contributions of its employee-agents to the political action committee of the employee-agents statewide trade association does not make a contribution to that trade association PAC, if none of the expenses of administration or solicitation of those contribution are borne by the corporation and if a list of the contributors and amounts of their contributions is maintained at each stage of the transfer. (Issued to Attorneys Brady C. Williamson and Jeffrey J. Kassel, August 12, 1991)

The opinion describes the procedures and guidelines for a corporation to facilitate political contributions by independent agents associated with the corporation. These guidelines are consistent with current law.

Staff believes this opinion should be reaffirmed.

Staff recommends the Board reaffirm formal opinions: ElBd Op 75-8, ElBd Op 76-5, ElBd. Op 77-8, ElBd. Op 78-10, ElBd. Op 78-11, ElBd. Op 78-13, ElBd. Op 79-5, ElBd. Op 80-3, ElBd. Op 82-1, ElBd. Op 88-4 and ElBd. Op 91-1.

**Staff recommends the Board reaffirm formal opinions: ElBd Op 75-6, ElBd Op 76-6 with an annotation directing the reader to subsequent legislative changes.
Op 74-18**

Staff recommends the Board decline to reaffirm formal opinion: ElBd Op 74-18

Administrative Rules

GAB 1.06 Corporate registration and reporting.

(1) Every foreign or domestic corporation or association organized under ch. 185, Stats., which establishes a separate segregated fund pursuant to s. 11.38 (1) (a) 2., Stats., shall register with the appropriate filing officer on a form prescribed by the board.

(2) Every foreign or domestic corporation or association organized under ch. 185, Stats., which is required to register pursuant to sub. (1), shall file financial disclosure reports with the appropriate filing officer in accordance with s. 11.20 (4), Stats., on a form prescribed by the board.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

GAB 1.33 Retirement of campaign debts incurred to business creditors.

(1) As used in this section “an obligation incurred by a registrant to a business creditor” means an obligation incurred by the registrant for goods or services.

(2) An obligation incurred by a registrant to a business creditor will be treated as a contribution of the creditor if any part of the obligation is outstanding for a period longer than that consistent with normal business or trade practice, or if the obligation is settled for less than the outstanding debt, unless a showing is made to the registrant’s filing officer that the creditor has treated the obligation in a commercially reasonable manner. Such a showing must include at least the following:

(a) The initial extension of credit on which the obligation was incurred was made in the ordinary course of business with terms substantially similar to those granted to non-political debtors of similar credit risk; and

(b) The creditor has made all reasonable efforts to retire the debt, including pursuit of all remedies which would normally be employed by the creditor in pursuit of a non-political debtor. “Reasonable efforts to retire the debt” include lawsuits, if filed in similar circumstances.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

Staff recommends the Board reaffirm the administrative rules

3. Earmarking (2 formal opinions)

Opinion El.Bd. 76-03

A separate, segregated fund may not agree with prospective contributors that their contributions will be given to the party or candidate of their choice. (Issued to M. Scott Cisney, February 18, 1976)

Opinion El.Bd. 77-6

Earmarking; committee combining activities as registrant and conduit. A committee's transfer of funds in response to an individual contributor's request that his contribution be used for a specific purpose is an act of earmarking, regardless of whether the request is made after the individual's contribution takes place. Such transfers may be made only if the committee functions as a conduit for the transfers, transferring the identities of the earmarking contributors to the designated recipients along with the earmarked funds. A political registrant which contributes and disburses in its own name may also act as a conduit for the contributions of other if all receipts and transfer of funds for which it acts as a conduit are specifically designated as such on the registrant's reports. S. 11.16(4), Stats. (Issued to Quinn Martin, August 18, 1977)

Both opinions discuss the prohibition on earmarking and clarify its application with respect to contributions made to a PAC. The direction on earmarking is consistent with current law. However, the suggestion in the opinions that a PAC may also act as conduit through its PAC account is inconsistent with current law. The Legislature requires conduits to register separately from a PAC and establish a separate account. §§ 11.05 (9), 11.06 (11), Wis. Stats.

The staff believes the opinions should be reaffirmed, but the reader should be directed to the specific language requiring separate registration and reporting for conduits.

Staff recommends the Board reaffirm formal opinions: ElBd Op 76-3, ElBd 7 Op 7-6 with an annotation directing the reader to subsequent legislative changes.

4. **Joint Fundraising** (1 formal opinion)

Opinion El.Bd. 86-1

Joint Fundraisers: A political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. Ss.11.05(9) and 11.14(1) and (2), Stats. (Issued to James Buchen, April 30, 1986)

The opinion discusses a proposed joint fundraiser between a PAC and a conduit. Because the PAC proposes to determine the amount of conduit contributions, the opinion states the proposed fundraiser is inconsistent with state law.

Staff believes the opinion should be reaffirmed.

Staff recommends the Board reaffirm ElBd Op 86-1.

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov



JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 6, 2008, Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Activities

Elections Administration Update

Introduction

Now that the September 9, 2008, Partisan Primary Election is behind us, the Elections Division is in high gear, focusing on preparedness for the November 4 General Election.

1. The September 9, 2008, Partisan Primary Election

A. Low Level Activity

As expected, there was a light voter turnout for the September 9 Partisan Primary Election. There were no statewide offices or issues on the ballot. About 170 calls were received at our Help Desk and they consisted of:

- Calls from voters who were confused about the Partisan Primary (Single Party Voting);
- Calls about where to go to vote;
- Calls about voting equipment not working or not available; and,
- Calls from clerks and voters about voters not being on poll lists.

B. Two High Level Federal Teams Visit Wisconsin

- On September 9, a delegation from the Federal Government Accountability Office (GAO) visited Southeastern Wisconsin for the purpose of assessing accessibility compliance with Federal requirements. This was a dry run to test methodology for polling place visits in November. Wisconsin will not be the subject of the November visits.
- Starting mid-afternoon, September 8 and continuing throughout September 9, three senior management team members from the U. S. Election Assistance Commission (EAC), led by the Executive Director of the Commission, visited Wisconsin. G.A.B. staff made presentations on elections administration in Wisconsin. Information was shared about Wisconsin's elections uniqueness and best election practices, and the status of the election data collection grant.

The G.A.B. Director and Elections Administration Specialist, Ross Hein, accompanied the team to a variety of different polling places in Madison and Milwaukee that use different voting systems. The EAC staff visit generated media attention and that served to help underscore the importance of Wisconsin - highly regarded as a likely swing state - getting ready and being prepared for the November 4 General Election.

C. Focus on Accessibility Continues

In addition to the G.A.O. assessing accessibility compliance at polling sites in Wisconsin on September 9, also on September 9, 12 G.A.B. staff fanned out avgcross the State to continue a practice that began during the February 19, 2008, Presidential Preference Primary. Staff surveyed accessibility compliance on February 19, again on April 1 during the Spring Primary Election, and again on September 9, during the Partisan Primary Election. On September 9, accessibility assessments were conducted in 101 polling places, and that included 34 counties, 51 cities, 19 villages and 31 towns.

D. September 9 Canvass Completed

The September 9 Canvass was signed on Wednesday afternoon, September 24, by Judge Nichol on behalf of the G.A.B. Chair, Judge Cane. In order to complete the Canvass by the tight statutory deadline, G.A.B. staff worked overtime to get the job done. Staff were prepared to work over a weekend if needed. Canvass highlights:

- Wisconsin has four political parties that currently have ballot status: The Democratic Party, the Libertarian Party, the Republican Party and the Wisconsin Green Party.
- For Wisconsin's eight Congressional Districts, the Democratic and Republican parties fielded candidates in seven districts, the Libertarian Party in two districts, and the Wisconsin Green Party in none. There are two independent candidates for Congress, in the 4th and 5th Congressional Districts, which means no candidate for Congress is unopposed.

- For the 16 State Senate seats up for election among the four political parties with ballot status, the Democratic and Republican parties have candidates in 12 districts,

and the Libertarian and Green parties have no candidates. There is one independent candidate for Senate, in the 20th District.

- For all 99 State Assembly seats among the four political parties with ballot status, the Democratic Party has 92 candidates, the Republican Party has 75 candidates, the Libertarian Party has five candidates, and the Green Party has no candidates. There are six independent candidates for Assembly.
- For 71 District Attorney contests, among the four political parties with ballot status, the Republican Party has 40 candidates, the Democratic Party has 34 candidates, and the Green and Libertarian parties have no candidates. There is one independent candidate for district attorney, in Burnett County, and only Chippewa, Fond du Lac, Jefferson and Marinette counties have contested races. (Note: Menominee and Shawano counties share a district attorney.)

E. Working in Conjunction with Partners, Preparing for November 4, 2008

Noteworthy activities include:

A. Major ongoing In-House Activities

- Process voter registration application forms received from Statewide Registration Deputies, voter organizations, general public.
- Manage November 4 General Election at State level (enter contests and candidates for Federal and State offices.
- Assist 1,923 County and Municipal Clerks in setting up and managing the November 4 General Election at County and Municipal levels.
- Research data quality issues and follow-up with clerks to make sure voter records data are good prior to the printing poll lists.
- Prepare to conduct accessibility surveys on November 4 during the General Election.

B. Collaboration with Clerks, Partners and Customers Continues

Wisconsin Association of School Superintendent Assistants

On Friday, September 26, 2008, G.A.B. staff conducted a training seminar on Election Administration for the Association of School Superintendent Assistants at their annual Fall Workshop in the Wisconsin Dells.

Wisconsin Municipal Clerks Association

Starting Thursday, October 2 through Friday, October 17, 2008, G.A.B. staff will collaborate with the Municipal Clerks Association and participate in conducting eight 3-hour regional roundtables with the Association's members. Roundtable

discussions will be held in Sheboygan, Barnes, Warrens, Hudson, Dodgeville, Rhinelander, Kronenwetter, and New Berlin.

League of Women Voters of Wisconsin

On Friday and Saturday, October 3 and 4, G.A.B. staff will participate in *Making Democracy Work* Summit, in Stevens Point, Wisconsin. This Summit is sponsored by the League of Women Voters of Wisconsin. Staff will share the keynote speaking role with Ms. Mary Wilson, President of the League of Women Voters of the United States, on the subject, *"The Countdown Begins: Are We Ready for the Election."* G.A.B. staff also participated in a League of Women Voters Forum on Voting Rights and Elections Administration, in Stevens Point on September 19-20, 2008.

Wisconsin Towns Association

On Tuesday, October 7, 2008, G.A.B. staff will make a presentation at the Towns Association's Annual Convention in Appleton, on *"Preparedness for the November 4 General Election."*

Wisconsin County Clerks Association

On Monday, October 13, 2008, the G.A.B. staff will make a presentation to the County Clerks Association, during their fall conference in the Wisconsin Dells. The focus of this presentation will also be on *"Preparedness for the November 4 General Election."*

F. Training: Statewide Registration Deputies / Municipal Clerks / Chief Inspectors

The following training classes are scheduled between September 10 and the November 4 General Election:

- | | |
|-----------------------------------|--------------------------------|
| ▪ Statewide Registration Deputies | #13 Training Classes Scheduled |
| ▪ Municipal Clerks | # 2 Training Classes Scheduled |
| ▪ Chief Inspectors | #26 Training Classes Scheduled |
| ▪ SVRS | Training is Ongoing |

Key Metrics

Public information/education initiatives with our customers, constituents and partners continues.

News Releases

See Attachment

Noteworthy Activities

1. G.A.B. staff spent a considerable amount of time responding to telephone calls and email messages regarding a mass mailing by the McCain for President Campaign and a similar mass mailing by the Republican Party of Wisconsin. Both mailings contained significant errors for returned absentee ballot requests, addresses and clerk information.

2. Similarly, staff spent a considerable amount of time responding to questions and concerns expressed about the lawsuit that was filed by the Wisconsin Attorney General against the Government Accountability Board.
3. G.A.B. staff spent a considerable amount of time responding to open records requests made by the Wisconsin Attorney General, the Republican Party of Wisconsin, and the Milwaukee County District Attorney.
4. 83,000 letters were mailed to voters on Tuesday, September 9, 2008, whose default date of birth is 01/01/1900. Acquiring the correct dates of birth for all eligible voters is both a Federal and State requirement.
5. Praise was received from Common Cause for G.A.B.'s contribution to the Century Foundation's National Report on the 2008 Elections (10 states' electoral processes reviewed). Wisconsin received the highest and most positive/favorable praise of all the other participating states.
6. Prepared portions of G.A.B.'s FY09-11 State Biennial Budget. One of G.A.B.'s Decision Items requested General Purpose Revenue (GPR) for assisting local elections officials with elections administration tasks.
7. Effectively assisted the G.A.B. Director and General Counsel with getting leased space approved by the State Building Commission for coming G.A.B. relocation.
8. G.A.B. hosted a 21-member African Delegation of representatives from Kenya, Tanzania, and Uganda to provide information on Election Administration in Wisconsin. Assisted the G.A.B. Director and General Counsel with preparing for the hosting and presentation.
9. Applied for an additional \$2.1 million Federal HAVA formula dollars due Wisconsin.

30-day Forecast

1. Continue to plan and prepare for the fall elections.
2. Continue to manage implementation process of our \$2 million data grant.

Statewide Voter Registration System Update

Barbara A. Hansen, SVRS Project Director

Introduction

The following Statewide Voter Registration System (SVRS) activities took place since the August 27-28, meeting of the Government Accountability Board.

1. Election Support – The SVRS team provided support to Wisconsin's 1,923 County and Municipal Clerks throughout the September Partisan Primary and leading up to the November 4 Presidential and General Election, to ensure smooth election processes.
2. Handling EB-131 Voter Registration Forms – G.A.B. has received thousands of voter registration (EB 131) forms through the mail and from Special Registration Deputies. New data entry personnel have been hired to assist with processing the forms. However,

because the number of forms received was so large, G.A.B contacted county and municipal clerks to request their assistance in entering newly received registration forms.

3. New Limited Term Employee (LTE) Data Entry Staff – Three new temporary staff were hired to perform data entry duties. They are working primarily on new voter registrations applications received by the G.A.B., processing cancellations for voters who have moved out of state, and entering date of birth information. Additional LTE staff are being hired to assist with data entry before the November election.
4. SVRS Data Requests – G.A.B. has received a number of requests to purchase data from the Statewide Voter Registration System (SVRS). It is normal to see an increase in types of requests close to a major election event. 33 data requests have been processed since August 1st for a total of \$40,620.
5. Ineligible Voter Lists – Ineligible Voter Lists showing felons who are currently under supervision in the community (those on Probation and Parole) were sent to clerks for use at the Clerk's Office and at the Polling Place for both the September and November elections.
6. November Candidates and Contests – All candidates and contests for the November election were entered into SVRS. This allows clerks to move forward with their November 4 General Election set-up procedures. It also allows voters to view a sample ballot on the Voter Public Access (VPA) website.
7. September Primary Canvass – The G.A.B. team collectively certified the results of the September Partisan Primary in record time.

Statistics

The following are some relevant statistics from SVRS as of September 25, 2008:

HAVA Check Statistics as of September 26, 2008:

- A total of **53,515** HAVA Checks have been run since August 6, 2008.
- 40,498 (76%) of the total were Driver License validations.
- 13,017 (24%) of the total were Last 4 Digits of Social Security Number validations.
- Of the Driver License validations, 35,651 (88%) passed the HAVA Check and 4,847 (12%) failed to match.
- Of the Social Security Number validations, 9,741 (75%) passed the HAVA Check and 3,276 (25%) failed to match.
- Overall, 45,392 (85%) of the total HAVA Checks passed, and 8,123 (15%) failed to match.

September 9 Election Statistics

- A total of 303,146 votes have been recorded in SVRS for the September Primary as of September 25, 2008. This not the final count. The final count is still being tallied.
- A total of 11,379 Election Day Registrations have been entered into SVRS.
- A total of 35,679 requests for absentee ballots have been recorded in SVRS
- Voter Registration Applications Processed in SVRS for the Month of September (through September 25, 2008).
- A total of 27,057 voter registration applications have been processed in SVRS as of September 25, 2008.
- 13,277 (49%) of the total applications were new Wisconsin registrations.
- 13,780 (51%) of the total applications were existing voters who have moved or changed their name.
- 10,778 (40%) of the total applications were Election Day Registrations.
- 7,360 (27%) of the total applications were done directly at the Clerk's Office.
- 3,994 (15%) of the total applications were from Special Registration Deputies
- 3,091 (11%) of the total applications were received by Mail.

Action Items

No action is required of the Board at this time.

ATTACHMENT

**GAB Elections Division
Communications Initiatives
August 29 – September 29, 2008**

Topic	Message	Media	Audience	Follow-up Activities
“Separate Teams of Federal Election Observers to Visit Wisconsin”	U.S. EAC and GAO observers to check elections process on September 9.	News release: 9/3/08.	General public, Legislature and local election officials.	Milwaukee TV and statewide press contacts.
“Accountability Board Members’ Voter Data Do Not Match DOT...”	G.A.B. members fail ‘HAVA Check.’	News release: 9/4/08.	General public, Legislature, local election officials.	Wide variety of in and out-state news media.
G.A.B. decision about ‘HAVA Check,’ WLWV poll worker recruitment strategies, fall training schedule.	More information for local election officials as the Nov.4, 2008 election approaches.	<i>Election Update: 9/8/08</i>	Municipal and county clerks.	Posted to the website.
“Accountability Board Replies to Attorney General’s Lawsuit”	Board has taken a reasoned approach to ‘HAVA Check’ issue.	News release: 9/10/08	General public, national elections community, state officials.	Wide variety of in and out-state news media.
“Further Comment on Wisconsin Attorney General’s Lawsuit”	The merits of the lawsuit should not be argued in the newspapers.	News release: 9/11/08	General public, national elections community, state officials.	Wide variety of in and out-state news media.
“Elections Divisions Reminds Voters of Absentee Voting Requirements for November Election”	Voters should pay attention to all mailings and only request ballots from the local clerk.	News release: 9/16/08	General public, voters, Legislature, candidates, news media.	
Recruiting Poll Workers for Nov. 4 election.	Please help encourage state employees to be poll workers.	Letter to Governor and OSER Director: 9/23/08	Governor Doyle, OSER Director Donnelly and State agency heads.	
“Board Certifies Sept. 9 Primary Election Results”	Candidates are set for the Nov. 4 ballot.	News release: 9/25/08	General public, candidates, news media.	
“Statement Concerning Lt. Gov. Barbara Lawton’s Voter Registration Status.”	The Lt. Governor is properly registered and has voted in most recent elections.	News release: 9/25/08	General public, news media.	

ATTACHMENT

**GAB Elections Division
Communications Initiatives
August 29 – September 29, 2008**

<p>Marquette University's Democracy and Government Training Program.</p>	<p>Elections and ethics in Wisconsin are very important to State government.</p>	<p>2-hour presentation: 9/25/08</p>	<p>20-member delegation of civil servants and others from Kenya, Tanzania and Uganda.</p>	<p>(This is a continuing program conducted for several years with the former Elections Board.)</p>
<p>Asking Wisconsin employees to volunteer to be poll workers.</p>	<p>Volunteer with your municipal clerk to be a poll worker on Nov. 4</p>	<p>Printing order: State employee paycheck insert for 10/9/08.</p>	<p>State employees.</p>	

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: seb@seb.state.wi.us
<http://elections.state.wi.us>



KEVIN J. KENNEDY
Director & General Counsel

MEMORANDUM

DATE: October 6, 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 Information System

Project Accomplishments

Progress continues to be made in the implementation of the Campaign Finance Information System (CFIS). The system is being used on a trial basis by a number of committees. We have hired two limited term employees for data entry, and we continue to address and work to correct bugs in the system.

Looking Ahead

The following activities are in process:

- Pilot implementation will continue in October.
- The final version of code for go-live will be delivered on October 24. Go live is officially scheduled for November 5th.

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

None

MILESTONES

Government Accountability Board staff completed a user acceptance testing and review process for the new version of the Contract Sunshine application back in May 2008. Staff also solicited feedback on the new version of the application from procurement officials at DOA. Due to staffing issues and other agency priorities related to multiple report filing deadlines at the end of July, the Government Accountability Board staff assigned to this project has had other tasks to attend to. Significant work on the Contract Sunshine program has been put on hold until these other items are completed.

LOOK AHEAD

Government Accountability Board staff plans to this fall meet with DOA staff in order to finalize the previously solicited feedback on the new version of the application. After receiving this feedback, GAB staff will meet with personnel from Sundial in order to implement the final changes to the application and release 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 2008.

ACTION ITEMS

None.

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

244 The number of municipalities with a municipal judge position that received a letter from Government Accountability Board staff regarding the Statement of Economic Interests filing

requirements under Chapter 19, Wisconsin Statutes for municipal judges and candidates for the municipal judge position.

- 2223** The number of state public officials, active and inactive, who have a filed a 2008 Statement of Economic Interests with the Government Accountability Board as of September 30, 2008. All state public officials identified in Chapter 19, Wisconsin Statutes are required to file a statement with the G.A.B. within 21 days of assuming the position.
- 34** The number of State of Wisconsin Investment Board members who were mailed a Quarterly Transaction report that are to be filed with the Government Accountability Board. These reports are completed to ensure an absence of any conflict of interests between the Investment Board member's investment decisions on behalf of the State of Wisconsin and their personal financial interests. They are due on or before October 31, 2008.

MILESTONES

Government Accountability Board staff drafted and send a letter to municipal clerks in municipalities that have a municipal judge position communicating to them that municipal judges and candidates for municipal judge are required to file Statements of Economic Interest with the Government Accountability Board. This letter's objective was to eliminate confusion and unawareness of the filing requirements that have denied municipal judge candidates ballot access in the past. Staff is continuing to follow up on questions generated from this communication and have received positive feedback from clerks for the communication. Furthermore, communication to municipal judges about this requirement will be sent via the Wisconsin Municipal Judges Association e-mail list and website.

Government Accountability board staff also mailed Quarterly Transaction reports to 34 State Investment Board members on September 29, 2008. Investment Board members are required to complete and file this report on or before October 31, 2008.

LOOK AHEAD

Government Accountability Board staff will continue preparations for the 2009 annual filing and Spring 2009 election. Final changes to the 2009 filing form and updates in the database application are going to be made and reviewed by staff in September and made by October in order to provide adequate time to construct and mail the necessary materials to potential candidates/filers in the upcoming calendar year. Due to the uncertainty of our agency's exact time frame for moving into our new location, staff will have all Statements of Economic Interests sent to the post office box currently used by the Government Accountability Board. A business process for ensuring that statements are received by the appropriate staff member will be defined and approved in the next few weeks.

Additionally, staff will continue to work with SunDial Software Corporation on changes to the Eye on Financial Relationships website application 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. Staff is working to transition to online filing of Statements of Economic Interests for the 2010 filing year.

ACTION ITEMS

None.

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

- 785** The number of principal lobbying organizations registered with the Government Accountability Board.
- 699** 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.
- 1,787** The number of individual authorizations of lobbyists representing a principal organization.

Noteworthy Activities

Katharine recorded data on those registered lobbying organizations that filed late Statement of Lobbying Activities and Expenditures Reports, as well as those that reported late lobbying communications. Nine late lobbying report penalties were issued, totaling \$600. As of this meeting, the Government Accountability Board has received payment from seven of these organizations, for a total of \$400. Of those 30 registered lobbying organizations that reported late lobbying communications on bills, the penalties amount to \$1,075. As of this date, one has made payment in the amount of \$100.

Looking Ahead

Katharine is continuing work on the 2007-2008 Lobbying Report

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

Post Office Box 2973
17 West Main Street, Suite 310
Madison, WI 53701-2973
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the October 6 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 Operations

Introduction

This has been an extremely busy time. The primary administrative focus has been on litigation, presentations, space planning, preparing and submitting the agency's 2009-2011 biennial budget request and staff recruitment.

Noteworthy Activities

1. Space Planning

In order to address the concerns of the Building Commission's Administrative Affairs subcommittee regarding our lease request, staff met with Commission members and their staff to mitigate their concerns and to request the item be placed on the Commission's September 17 agenda. The subcommittee had concerns about the lease term and the cost of furniture.

As a result of the briefings, the request was placed on the September 17 Building Commission agenda and approved unanimously.

Currently, staff are working with the Department of Administration's Facilities staff to solicit a bid for refurbished furniture which will reduce costs. The Department of Administration is also working on options for back-filling the 44 East Mifflin space to reduce agency costs.

2. 2009-2011 Biennial Budget Request

Staff successfully submitted the agency's 2009-2011 biennial budget on September 15, 2008. The 2009-2011 agency budget request is designed to maintain the agency GPR operations. GPR funding is the money that comes directly from tax revenues. The federal spending authority is approved by the State Budget office separately.

The agency base budget consists of 14.30 FTE (full time equivalent employees) funded from GPR, plus fringe benefits, supplies and services and permanent property for a total of \$2,434,400. It also funds 3.75 positions from its lobbying program revenue budget which the base is \$419,600 for salaries, fringe benefits and supplies and services. A table summarizing the two main funding sources (GPR and PR) is set out below.

This proposed budget contains four request items. Two decision items do not result in a change to the agency's base. The first request is to change the scope of the Election-Related reimbursement program and the second is to establish a new general federal aid continuing appropriation outside of the Elections Administration fund so the agency can apply for and be able to receive general federal grants besides HAVA funding.

The other two requests result in a minimal increase to the agency's base budget. The first request is for 1 FTE Budget and Policy Analyst position. This position will monitor the agency's biennial and annual operating budgets, estimate and monitor revenue collections, conduct program, organizational, policy, legislative and fiscal analyses and prepare fiscal estimates for proposed legislation. The first year cost for this position would be \$45,000. The second year cost would be \$52,200.

The agency is also requesting an increase in its limited term employee appropriation to assist with data entry of information into the Statewide Voter Registration System database. We are requesting 6 LTE's to enter data from January 2009 – April 2009. The first year increase to the agency's base would be \$54,300 for this initiative.

The second year we are requesting 6 LTE's to enter data from January 2010 – April 2010, then hire an additional 8 LTE's from July 2010 – November 2010. The second year increase to the agency's base would be \$147,300.

GPR Funding Request FY10

Expenditure Items	Adjusted Base	Changes to	TOTAL BUDGET
Permanent Position Salaries	883,900	25,800	909,700
LTE/Misc. Salaries	11,400	50,400	61,800
Fringe Benefits	367,000	15,100	382,100
Supplies and Services	1,165,700	8,000	1,173,700
Permanent Property	6,400		6,400
Total Costs	2,434,400	99,300	2,533,700
Project Positions Authorized			
Classified Positions Authorized	11.90	1	12.90
Unclassified Positions Authorized	2.40	0	2.40

GPR Funding Request FY11

Expenditure Items	Adjusted Base	Changes to	TOTAL BUDGET
Permanent Position Salaries	883,900	34,500	918,400
LTE/Misc. Salaries	11,400	136,800	148,200
Fringe Benefits	367,000	25,500	392,500
Supplies and Services	1,165,700	2,700	1,168,400
Permanent Property	6,400		
Total Costs	2,434,400	199,500	2,627,500
Project Positions Authorized			
Classified Positions Authorized	11.90	1	12.90
Unclassified Positions Authorized	2.40	0	2.40

PR Funding Request FY10 and FY11*

Expenditure Items	Adjusted Base	Changes to	TOTAL BUDGET
Permanent Position Salaries	233,400	0	233,400
LTE/Misc. Salaries	1,000	0	1,000
Fringe Benefits	98,600	0	98,600
Supplies and Services	86,600	0	86,600
Permanent Property	6,400	0	6,400
		0	
Total Costs	419,600	0	419,600
Project Positions Authorized			
Classified Positions Authorized	2.85	0	2.85
Unclassified Positions Authorized	.60	0	.60

* There were no decision items and no changes to the base for PR in either fiscal year.

3. Staffing

16.54 Request for Federally-Funded Project Positions

On August 13, 2008, staff submitted a 16.54 Request to the State Budget Office requesting the extension of 26 Federally-funded positions. The 26 positions were originally approved for the implementation of the Statewide Voter Registration System (SVRS) and will expire within this fiscal year.

On September 17, 2008, the agency request was approved to create 26 Federally-funded project positions through June 30, 2011.

Attorney Positions

The recruitment process for the two-attorney positions is moving along. On September 25 and September 26 an interview panel convened to conduct first-round interviews for the attorney positions. As a result of that process, five candidates were selected to participate in a second round interview scheduled on October 1. We expect to conclude the recruitment effort within the next week.

EAC Data Collection Grant Positions

The recruitment for the EAC Data Collection Grant Positions is moving along. First round interviews have been conducted for all four positions. We expect to conduct second round interviews the week of October 1 and to make hiring decisions within that same week.

LTE's

In preparation for the fall elections we are recruiting ten-data entry specialist LTE's to enter voter registration applications into the SVRS system. To date, we have hired three LTE's and are conducting interviews to complete the recruitment process for the remaining 7 vacancies.

4. Presentations

On August 25, 2008, I made a presentation to the 2008 Wisconsin Judicial College. Jim Alexander and I taught the section on the Code of Judicial Ethics and the Disciplinary Process. Jon Becker has been a regular presenter at this conference for several years.

On August 26, 2008, I participated in a conference call organized by the Center for State Innovation to discuss election preparedness with chief election officials representing states with Election Day registration.

On September 5, 2008 George Dunst made a presentation to state prosecutors as part of their monthly continuing legal education program. The subject was enforcement preparations for the Fall elections. The agency staff has developed this curriculum and presented it for the past several general election cycles.

On September 15 and 16, 2008, David Buerger and I attended *Democracy at a Distance: A Summit to Make Voting Work for Military and Overseas Voters*. The conference was organized by the Pew Charitable Trusts.

On September 27, 2008, I participated on a panel for the ACLU of Wisconsin Activist Conference in Madison. The panel included Andrea Kaminski of the League of Women Voters of Wisconsin, Alicia Boehme of Disability Rights Wisconsin, Craig Oliver, a Racine community activist and Renee Crawford of the ACLU. The panel focused on advancing voting rights in Wisconsin.

On October 2 and 3, 2008, I participated in round table discussions in the city of Sheboygan and the town of Barnes with municipal clerks about preparations for the Fall elections and developing an agenda for future collaboration. This is part of a series of district meetings organized by the Wisconsin Municipal Clerks Association (WMCA) and the Elections Division. Nat Robinson and I along with David Buerger, Ross Hein, Dotti Milner and Nate Judnic are sharing duties as part of a set of three-person agency teams to exchange ideas with WMCA members to improve the level of cooperation and support between the Division and municipal clerks.

Looking Ahead

In the next month, we will be working diligently to complete preparation for the November 4th election. We anticipate the largest turnout in Wisconsin history. Considerable attention is focused on agency preparation.

On October 7, 2008 the Elections Division staff will coordinate the selection of presidential electors by the Democratic, Libertarian, Republican and Wisconsin Green political parties.

State law requires the candidates for legislative office and the holdover state senators to meet at the Capitol and select the presidential electors for their respective parties. § 8.18, Wis. Stats. The political parties generally direct the selection process.

The election will be followed by the official canvass process, which will likely include several recounts. The Elections Division staff will organize the conduct of the presidential electors meeting to cast the official vote for president and vice- president on December 15, 2008.

This will also be a time of transition for the agency. George Dunst will retire on October 13, 2008 after more than 33 years of state service, including 13 with the Department of Revenue in the area of inheritance tax and more than 20 years working for the State Elections Board and the Government Accountability Board. His depth and breadth of knowledge along with his unique sense of humor will be missed. We expect two new staff counsel to join us shortly.

The agency is also preparing for a transition to new quarters where we will all be in one location. This will greatly improve our customer service and agency efficiency.

Action Items

1. Approve the proposed 2009-2011 agency budget request.