

Wednesday, November 9, 2011 – 9:00 A.M.

Open Session

G.A.R. Memorial Hall
Room 417 East, State Capitol
Madison, Wisconsin

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A. Call to Order	
B. Director’s Report of Appropriate Meeting Notice	
C. Approval of Minutes of Previous Meeting	3
1. September 12, 2011 Meeting	
D. Public Comment (Limit of 5 minutes per individual appearance)	
<i>Break</i>	
E. Treatment of Wisconsin Technical College System Student Identification Cards under 2011 Wisconsin Act 23	12
F. Joint Committee for the Review of Administrative Rules Request for Policy on Use of Stickers on Student Identification Cards	62
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L.	Closed Session	
5.05 (6a) and 19.85 (1) (h)	The Board’s deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (g)	The Board may confer with legal counsel concerning litigation strategy.	
19.851	The Board’s deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (c)	The Board may consider performance evaluation data of a public employee over which it exercises responsibility.	

The Government Accountability Board has scheduled its next meeting for Tuesday, December 13, 2011 at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor in Madison, Wisconsin, beginning at 9:00 am.

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue
Madison, Wisconsin
September 12, 2011
9:30 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
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E. Approved 2012 Meeting Dates	7

Present: Judge Thomas H. Barland, Judge Gerald Nichol, Judge Michael Brennan, Judge Thomas Cane, Judge David Deininger, and Judge Timothy Vocke

Staff present: Kevin Kennedy, Nathaniel E. Robinson, Jonathan Becker, Shane Falk, Michael Haas, Ross Hein, Sharrie Hauge and Reid Magney

A. Call to Order

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

B. Director's Report of Appropriate Meeting Notice

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

C. Approval of Minutes of Previous Meetings

August 2, 2011 Meeting – Open Session

MOTION: Approve the Open Session minutes of the meeting of August 2, 2011.
Moved by Judge Deininger, seconded by Judge Cane. Motion carried unanimously.

D. Public Comment

Andrea Kaminski of Madison appeared on behalf of the League of Women Voters of Wisconsin Education Fund to update the Board about League election observers during recall elections, and promised that LWV will report its findings to the Board. She also expressed concerns that the public information campaign on the Voter Photo ID Law will not begin until January 2012.

Attorney James S. Mueller of Cross Plains appeared on behalf of Wisconsin Counts to express concerns about the programming of election equipment, and the potential for one person to fraudulently affect the outcome of an election.

Mary Ann Hanson of Brookfield appeared on her own behalf to comment on the Board staff's proposed guidance on central counting of ballots. She said there are still unresolved issues regarding uniformity.

Ardis Cerny of Pewaukee appeared on her own behalf to comment on the Statewide Voter Registration System, and her desire to have a HAVA Check completed before the voter's name goes into the system. She also expressed concerns about single-signature recall petitions.

Patrick Williams of Milwaukee appeared on his own behalf to comment on his request to use a single-signature recall petition. He also discussed options for online recall petitions, which he said would make address verification easier.

Discussion.

Darcy Gustavsson of Brookfield appeared on behalf of Wisconsin Counts to discuss issues with ballot bag labels and seals from the Supreme Court recount in Waukesha County. She presented Board members with pictures and other documentation.

Dane County Clerk Karen Peters appeared to thank the G.A.B. staff for its efforts to train clerks, and noted that a recent G.A.B. presentation at a clerks meeting in the Wisconsin Dells was the best they have ever had. She also discussed issues with voters getting birth certificates in order to obtain an ID card for voting purposes.

E. Proposed Guidance on Central Count Absentee Vote Locations

Staff Counsel Shane Falk provided an oral and written report. Falk said some clerks have not yet responded to the Board's request for feedback on the proposal. He said staff will continue to solicit comments from clerks and recirculate the proposed guidance for more public comments prior to the Board meeting in November.

Discussion.

F. Review of Photo ID Issues

Staff Counsel Michael Haas provided an oral and written report. He explained that these issues were being presented to the Board in order to make our interpretation of the Voter Photo ID Law as transparent as possible. If the Board's interpretation is not what the Legislature [intended](#) the Legislature can act to correct the Board's interpretation.

Discussion.

Chairperson Barland asked about the status of technical college ID cards.

Mr. Haas and Director Kennedy explained that no student ID cards were included as acceptable forms of identification in the original legislation, and that subsequently university and college ID cards were added. During debate on the bill, an amendment to include technical college student ID cards was offered and defeated.

MOTION: Adopt statutory interpretation §5.02(6m)(f), Wis. Stats., to permit student identification cards to be used for voting purposes only if they are issued by a public or private college or university that awards an associate degree or higher, and is also accredited by a regional or national accreditation association, and excluding technical colleges. Moved by Judge Deininger, seconded by Judge Brennan. Motion carried unanimously.

Mr. Haas introduced the next issue, which deals with the proof of enrollment a student must present to poll workers in order to use a student ID card, such as a tuition receipt or a letter from the educational institution.

Discussion.

MOTION: Adopt statutory interpretation of §5.02(6m)(f), Wis. Stats., to require that voters using a student identification card also provide separate proof of enrollment, which shall refer to the term in which the election takes place. Moved by Judge Cane, seconded by Judge Vocke. Motion carried unanimously.

Mr. Haas introduced the next issue, which deals with the use of a sticker on an existing student ID card to make it comply with the requirements of the law for a signature, an issuance date and an expiration date not more than two years after issuance. Current UW System ID cards expire after five years.

Discussion.

MOTION: Adopt statutory interpretation of §5.02(6m)(f), Wis. Stats., to permit the use of stickers or labels affixed to student identification cards to document issuance and expiration dates and the cardholder's signature, provided that the sticker or label contains

some indication that it was produced by the college or university. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.

G. Nomination Paper/Recall Petition Format Issue

Elections Division Administrator Nathaniel E. Robinson and Lead Election Specialist Diane Lowe provided an oral and written report in response to questions posed to staff by Mr. Patrick Williams of WisconsinRecall.net.

Ms. Lowe said Mr. Williams wants to know whether the Board would accept recall petitions with the signature of a single individual, and whether that signature can serve as both the request for an official to be recalled and the required circulator's certification. She said that such a proposal would generate more paper, but would not present problems for processing the petitions.

Director Kennedy said the Board already sees prepared petitions that people can download online and circulate.

Discussion.

Judge Nichol said a one-signature petition would make recalls easier, and reduce the need for committees to hire outsiders, which were the source of misconduct and fraud in the Senate recalls earlier this year.

Judge Vocke agreed that it would make recalls easier, and said there is a benefit to making people collect signatures out on the street.

Judge Deininger said he did not know what the basis would be for rejecting single-signature petitions.

MOTION: Approve the one-signature petition form as an acceptable instrument for petition signature collection, but take no position on Mr. Williams' proposed online process for petition circulation. Moved by Judge Deininger, seconded by Judge Brennan.

Discussion.

Motion carried.

H. Request for Attorney General Opinion on Governor/Lieutenant Governor Recall

Director Kennedy provided an oral and written report. He said people have been asking whether the Governor and Lieutenant Governor are recalled together, and staff's consensus is that they must be recalled separately. He asked the Board to make a request of the Attorney General for a formal opinion.

MOTION: Direct staff to request an opinion of the Attorney General on whether an initiative to recall the Governor automatically includes the Lieutenant Governor or whether the recall of either or both officials must be done separately. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

I. Review of Campaign Finance Attribution Statement Rules

Staff Counsel Michael Haas provided a written report.

MOTION: Adopt statutory interpretation of §11.30(2)(fm), Wis. Stats., to require the use of an attribution statement on political communications printed on bumper stickers and t-shirts or other clothing. Moved by Judge Vocke, seconded by Judge Deininger. Motion carried unanimously.

J. Legislative Audit Bureau Report on Contract Sunshine

Director Kennedy provided an oral and written report on the Legislative Audit Bureau's recent review of the Contract Sunshine program. He asked the Board to endorse the LAB's recommendations.

Discussion.

MOTION: Endorse the Legislative Audit Bureau's recommendations to repeal the Contract Sunshine statutes entirely or modify the Contract Sunshine statutes to give responsibility for the program to the Department of Administration. Moved by Judge Cane, seconded by Judge Brennan. Motion carried unanimously.

K. Report on Elections Division Initiatives

1. Online Voter Registration (Click and Mail)

Elections Division Administrator Nathaniel E. Robinson and SVRS Lead Sarah Whitt presented an oral and written report. Click and Mail will allow any elector to go online and fill out a voter registration form, print it out and mail it to the local clerk. The information filled out online will be available to the local clerk without reentering the data.

Discussion.

2. Status of SVRS Redistricting

Ms. Whitt gave an oral and written report about staff's efforts to implement the new legislative districts in SVRS using geographical information systems technology (mapping) to put voters in the correct legislative districts.

Discussion.

3. Nomination Paper/Recall Petition Automation Process

Mr. Robinson provided an oral and written report on efforts to automate the process of reviewing petitions. IT Team Lead David Grassl described efforts to use optical character recognition software, as well as document and process management tools.

Chairperson Barland called a lunch recess at 12:15 p.m. The Board reconvened at 12:48 p.m.

L. Legislative Status Report

Director Kennedy presented an oral and written report. He commented that the Legislature would be in session on September 13 to swear in new members.

M. Administrative Rules

1. Status and Prioritization Report on Pending Administrative Rules

Staff Counsel Shane Falk presented an oral and written report. He discussed a system of prioritizing administrative rules.

MOTION: Approve the administrative rule-making prioritization as proposed by staff, and a direct that a rule priority level shall be applied to each new future rule-making upon the proposed rule's first consideration by the Board on a scale as follows:

- 1. High Priority** — Board directs staff to continue expeditious promulgation, with a goal to complete promulgation within six months.
- 2. Medium Priority** — Board directs staff to continue promulgation with the desire to complete promulgation within the next year.
- 3. Low Priority** — Board directs staff to continue promulgation as workload permits, even if the four year rule-making period may expire resulting in withdrawal of the proposed rule.
- 4. Hold** — Board directs staff to stay promulgation procedures other than regular updates at meetings regarding events potentially affecting the stayed rulemaking and until further direction from the Board.
- 5. Withdrawal** — Board directs staff to withdraw the proposed rule.

Moved by Judge Vocke, seconded by Judge Cane. Motion carried unanimously.

MOTION: Approve the September 12, 2011 Administrative Rule-Making Status and Prioritization Report, including the scaled prioritization for each individual proposed rule and any recommendation to withdraw a particular proposed rule, and

directs staff to take necessary steps to continue administrative rule promulgation activities consistent therewith. Moved by Judge Nichol, seconded by Judge Brennan. Motion carried unanimously.

N. Proposed 2012 G.A.B. Meeting Schedule

Director Kennedy presented the Board with a list of possible dates for Board meetings in 2012. The dates are:

Thursday, January 12, 2012 (Teleconference)
Tuesday, March 20 and Wednesday, March 21, 2012
Tuesday, May 15, 2012
Tuesday, June 12, 2012
Tuesday, August 28, 2012
Tuesday, October 23, 2012
Tuesday, December 11, 2012

Discussion of meeting start times. Consensus to start meetings at 9 a.m., beginning with the November 2011 meeting. Director Kennedy said the June 12 meeting will be the ballot access meeting. Judge Barland said he will be out of the country on June 12.

MOTION: Adopt the proposed 2012 meeting schedule. Moved by Judge Brennan, seconded by Judge Nichol. Motion carried unanimously.

Director Kennedy asked about moving the November meeting from the 8th to the 9th. Consensus to move the meeting. He also raised the issue of changing the December 12 meeting date. Judge Cane said December 13 is better for him. Consensus to move the meeting if follow up with Board Members indicates no conflict. Following the meeting it was determined that there was no conflict and the December meeting will be held on Wednesday, December 13, 2011, beginning at 9:00 am.

O. Director's Report

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

Written report from Division Administrator Jonathan Becker was included in the Board packet.

Elections Division Report – election administration

Written report from Division Administrator Nathaniel E. Robinson was included in the Board packet.

Office of General Counsel Report – general administration

Written report from Kevin J. Kennedy, Sharrie Hauge, and Reid Magney was included in the Board packet.

Judge Brennan inquired about cost of recall elections.

Director Kennedy said staff estimates the cost at \$2.1 million in state and local costs, including \$88,000 for G.A.B. staff, which spent approximately 5,000 hours on recall activities.

P. Closed Session

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

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

Roll call vote: Barland:	Aye	Brennan:	Aye
Cane:	Aye	Deininger:	Aye
Nichol:	Aye	Vocke:	Aye

Motion carried. The Board convened in closed session at 1:23 p.m.

N. Adjourn

The Board adjourned in closed session at 4:17 p.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Wednesday, November 9, 2011, at the GAR Hall, Room 417 North, State Capitol, in Madison, Wisconsin beginning at 9 a.m.

September 12, 2011 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

October 19, 2011

September 12, 2011 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Acting Board Secretary

November 9, 2011

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

DATE: For the November 9, 2011 Meeting

TO: Government Accountability Board Members

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Treatment of Wisconsin Technical College System Student Identification Cards under 2011 Wisconsin Act 23

On Monday, September 12, 2011, the Board adopted an interpretation of Wis. Stats. §5.02 (6m)(f) that excludes the use of Wisconsin Technical College System (WTCS) student identification cards for voting. The Board's determination was based on a staff analysis presented at the meeting which focused on the legislative history of 2011 Wisconsin Act 23. The staff reading of the applicability of Wis. Stats. §5.02 (6m)(f) to exclude the use of WTCS student identification cards for voting appears to have caught members of the WTCS community by surprise.

This matter is before the Board at the direction of the Board Chair in consultation with the Director and General Counsel to review the position adopted by the Board at its last meeting. Staff recommends the Board reaffirm its position that Wis. Stats. §5.02 (6m)(f), created by 2011 Wisconsin Act 23, excludes the use of WTCS student identification cards for voting. Staff further recommends the Board ask the Legislature to enact legislation explicitly permitting the use of WTCS student identification cards for voting.

Staff received numerous contacts from members of the WTCS community challenging the Board action and requesting the Board reconsider its position. Copies of correspondence and emails accompany this memorandum. Because there were intimations of a lawsuit challenging the Board's position, we consulted with staff at the Wisconsin Department of Justice (DoJ) to determine if the Board's position would be defended by DoJ. In oral communications we were advised the Board's position was legally defensible. The initial staff analysis was augmented with additional supporting authority in discussions with DoJ.

The essence of the staff analysis is based on a review of parallel provisions of the election code, (Wis. Stats. Chapters 5-12) and the history of 2011 Wisconsin Act 23 which established the requirement that voters must present a form of acceptable photo identification in order to receive a ballot.

Section 5.02(6m)(f), Wis. Stats., refers to student identification cards "issued by a university or college in this state that is accredited, as defined in 39.30(1)(d)..." The definition of an "accredited" institution in §39.30(1)(d), Wis. Stats., is:

an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01(4) or, if not so accredited, is a

nonprofit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited.

The website for the State of Wisconsin Educational Approval Board refers to accreditation of educational institutions by private educational associations, because there is no centralized authority exercising single national control over post-secondary educational institutions in the United States. The website notes that a list of institutions accredited by various private organizations is maintained by the Council on Higher Education Accreditation (CHEA). The CHEA list contains 102 such institutions located in Wisconsin, including University of Wisconsin System campuses, technical colleges, and private colleges and universities. The list also includes institutions such as the Diesel Truck Driver Training School, Kaplan Test Prep, Four Seasons Salon and Day Spa, and Martin's College of Cosmetology.

The issue the Board addressed is whether the Legislature intended for student identification cards from all such accredited institutions to be permitted to be used for voting purposes. One possible reading of the statutory language cited above is that a student ID from any accredited institution located in Wisconsin may be used for voting purposes. Another interpretation is that the institution must be both accredited and a university or college located in Wisconsin. The G.A.B. staff believes the Legislature took a very narrow approach to the use of university and college student identification cards. This view has been confirmed in discussions with the principal authors of the photo ID legislation.

To support this interpretation, we noted that the initial legislative proposals did not include any provisions permitting the use of student identification cards as an acceptable form of identification for voting. See 2011 Senate Bill 6, Section 23; 2011 Assembly Bill 7, Section 23. Only three types of identification were permitted: a Wisconsin driver license, a military identification card and a Department of Transportation-issued state identification card. In fact the acceptable identification was not defined in the original legislation. It was inserted in the statutory section specifying the steps a voter must follow to receive a ballot. Subsequent discussions with the principal authors of the photo ID legislation indicate that any additions to these original three types of acceptable identification for voting were carefully vetted.

In testimony to the Senate Committee on Transportation and Elections on January 26, 2011, I suggested the Legislature consider expanding the types of acceptable identification to include “a student identification card issued by an accredited institution of higher education, including a university, college or technical school.”

http://gab.wi.gov/sites/default/files/publication/65/kennedy_senate_committee_testimony_1_26_11_pdf_12141.pdf

In Senate Substitute Amendment 1 to 2011 Senate Bill 6, the Senate expanded the types of acceptable identification and created a definitional section for proof of identification. The expanded list did not include student identification cards. This version passed the Senate with one unrelated amendment. Engrossed Senate Bill 2011, Section 1.

In the Assembly, the list of acceptable identification was expanded to include certain student identification cards. In Assembly Substitute Amendment 1 to 2011 Assembly Bill 7, §5.02 (6m)(f) was created to permit:

An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d), that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented. (Emphasis added)

A second substitute amendment to 2011 Assembly Bill 7 was introduced by the Joint Committee on Finance. This version was the basis for the legislation that passed the Assembly, was concurred in by the Senate and signed into law. Assembly Substitute Amendment 2 to 2011 Assembly Bill 7.

Wisconsin law also permits the use of certain identifying documents as proof of residence in order to register to vote at the polling place on Election Day. These identifying documents include a university, college, or technical college identification card that contains a photograph of the cardholder and contains the full name and current address of the student. Wis Stats. §6.34 (3)(a)7. The only amendment adopted by the Assembly, Assembly Amendment 1 to Assembly Substitute Amendment 2 to 2011 Assembly Bill 7, modified this provision to require a university, college, or technical college identification card together with a current fee payment receipt in order to qualify as acceptable proof of residence. See 2011 Wisconsin Act 23, Section 33m. This demonstrates the Legislature has had a practice of making a specific reference to technical college identification cards when delineating the requirements for voter registration and it continued that distinction in the legislation that created the photo identification requirement for voting. By limiting its reference to “university and college” student identification cards in its definition of acceptable “identification” while adding “technical college” identification cards for acceptable “proof of residence” for voter registration, it appears clear the Legislature did not want to include technical college identification cards as an acceptable form of identification for voting.

There was also an unsuccessful attempt to include technical colleges among the institutions which could issue student ID cards for voting purposes, as illustrated by Assembly Amendment 23 to Assembly Substitute Amendment 2 to 2011 Assembly Bill 7. This proposed amendment, specifying that identification cards from schools in the technical college system could be used for voting purposes, was rejected by the Assembly and was not included in the enacted legislation.

Given this legislative action, it appears clear that the Legislature did not intend for technical college ID cards to be treated as equivalent to those issued by other universities and colleges. More generally, it appears that under §5.02(6m)(f), Stats., an institution must not only be accredited, but it must also qualify as a university or college. The statutes governing the UW System define a “university” as “any baccalaureate or graduate degree granting institution,” and a “college campus” as “any one of the 2-year collegiate campuses of the system.” §36.05(13), (6m), Wis. Stats. Under these definitions, WTCS schools are not considered a “university” because they do not grant baccalaureate or graduate degrees, and they are not considered “colleges” because they are not one of the 2-year campuses of the UW System.

Whether this is a good or fair policy, it is what the Legislature adopted. Staff has had discussions with the principal authors and their staffs as well as legislators who believe WTCS student ID cards should be permitted as an acceptable form of identification for voting. As

indicated the focus of the principal authors was to limit the number of acceptable types of identification. The goal was to encourage individuals without a driver license to obtain the Department of Transportation issued identification card, which is available without charge if the applicant indicates it is necessary for voting. There was a sense WTCS students were more likely to have access to a Wisconsin driver license because many are older than traditional college students and almost all do not live on campus. Only Western Wisconsin Technical College in LaCrosse presently has student housing on campus. The principal authors have said that in a sense college and university students were getting special accommodations because they were offered an additional form of acceptable identification for voting which is not available to other electors.

However, it has also been pointed out that a large number of minority students attend technical colleges and many use public transportation to attend class. In testimony before the Senate Committee on Transportation and Elections on October 26, 2011, two WTCS students indicated it was difficult to get a DoT issued ID because they were working two jobs and caring for dependent children. In addition, WTCS students argue that their ID cards should be treated equally with those of students attending for-profit universities and colleges.

There are approximately 400,000 students enrolled in the WTCS. This is almost 10% of the Wisconsin voting age population. Making their student ID cards an acceptable form of identification for voting would broaden the access of eligible voters to an acceptable photo ID and strengthen the law against challenges under the theory that it excludes a significant number of eligible voters from participating in the democratic process.

Proposed Motion

The Government Accountability Board finds Wis. Stats. §5.02 (6m)(f), created by 2011 Wisconsin Act 23, does not permit the use of WTCS student identification cards for voting. The Board directs staff to request the Legislature to consider enacting legislation explicitly permitting the use of WTCS student identification cards for voting.

Kennedy, Kevin - GAB

From: Peter Earle [peter@earle-law.com]
Sent: Monday, September 12, 2011 5:33 PM
To: Kennedy, Kevin - GAB
Cc: 'Peter Earle'
Subject: GAB action to exclude photo ID's from technical colleges
Importance: High

Mr. Kennedy: I am a member of the Board of Trustees of the Milwaukee Area Technical College. However, I write you this e-mail as an individual person acting in my own capacity who is very concerned about the action taken today by the GAB pursuant to your legal memo and recommendation to exclude student identification cards from the state's technical colleges from the definition of valid photo id's for voting purposes. According to your memo, college id's from the Wisconsin Technical College System can not be used a valid photo identification under the new Vote ID statute. Your memo concedes that "*Section 5.02(6m)(f), Wis. Stats., refers to student identification cards "issued by a university or college in this state that is accredited, as defined in 39.30(1)(d)..."*" So according to the explicit language of the statute, a photo ID issued by a "college" is valid for voting purposes if the college is located in Wisconsin and it is accredited as defined in §39.30(30(1)(d) of the statutes. The definition is unambiguous and MATC unambiguously meets this definition!

Your memo acknowledges that the definition of an "accredited" institution in §39.30(1)(d), Wis. Stats., is "*an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01(4) or, if not so accredited, is a nonprofit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited.*" MATC is fully accredited by a nationally recognized accrediting agency (North Central Association of Colleges and Schools) which is one of six regional institutional accreditors in the United States. Furthermore, MATC's credits are accepted on transfer by dozens of institutions of higher learning which are also fully accredited, including universities in the UW system.

There is simply no reading of §5.02(6m)(f) of the new Voter ID law which is ambiguous as to the inclusion of photo id's from accredited colleges located in the state of Wisconsin within the definition of a valid photo id. This is a situation where the GAB has resorted to extraneous sources to find an ambiguity and then used that finding to over rule the plain language of the statute that is NOT ambiguous on its face. In effect, ambiguity is imported into an otherwise plainly worded statute. However, the well established rules of statutory construction make clear that where the language of a statute is plain, it must be taken as written.

In your memo you reason that since an amendment to explicitly include technical colleges failed in the assembly, the plain language must be interpreted to exclude technical colleges. You took this position even though the plain language of the statute includes those colleges within the definition of colleges whose ID's will be considered valid. But failed legislative proposals are generally given very little interpretive weight even when the norms of statutory construction call for reviewing legislative history in the face of an ambiguity. See for example, *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 187 (1994) (Congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such

inaction, including the inference that the existing legislation already incorporated the offered change); see also *Solid Waste Agency of N. Cook County v. United States Army Corps of Eng'rs*, 531 U.S. 159, 169-70 (2001) (A failed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute. A bill can be proposed for any number of reasons, and it can be rejected for just as many others.”)

Because this interpretation of the plain language of the statute affects tens of thousands of technical college students, many of whom have no photo identification other than their college id, I believe that you should reconsider your memo and request that the GAB modify its position as quickly as possible. Please don't hesitate to call me if you have any questions or wish to discuss this with me.

Thank you for your attention. Peter Earle (414 276-1076)

Kennedy, Kevin - GAB

From: Allison V.A. Carroll [avalex@gmail.com]
Sent: Wednesday, September 21, 2011 5:33 PM
To: Kennedy, Kevin - GAB
Subject: Act 23 & Technical College System IDs

Follow Up Flag: Follow up
Flag Status: Green

Director Kennedy -

As an employee of Southwest Wisconsin Technical College, the wife of a Southwest Tech student and the friend and family member of many other technical college system students and graduates I urge you and the other members of the GAB to reconsider your interpretation of Act 23 that excludes technical college student IDs for voting purposes and place this item on the agenda of your next meeting.

Take into consideration that:

- The plain language of the new statute includes technical colleges
- The plain language of the new statute includes technical colleges,
- Wisconsin technical colleges are fully accredited colleges offering associate degrees
- Technical colleges offer transfer credits to all University of Wisconsin institutions and to many other colleges and universities
- The Legislature did not intend to exclude technical colleges.

Wisconsin's higher education family has included technical colleges and their forerunner institutions for 100 years. There is no indication that the Legislature intended to exclude technical colleges as part of the state's higher education family for voter ID purposes.

It appears that the plain language and meaning of the new statute was intended to include technical college IDs. On this basis, the GAB should revisit its interpretation as soon as possible.

Sincerely,
Allison V.A. Carroll
Lancaster, WI

--

Allison V. A. Carroll

"everything changed the day she figured out there was exactly enough time for the important things in her life."

-Brian Andreas

Kennedy, Kevin - GAB

From: joeamy@frontiernet.net
Sent: Wednesday, September 21, 2011 3:12 PM
To: Kennedy, Kevin - GAB
Subject: voter ID

Follow Up Flag: Follow up
Flag Status: Green

Hello Kevin,

I am respectfully asking the GAB to add to their next agenda an item reconsidering the ruling regarding Wisconsin Technical College ID's being used for voter identification. Wisconsin Technical Colleges are members of the Wisconsin Technical College System and are accredited higher learning institutions. Three of them, Nicolet, Madison and Milwaukee even have designated University Transfer Programs.

Please look at this issue again and hopefully your board will see fit to add Wisconsin Technical College ID's to acceptable voter identification.

Sincerely,

Amy Jacobs

Kennedy, Kevin - GAB

From: Amy Pietsch [ampietsch@gmail.com]
Sent: Wednesday, September 21, 2011 3:21 PM
To: Kennedy, Kevin - GAB
Subject: WI Technical College IDs
Follow Up Flag: Follow up
Flag Status: Green

Dear Mr. Kennedy:

My name is Amy Pietsch and I reside in Wisconsin's 14th Senate District. I am contacting you today to request the Government Accountability Board (GAB) reconsider its recent action prohibiting the use of technical college student IDs for voting. I further request you place this item on the Agenda for the next GAB meeting and that the GAB interpret the law as it was written, which was to include Wisconsin Technical College IDs as valid IDs under the new Wisconsin Voter ID legislation.

The Wisconsin Technical College System (WTCS) serves more than 425,000 people in Wisconsin annually. The UW-System serves about 200,000 and the private college system, less than that. The WTCS is a powerful driver of economic development and workforce training and I believe not including technical college IDs in the new Voter ID legislation was an oversight and not intentional. Please reconsider for these additional reasons:

- The plain language of the new statute includes technical colleges,
- Wisconsin technical colleges are fully accredited colleges offering associate degrees,
- Technical colleges offer transfer credits to all UW institutions and to many other colleges and universities, and
- The Legislature did not intend to exclude technical colleges.

Please know, I encourage you to share my request with the GAB. Thank you very much for your time.

Sincerely,

Amy

Amy M. Pietsch
ampietsch@gmail.com
N2523 Coach Lite Ct.
Wautoma, WI 54982

Kennedy, Kevin - GAB

From: Andrea M Foley [AMFoley1@matcmadison.edu]
Sent: Wednesday, September 21, 2011 5:25 PM
To: Kennedy, Kevin - GAB
Subject: technical college student IDs for voting
Follow Up Flag: Follow up
Flag Status: Green

Dear Mr. Kennedy,

I am confused by the current interpretation by the Wisconsin Government Accountability Board concerning the prohibition of technical college student ID's for voting. I do not believe the legislature intended to exclude technical colleges. WI technical colleges are fully accredited, offer associate degrees, and offer transfer credits to many other colleges and universities. University of Wisconsin students as well as many students attending private colleges in our state will be allowed to use their student ID's to vote. I am very confused by this discrepancy. Please share my communication with the other members of the Wisconsin Government Accountability Board and reconsider this current interpretation.

Respectfully,

Andrea M Foley DVM
 Veterinary Technician Faculty
 Madison Area Technical College
 3550 Anderson Street
 Madison, WI 53704-2599
 (608) 246-6742
amfoley1@matcmadison.edu

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Kennedy, Kevin - GAB

From: Barbara N Anderegg [BAnderegg@matcmadison.edu]
Sent: Wednesday, September 21, 2011 5:57 PM
To: Kennedy, Kevin - GAB
Subject: Tech college voter IDs
Follow Up Flag: Follow up
Flag Status: Green

Dear Kevin Kennedy, I was really upset to hear that while you are accepting University of Wisconsin and most private college student IDs for voter ID purposes, you are not accepting IDs from students at Wisconsin Technical Colleges. Wisconsin has included technical colleges as a crucial part of higher education for years. There is no indication that the Legislature intended to exclude technical colleges for voter ID purposes in the new statute. Technical colleges provide vital pathways for economically and academically disadvantaged students, including many minorities. The fact that these underrepresented students will not be able to use their student IDs for voter ID purposes, discriminates against them. The fact that two-year colleges are not recognized as the accredited colleges that they are is a slap in the face for these colleges that do so much. I hope the GAB will reconsider its interpretation of this statute and accept technical college student IDs for voter ID purposes.

Barbara Anderegg
Faculty
Madison Area Technical College
608-246-6812

Kennedy, Kevin - GAB

From: Miller, Debbie [MillerDebbie@westernnc.edu]
Sent: Wednesday, September 21, 2011 1:11 PM
To: Kennedy, Kevin - GAB
Subject: Wisconsin Technical College's IDs
Follow Up Flag: Follow up
Flag Status: Green

Dear Mr. Kennedy:

I would ask that you please communicate to the Wisconsin Government Accountability Board the importance of reconsidering its current interpretation specifically excluding technical college student IDs for voting, because Wisconsin technical colleges are fully accredited colleges offering associate degrees, and we offer transfer credits to all UW institutions as well as to many other colleges and universities. I don't believe the it was the Legislature's intent to deliberately exclude technical colleges. The message this sends to technical college students and employees is that our standards are not stringent enough when we accept students, which is not true. I work in the Health and Public Safety Division of Western Technical College, and we have very high standards as to proof of identity, as do all our affiliates. I believe that the language of the new statute includes technical colleges. Please share my communication with the GAB's board members, because this is an important issue that needs to be addressed.

Thank you for your consideration.

Debbie Miller

Health & Public Safety Division
Western Technical College
400 Seventh Street N.
La Crosse, WI 54601
Phone: 608-789-6080
Fax: 608-785-9087

Kennedy, Kevin - GAB

From: Duane Ford [dford@swtc.edu]
Sent: Wednesday, September 21, 2011 4:22 PM
To: Kennedy, Kevin - GAB
Cc: Derek Dachelet; Sen.Schultz - LEGIS; Rep.Tranel - LEGIS; Rep.Marklein - LEGIS; Paul Gabriel (pgabriel@districtboards.org); Foy, Morna (foym@wtcsystem.edu)
Subject: Wisconsin technical college ID's as voter ID's

September 21, 2011

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

Dear Director Kennedy:

I write to ask that the Government Accountability Board (GAB) reconsider its recent decision to exclude Wisconsin technical college student ID's for use as voter ID's. I do not believe the legislature intended to so exclude technical college ID's.

The statute states that suitable identification for voting includes "An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d)" The accreditation requirements are stated in s. 39.30 (1)(d) as follows:

"An "accredited" institution is an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01 (4), or, if not so accredited, is a non-profit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited."

Wisconsin's sixteen technical colleges meet this requirement. We are all accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools (<http://www.ncahlc.org/>) which is one of the six regional institutional accreditors in the United States. The Higher Learning Commission accredits degree-granting post-secondary educational institutions in the North Central Region of the United States. This is the same accrediting body that accredits all University of Wisconsin System two and four-year colleges and universities. You can verify our accreditation by visiting the following website: http://www.ncahlc.org/component/com_directory/Itemid,93/form_submitted,TRUE/institution,/show Furthermore, Wisconsin's technical colleges also are each a non-profit institution of higher education with credits that transfer to significantly more than three institutions that are accredited.

The Legislature's language makes it clear that they did not intend to exclude Wisconsin technical college student ID's from serving as voter ID's. I encourage you to put a reconsideration item on the

next GAB meeting agenda. I ask that the GAB's interpretation of the statute be corrected.

Sincerely,

Duane M. Ford, Ph.D.
President, Southwest Wisconsin Technical College
608.822.2300 / dford@swtc.edu / <http://www.swtc.edu>

Kennedy, Kevin - GAB

From: Patrick A Molzahn [PMolzahn@matcmadison.edu]
Sent: Wednesday, September 21, 2011 6:27 PM
To: Kennedy, Kevin - GAB
Subject: WI Technical College ID's for Voter Registration
Follow Up Flag: Follow up
Flag Status: Green

Dear Mr. Kennedy; I find it ironic that WI Technical College students may use their ID cards to register to vote, but NOT to vote! I strong urge the GAB to place this item on your next agenda and urge the Board to reconsider its current interpretation excluding technical college student IDs for voting because:

- The plain language of the new statute includes technical colleges
- WI Technical colleges are fully accredited
- Technical colleges offer transfer credits to all UW institutions and to many other colleges and universities, and finally
- The Legislature did not intend to exclude technical colleges!

Please share my feelings with the GAB Board members.

Patrick Molzahn
Cabinetmaking & Millwork Program Director
Madison Area Technical College
3550 Anderson St.
Madison, WI 53704
<http://matcmadison.edu/plus/cabinetmaking-millwork>
pmolzahn@matcmadison.edu
Tel: 608.246.6842
Fax: 608.246.6880

President, WoodLINKS USA
www.woodlinksusa.org

Kennedy, Kevin - GAB

From: Ann C Camillo [Camillo@matcmadison.edu]
Sent: Thursday, September 22, 2011 8:35 AM
To: Kennedy, Kevin - GAB
Subject: Voter ID Debate
Follow Up Flag: Follow up
Flag Status: Green

Good Morning Kevin,

It has come to my attention that my students here at MATC will not be able to use their college IDs to vote. Is this true? I'm not sure why UW and private college (such as Edgewood, Beloit, etc) students can use their IDs to vote, but not our technical college. I'm hoping you can provide some explanation. Apparently the plain language of the new statute does *not* exclude technical colleges. I know that Madison College is fully accredited, and we offer an "on ramp" to the UW system, so I cannot understand this exemption.

Would you please place this discussion item on your next agenda?
Would you please share this request with the other GAB board members?

I thank you very much for your attention to this matter, and appreciate any feedback or insight you can give me.
Sincerely,

Ann Camillo

Business Lab Coordinator
Madison College
3550 Anderson St.
Madison, WI 53704
(608)243-4019
camillo@matcmadison.edu



September 28, 2011

Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, WI 53707-7984

Dear Director Kennedy:

On behalf of the Wisconsin Technical College System (WTCS), I respectfully request that the Government Accountability Board (GAB) reconsider its decision to exclude Wisconsin technical college student identification cards from being used for voting purposes. There are several reasons why the GAB should reconsider its decision.

The plain language of the statute clearly includes technical college student IDs as an acceptable form of identification for voting purposes. The statute refers to "An unexpired identification card issued by a university or college in this state that is accredited, as defined in §39.30 (1) (d)" The definition of an "accredited" institution in §39.30 (1)(d) Wis. Stats. is:

"...an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01 (4)...."

All sixteen WTCS institutions meet these standards; they are clearly colleges and are accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. This is the same organization that accredits all University of Wisconsin System two- and four-year colleges and universities, as well as many of the private colleges and universities in the state. Attachment A, is a list of all Wisconsin higher education institutions that are accredited by the Higher Learning Commission.

At the September 12, 2011 GAB meeting there appeared to be some confusion regarding WTCS' connection to §39.30 (1)(d) Wis. Stats. However, this confusion is unwarranted as WTCS institutions are just as connected to Chapter 39 as UW System institutions and private nonprofit higher education institutions in this state. Chapter 39 creates the Higher Educational Aids Board (HEAB) and the student financial aid programs it administers. Students at WTCS institutions are eligible for financial aid under nine grant programs administered by HEAB, including three-Indian Student Assistance (§39.38 Wis. Stats.), Wisconsin Higher Education Grant (§39.435 Wis. Stats.), and Wisconsin Covenant Scholars Grants (§39.437)—that specially require an institution to be accredited in order for the students to be eligible.

At that same meeting, a statement was made that WTCS institutions are accredited under Chapter 38 and not Chapter 39 of the Wisconsin statutes. However, it is important to point out that no higher education institution is accredited under Chapter 39 or any other Wisconsin



Daniel Clancy, President
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statute. Chapter 38 creates the WTCS and sets forth its mission and governance structure, while Chapter 36 creates the University of Wisconsin System and sets forth its mission and governance structure.

Furthermore, even if one were to erroneously conclude that Wisconsin's technical colleges are not accredited as defined by the statute, their student IDs would still meet statutory standards because they are each a non-profit institution of higher education with credits that transfer to dozens of accredited institutions. Section 39.30(1)(d) provides that if an institution:

“...is not so accredited, is a nonprofit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited.”

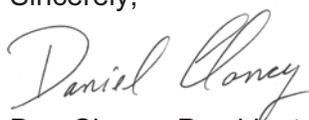
Wisconsin technical college students can transfer credits to all UW System institutions. In fact, during the 2010-11 school year over 3,800 WTCS students transferred to the thirteen UW System four-year Universities and two-year colleges. In addition, WTCS students can also transfer to many private colleges and universities in the state, including Cardinal Stritch University, Edgewood College, Franklin University, Lakeland College, Marquette University, Milwaukee School of Engineering, and Viterbo University to name just a few.

Moreover, given that the statute provides a clear and unambiguous definition of eligible colleges and universities there is no need to use external sources in an attempt to glean legislative intent regarding this definition. Even in cases where there is ambiguity, a failed amendment is typically given very little interpretive weight. There can be many reasons why the legislature rejects proposed amendments, including that the proposed change is unnecessary because the statute as written already incorporates the proposed changes.

Finally, there are important public policy issues to consider, including the fundamental fairness of treating one group of college students different than other groups. WTCS averages nearly 400,000 students whose ID cards would be excluded by the current interpretation, while the UW System's 180,000 students ID cards would be accepted for voting. Additionally, the current interpretation sets up a confusing system that allows technical college student IDs to be used for voter registration purposes, while the same identification card cannot be used for receiving a ballot and voting. One of the primary goals of any electoral system should be ease of administration. However, this decision will create confusion for both poll workers and voters alike.

I request that you place reconsideration of this matter as an item on the November 9, 2011 GAB meeting agenda. We would also appreciate an opportunity to appear at that meeting. I would be happy to provide any additional information that may be helpful for you to address this important issue.

Sincerely,



Dan Clancy, President
Wisconsin Technical College System

Name **State** **Status**
 (Name links to information from the institution's statement of affiliation status and organization profile)

Alverno College WI Accredited

Bellin College* WI Accredited

*Name change: Bellin College of Nursing to Bellin College (7/1/09)

Beloit College WI Accredited

Blackhawk Technical College* WI Accredited

*Name change: Blackhawk Technical Institute to Blackhawk Technical College (1/1988)

Campion College of the Sacred Heart** WI Inactive

**Withdrew from status in 1927

Cardinal Stritch University* WI Accredited

*Name change: Cardinal Stritch College to Cardinal Stritch University (8/1/97)

Carroll University* WI Accredited

*Name change: Carroll College to Carroll University (7/1/08)

Carthage WI Accredited

College
Chippewa
Valley WI Accredited
Technical
College*
 *Name change: District One Technical Institute to Chippewa Valley Technical College (8/11/87)

College of
Menominee WI Accredited
Nation
College of WI Inactive
Racine**
 **College closed in 1974. Transcripts and student records at the University of Wisconsin-Parkside.

Columbia
College of WI Accredited
Nursing, Inc.
Concordia
University WI Accredited
Wisconsin*
 *Name change: Concordia College Wisconsin to Concordia University Wisconsin (8/27/89)

Edgewood WI Accredited
College*
 *Name change: Previously known as Edgewood College of the Sacred Heart
Fox Valley
Technical WI Accredited
College*
 *Name change: Fox Valley Technical Institute to Fox Valley Technical College (8/19/87)

Gateway
Technical WI Accredited
College*

*Name change: Gateway Technical Institute to Gateway Technical College (8/1/87)

Gateway
Technical
Institute- WI Merged
Kenosha
Campus**

**EFFECTIVE JUNE 23, 1980, INCLUDED IN THE ACCREDITATION OF GATEWAY TECHNICAL COLLEGE, WI (which also includes Gateway Technical Institute-Racine Campus)

Gateway
Technical
Institute- WI Merged
Racine
Campus**

**EFFECTIVE JUNE 23, 1980, INCLUDED IN THE ACCREDITATION OF GATEWAY TECHNICAL COLLEGE, WI (which also includes Gateway Technical Institute-Kenosha Campus)

Herzing
University* WI Accredited

*Name change: Herzing College to Herzing University (3/1/09)

Holy
Redeemer WI Inactive
College**

**College closed 7/1985; accreditation status continued until 7/1/86, to enable graduating seniors to complete degrees through transfer credit.

Paper

Chemistry**

**Name changed to Institute of Paper Science and Technology on 7/1/89 when the institution moved to Atlanta, Georgia; accreditation transferred to the Southern Association of Colleges and Schools.

Lac Courte

Oreilles

Ojibwa

WI

Accredited

Community

College

Lakeland

College*

WI

Accredited

*Name change: Mission House College (Plymouth, WI) to Lakeland College (1956)

Lakeshore

Technical

College*

WI

Accredited

*Name change: Lakeshore Technical Institute to Lakeshore Technical College (1987)

Lawrence

University*

WI

Accredited

*Name change: Prior to 1964, accredited under the name Lawrence College. In 1964 absorbed Milwaukee-Downer College; name changed to Lawrence University and included Lawrence College, Downer College, and the Conservatory of Music.

Madison

Area

Technical

College*

WI

Accredited

*Name change: Madison Vocational, Technical and Adult Schools to Madison Area Technical College (1968)

Madison
Junior WI Inactive
College of
Business**

**Withdrawn from candidacy status effective August 28, 1997.

Maranatha
Baptist Bible WI Accredited
College
Marian WI Accredited
University*

*Name change: Marian College of Fond du Lac to Marian University (5/1/08)

Marquette WI Accredited
University
Medical
College of WI Accredited
Wisconsin
Menard
Junior WI Inactive
College**

**Closed 8/31/74

Mid-State
Technical WI Accredited
College*

*Name change: Mid-State Vocational-Technical and Adult Education District to Mid-State Technical College
(1989)

34 Milton WI Inactive
College**

**Accreditation withdrawn effective 12/31/82

Milwaukee
Area WI Accredited
Technical
College*

*Name change: Milwaukee Institute of Technology to Milwaukee Technical College (1968) to Milwaukee Area Technical College (1970)

Milwaukee
Institute of WI Accredited
Art and
Design*

*Name change: Milwaukee School of the Arts to Milwaukee Institute of Art and Design

Milwaukee
School of WI Accredited
Engineering

Milwaukee-
Downer WI Merged
College**

**Became part of Lawrence University in 1964

Moraine Park
Technical WI Accredited
College*

*Name change: Fond du Lac Technical Institute to Moraine Park Technical Institute (1971) to Moraine Park Technical College (1987)

Mount Mary WI Accredited
College
Mount WI Inactive

Senario
College**

**College closed 8/31/02. To enable students to complete a degree from Mount Senario College through transfer credit, the accredited status (on probation) was extended to May 30, 2003. Transcripts for former students of Mount Senario College are held by the Wisconsin Association of Independent Colleges and Universities. Contact information for students seeking copies of transcripts is (by phone) 608/256-7761, ext. 238, or www.waicu.org (click on the link for "Transcript Requests").

Nicolet Area
Technical WI Accredited
College*

*Name change: Nicolet College and Technical Institute to Nicolet Area Technical College (1987)

Northcentral
Technical WI Accredited
College*

*Name change: Marathon County Technical Institute to North Central Technical Institute to North Central Technical College (1988) to Northcentral Technical College (1989)

Northeast
Wisconsin WI Accredited
Technical
College*

*Name change: Northeast Wisconsin Technical Institute to Northeast Wisconsin Technical College (12/1987)

Northland
College WI Accredited

Northwestern
College** WI Merged

**Effective July 1, 1995, the College merged with Doctor Martin Luther College, New Ulm, MN, to become

Martin Luther College.

<u>Ripon College</u>	WI	Accredited
<u>Sacred Heart School of Theology</u>	WI	Accredited
<u>Saint Francis de Sales College**</u>	WI	Inactive

**Prior to 1970, part of Saint Francis Seminary; accredited as a separate entity in 1970; College closed in June 1982; accreditation extended to 9/82 to enable one student to graduate.

<u>Saint Francis Seminary**</u>	WI	Inactive
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**Accredited 1963. The Seminary closed June 30, 2009. Accredited status extended to December 31, 2009.

<u>Saint Norbert College</u>	WI	Accredited
<u>Silver Lake College*</u>	WI	Accredited

*Name change: Holy Family College to Silver Lake College of the Holy Family (1972)

<u>Southwest Wisconsin Technical College*</u>	WI	Accredited
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*Name change: Southwest Wisconsin Vocational-Technical Institute to Southwest Wisconsin Technical College (9/1/87)

Wisconsin
Colleges*

*Name change: University of Wisconsin Centers to University of Wisconsin Colleges (7/25/97)

University of

Wisconsin- WI Accredited
Eau Claire*

*Name change: Eau Claire State Teachers College to Wisconsin State College at Eau Claire to Wisconsin State University at Eau Claire (1964) to University of Wisconsin-Eau Claire (1972)

University of

Wisconsin- WI Accredited
Green Bay

University of

Wisconsin- WI Accredited
La Crosse*

*Name change: Wisconsin State College at La Crosse to Wisconsin State University-La Crosse (1964) to University of Wisconsin-La Crosse (1972)

University of

Wisconsin- WI Accredited
Madison

University of

Wisconsin- WI Accredited
Milwaukee*

*Name change: Prior to 7/1/56, accredited under the name of Wisconsin Teachers College; merged with the University of Wisconsin Extension Division to become the University of Wisconsin-Milwaukee.

University of

Wisconsin- WI Accredited
Oshkosh*

*Name change: Wisconsin State College at Oshkosh to Wisconsin State University-Oshkosh (1964) to University of Wisconsin-Oshkosh (1972)

University of Wisconsin-Parkside WI Accredited

University of Wisconsin-Platteville* WI Accredited

*Name change: Wisconsin State College and Technical Institute to Wisconsin State University-Platteville (1964) to University of Wisconsin-Platteville (1972)

University of Wisconsin-River Falls* WI Accredited

*Name change: Wisconsin State College at River Falls to Wisconsin State University-River Falls (1964) to University of Wisconsin-River Falls (1972)

University of Wisconsin-Stevens Point* WI Accredited

*Name change: Central Teachers College to Wisconsin State Normal School (1951) to Wisconsin State College at Stevens Point to Wisconsin State University-Stevens Point (1964) to University of Wisconsin-Stevens Point (1972)

University of Wisconsin-Stout* WI Accredited

*Name change: Stout Institute to Stout State College (1955) to Stout State University (1969) to University of Wisconsin-Stout (1972)

University of
Wisconsin- WI Accredited
Superior*

*Name change: Wisconsin State College at Superior to Wisconsin State University-Superior (1964) to
University of Wisconsin-Superior (1972)

University of
Wisconsin- WI Accredited
Whitewater*

*Name change: Wisconsin State College at Whitewater to Wisconsin State University at Whitewater (1964)
to University of Wisconsin-Whitewater (1972)

Viterbo
University* WI Accredited

*Name change: Viterbo College to Viterbo University (9/4/00)

Waukesha
County WI Accredited
Technical
College*

*Name change: Waukesha County Technical Institute to Waukesha County Technical College (1/1/88)

Western
Technical WI Accredited
College*

*Name change: Western Wisconsin Technical Institute to Western Wisconsin Technical College (8/19/87)
to Western Technical College (3/29/06)

Wisconsin
Conservatory WI Inactive
of Music**

**Institution withdrew from affiliation and phased out degree program effective 8/15/85.

Wisconsin
Indianhead WI Accredited
Technical
College*

*Name change: Wisconsin Indianhead Vocational Technical and Adult Education District to Wisconsin Indianhead Technical Institute (1978) to Wisconsin Indianhead Technical College (8/1/87)

Wisconsin
Lutheran WI Accredited
College

Wisconsin
School of WI Accredited
Professional
Psychology

Higher Learning Commission • 230 South LaSalle Street, Suite 7-500 • Chicago, IL 60604
Contact Us • webmaster@hlcommission.org • 800.621.7440
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Kennedy, Kevin - GAB

From: David L Shonkwiler [DShonkwiler@matcmadison.edu]
Sent: Thursday, September 22, 2011 7:08 AM
To: Kennedy, Kevin - GAB
Subject: Voter IDs and Technical College Students
Follow Up Flag: Follow up
Flag Status: Green

Mr. Kennedy, I urge you to place this issue at the top of your agenda for the next meeting of the GAB and reconsider the exclusion of Technical College Student IDs for purposes of voting. Our Technical Colleges meet the same standards of accreditation as the UW-System, namely the Higher Learning Commission of the North Central Association, and this enables our students to transfer from many of our AAS Degree programs into Bachelor programs around the state. Many of our students are returning adults, of course, and are already registered voters who may be able to provide other acceptable forms of ID. But for those who are not, I feel that they should be entitled to equal treatment as college students. I agree that we will have to update our IDs so that they indicate an active status, as long as the same is true for university students. One last thought: We are now offering more and more Post-Baccalaureate programs here at Madison Area Technical College. In our Center, we are extremely proud of our Biotechnology Post-Baccalaureate Certificate, which has the admission requirement of a BS Degree in a biological science. This certificate program was developed under funding provided by the National Science Foundation and has the full support of our local biotech industry. Surely it was not the intent of the Legislature to exclude Technical College IDs! Please reconsider. Thank you. David

David L Shonkwiler, Dean
Center for Agriscience & Technologies
Madison Area Technical College
608-246-6801
dshonkwiler@matcmadison.edu

Kennedy, Kevin - GAB

From: Jacob Remes [jacobremes@gmail.com]
Sent: Thursday, September 22, 2011 10:00 AM
To: Kennedy, Kevin - GAB
Cc: pgabriel@districtboards.org
Subject: Technical College IDs

Dear Mr. Kennedy:

I write in regards the decision of the Government Accountability Board not to accept student identification cards issued by Wisconsin's technical colleges for the purpose of voting. I am assistant professor and mentor of public affairs at the State University of New York Empire State College in Brooklyn, N.Y., although I write as an individual, not in any official capacity. SUNY Empire State College is New York's state-wide college for adults, and we grant both associate and bachelor's degrees. I am writing to you, despite not being a Wisconsin citizen, because as a teacher of adults, I am deeply disturbed by any apparent discrimination against adult learners as anything less than "real" college students. I urge you and the GAB to place this item on your next agenda, to reconsider your opinion, and to accept technical college IDs for the purpose of voting.

For your legal purposes, there are clear reasons to accept technical college student IDs. As you know, Wisconsin's new voter ID statute requires the GAB to accept student identification cards. You have interpreted this mandate to include only University of Wisconsin and most private college and university IDs. But, to put it simply, the Legislature did not intend to exclude technical colleges from this mandate, and the plain language of the new statute clearly includes them. Technical colleges are colleges like any others, even though their students often do not fit our common, stereotypical image of what a student should look like. Wisconsin technical colleges are fully accredited colleges offering associate degrees, and their transfer credits are accepted by all UW institutions and many other colleges and universities. Their student IDs are clearly within the category of acceptable IDs imagined by the Legislature.

Excluding technical colleges from the category of those institutions whose IDs are accepted for voting is particularly pernicious because it implies that they are not "real" colleges, that their educations are not truly college educations, and, worst, that their students are not "really" students. None of these things are true. Technical and community colleges around the country serve a valuable function of providing college educations to students who have been excluded from other parts of the higher education system. They are particularly important to returning students. Adult learners often face enough discrimination and difficulties, including employers and families who do not understand that they are also students, even though they are adults. It seems a shame for the GAB to pile on.

I hope that you will reconsider your decision and allow technical college IDs for the purpose of voting.

I would be pleased to discuss this matter with you if it would be helpful. You may reach me by email at this address or by telephone at 718-907-5759.

Sincerely,

Jacob Remes

Kennedy, Kevin - GAB

From: Sandra R Thistle [SThistle@matcmadison.edu]
Sent: Thursday, September 22, 2011 9:17 AM
To: Kennedy, Kevin - GAB
Subject: Interpretation of Voter ID laws
Follow Up Flag: Follow up
Flag Status: Green

Dear Mr. Kennedy,

I would like to request that the GAB reconsider the current interpretation of the voter ID law excluding technical college IDs from use as voter ID. At a time when civic engagement is low, it seems we would want to encourage a lifelong habit of voter participation in our young people. Making voting more difficult for them sends the wrong message.

I respectfully request that you place this item on the agenda for your next scheduled session. Please reconsider because the language of the new statute includes technical colleges, Wisconsin technical colleges are fully accredited colleges offering associate degrees, tech. colleges offer transfer credits to all UW institutions as well as many other colleges & universities, and the Legislature did not intend to exclude the technical colleges.

Please share this request with the Government Accountability Board board members.

Thank You,
Sandy Thistle

Sandy Thistle

Construction & Remodeling Instructor
Madison College
Commercial Ave. Campus - Building B, Room B025
608.246.5291 SThistle@matcmadison.edu



Kennedy, Kevin - GAB

From: Joanne Sandvick [jobobsandvick@msn.com]
Sent: Saturday, September 24, 2011 5:40 PM
To: Kennedy, Kevin - GAB
Subject: Voter ID Bill - Tech Colleges
Follow Up Flag: Follow up
Flag Status: Green

September 24, 2011

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

RE: Voter ID Bill

Mr. Kennedy,

My name is Joanne Sandvick and I have been on the Western Technical College District Board for the past eight years and was Chair for the past two years.

On behalf of the students at all Wisconsin Technical Colleges I am requesting the GAB place the Voter ID Bill on their next agenda to reconsider its current interpretation which excludes technical college student IDs for voting. The reasons for my request are as follows:

- The plain language of the new statute includes technical colleges,
- Wisconsin technical colleges are fully accredited colleges offering associate degrees,
- Technical colleges offer transfer credits to all UW institutions and to many other colleges and universities, and
- The Legislature did not intend to exclude technical colleges.

By changing the GAB's current interpretation all technical college students will go through the same process as all other college students which seems very logical and fair to me.

Please share this e-mail with your fellow GAB's board members.

Thank you for your time.

Sincerely,

Joanne Sandvick
2529 Glendale Ave.
La Crosse, WI 54601

Kennedy, Kevin - GAB

From: Kostelic, Luanne [Luanne.Kostelic@legis.wisconsin.gov]
Sent: Monday, September 26, 2011 4:39 PM
To: Kennedy, Kevin - GAB; bobziegelbauer@sbcglobal.net
Subject: Rep. Ziegelbauer question re: Voter ID

Dear Kevin:

Below please find a letter from Lakeshore Technical College President Michael Lanser. Can you please read it and let us know your thoughts?

Thank you,

Luanne Kostelic

Office of Rep. Bob Ziegelbauer

Staff: Luanne Kostelic, Heather Schubert

State Capitol:

207-North, PO Box 8953; Madison, WI 53708-8953

Phone: (608) 266-0315 or Toll Free: 1-888-529-0025

Fax: (608) 282-3625 Website: <http://www.bobziegelbauer.com>

In the District:

1213 S. 8th Street, PO Box 325, Manitowoc, WI 54221-0325

Office: (920) 683-5107, Cell: (920) 323-7497

From: Ziegelbauer, Bob
Sent: Mon 9/26/2011 4:10 PM
To: Michael Lanser
Subject: RE: Voter ID

Mike,

We'll check into this and see what we can find out.

Thanks

BobZ

State Capitol:

207-North, PO Box 8953; Madison, WI 53708-8953

Phone: (608) 266-0315 or Toll Free: 1-888-529-0025

Fax: (608) 282-3625

Website: <http://www.bobziegelbauer.com>

Find us on Facebook: <http://www.facebook.com/pages/Rep-Bob-Ziegelbauer-I-Manitowoc/116226171781832#!/pages/Rep-Bob-Ziegelbauer-I-Manitowoc/116226171781832?v=wall>

In the District:

1213 S. 8th Street, PO Box 325, Manitowoc, WI 54221-0325

Office: (920) 683-5107, Cell: (920) 323-7497

From: Michael Lanser [mailto:michael.lanser@gotoltc.edu]

Sent: Mon 9/26/2011 3:23 PM
To: Ziegelbauer, Bob
Subject: Voter ID

Dear Rep. Ziegelbauer:

We wanted to take a moment of your time to make you aware of what appears to be a misinterpretation by the Government Accountability Board (GAB) regarding the use of college ID's for voting purposes.

While the GAB interpreted the new Wisconsin statutes to allow University of Wisconsin and most private college ID's for voting, the use of technical college student ID's is being prohibited. We believe this incorrectly interprets the new statute, and that the Legislature in no way intended to exclude technical college students.

We would appreciate any contact you could make with the GAB director to confirm that the Legislature never intended to exclude technical college ID's as voter ID's.

As a full-accredited college offering associate degrees, this appears to just be a matter of misinterpretation of the statute. If, however, you feel the intent was to exclude technical college students, we would like to better understand the distinction so that we can do our part to assist our students in using their Lakeshore Technical College student ID's when they vote.

On behalf of Lakeshore Technical College students, we greatly appreciate any assistance you can provide with this matter.

Best regards,

Michael A. Lanser, Ed.D.
President
Lakeshore Technical College
1290 North Avenue
Cleveland, WI 53015
920.693.1123 Direct
920.912.6841 Mobile

Kennedy, Kevin - GAB

From: John Lippold [jlippold@student.morainepark.edu]
Sent: Tuesday, September 27, 2011 11:06 AM
To: Kennedy, Kevin - GAB
Subject: ID Ruling of September 12th

Follow Up Flag: Follow up
Flag Status: Green

I am a student at Moraine Park Technical College. In May I earned an Associate Degree in Graphic Communication. I am presently pursuing an additional degree in Interactive Media.

It has come to my attention that the GAB ruled on September 12th, that a technical college ID card will not be a legitimate form of identification in the Spring 2012 elections. I have tried to rationalize this ruling but cannot come up with a substantial reason why technical college identification cards should be excluded.

When you hold your next meeting this afternoon I ask you to reconsider this ruling. The original intent of the state assembly's ruling was inclusive not exclusive. Please include technical college identification cards as legitimate voting identification. Thank you for your time.

John Lippold

DSG Lt. Governor
WB Student Senate
Graphics Club Secretary
Phi Theta Kappa

"to design is to communicate clearly
by whatever means you can control
or master" milton glaser

Kennedy, Kevin - GAB

From: Paul A Morschauser [PMorschauser@matcmadison.edu]
Sent: Wednesday, September 28, 2011 7:49 AM
To: Kennedy, Kevin - GAB
Subject: Voter ID
Follow Up Flag: Follow up
Flag Status: Green

Mr. Kennedy:

I am writing today to advocate for you and all the board members to change your decision on allowing Technical College Student ID's be allowed to not only register to vote but also allow them to be used as ID to vote. Please share with the board my and other concerns about this. I know that with your consideration as well as the board the interpretation as far as the oversight by the board will be corrected.

Thank You for your time and I am confident that this can be corrected so all our Technical College students will be allowed to vote.

Paul A. Morschauser Sr
Madison Area Technical College
Diesel Department
608-246-6829 office
608-243-4832 Fax
pmorschauser@matcmadison.edu

Kennedy, Kevin - GAB

From: Patricia F Svendsen [PSvendsen@matcmadison.edu]
Sent: Tuesday, October 04, 2011 2:21 PM
To: Kennedy, Kevin - GAB
Cc: Timothy L Casper
Subject: Student IDs for Voting
Attachments: Kevin Kennedy - Student Photo ID for Voting.pdf

Mr. Kennedy – Dr. Bettsey Barhorst, President of Madison College, asked me to send the attached letter to you regarding the use of student IDs for voting. A hard copy will follow via U.S. mail. Thank you.

Patricia

Patricia Svendsen
Administrative Assistant to the President
Madison Area Technical College
3550 Anderson Street
Madison, WI 53704
Phone: (608) 246-6678
Fax: (608) 246-6700
psvendsen@matcmadison.edu



Kennedy, Kevin - GAB

From: Lori Weyers/Northcentral Technical College [Weyers@NTC.EDU]
Sent: Monday, October 10, 2011 9:58 AM
To: Sen.Galloway - LEGIS
Subject: Voter ID Cards - Government Accountability Board Action

I am writing to express my concern regarding action taken by the Government Accountability Board (GAB) on acceptable identification cards for voter ID purposes. Specifically, I am concerned about the language outlining that IDs must be issued by public or private colleges or universities that award an associate's degree or higher and that are regionally or nationally accredited. Northcentral Technical College is both regionally and nationally accredited, and we award over 1,700 degrees annually to students who transfer their credits to all UW institutions, as well as many other colleges and universities. We believe this incorrectly interprets the new statute and that the Legislature in no way intended to exclude technical college IDs as Voter IDs.

I would strongly advocate that the GAB reconsider its interpretation in a manner that is fair to the nearly 24,000 learners we serve annually. It's highly concerning to me that our students are not being treated in a matter consistent with students at other Wisconsin colleges and universities. The current interpretation needs to be reconsidered because it's our understanding that the Legislature never intended to exclude technical colleges, and the plain language of the new statute includes technical colleges.

Thank you for the opportunity to voice my concern and for your ongoing support of NTC. For additional clarification of the Wisconsin Technical College system response to this issue, I would also refer you to the report prepared by Paul Gabriel on behalf of the Wisconsin Technical College District Boards Association. You may also contact me directly with any questions at 715.803.1060 or on my cell phone at 715.370.2068.

Lori A. Weyers
President
Northcentral Technical College
1000 W. Campus Drive
Wausau, WI 54401
715-803-1060



September 29, 2011

Mr. Kevin Kennedy, Director
Government Accountability Board
PO Box 7984
Madison, WI 53707-7984

Dear Mr. Kennedy,

On behalf of the nearly 40,000 students of Madison College, we write to respectfully request that the Government Accountability Board (GAB), at its November 9, 2011 meeting, reverse its September 12, 2011 action to prohibit the use of a technical college student ID as a valid form of photo identification for the purpose of voting.

The GAB's decision ignores the fact that the statutes are unambiguous that student IDs issued by colleges and universities that are accredited, as defined in § 39.30 (1) (d), are eligible to be used as a valid form of photo identification for the purpose of voting, as long as the ID is in compliance with other sections of 2011 WI Act 23. Madison College, and the other 15 college districts in the Wisconsin Technical College System (WTCS), are all accredited according to § 39.30 (1) (d).

It is clear that the legislature intended the students of the WTCS to be treated the same as students attending campuses of the University of Wisconsin System and private colleges and universities, such as Edgewood College.

The September 12, 2011 staff memo to the GAB on this subject posited that because the legislature voted down an amendment related specifically to technical colleges that it did not intend for the technical college student ID to be used as a valid form of photo identification for voting. This argument ignores the fact that the bill before the legislature at that time already included technical colleges as higher education institutions whose student IDs may be used for such purpose.

Additionally, the GAB's decision on this matter creates an inconsistency with its understanding that the technical college student ID may be used for the purpose of registering to vote. This decision only creates confusion for both our students and election



administrators regarding when a student may use their ID card in the process of exercising their right to vote.

Finally, on its face, it is unfair to treat the students of Madison College differently than the students of the University of Wisconsin System or private colleges and universities in the state on an issue related to a constitutional right.

Thank you for your consideration of this matter. Please do not hesitate to contact us should you have further questions.

Sincerely,

Bettsey Barthorst, Ph.D.
President, Madison College

Jennifer Johnson
President, Student Senate



September 26, 2011

Kevin J. Kennedy
Director and General Counsel
Government Accountability Board
State of Wisconsin

By Electronic Mail

Dear Director Kennedy,

On behalf of Wisconsin's 144 technical college district board members governing its local technical colleges, I'm writing to request reconsideration of the Government Accountability Board's position concerning the use of technical college ID cards for voting.

We believe the plain language of the new statute unequivocally includes Wisconsin technical college student ID cards for voting. Wis. Stats. § 5.02 (6m)(f) includes, in part: "An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d)"

We are, of course, "colleges" that grant a wide range of associate degrees. Wisconsin technical colleges also meet the accreditation requirements stated in Wis. Stats. § 39.30 (1)(d). That section reads:

An "accredited" institution is an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01 (4), or, if not so accredited, is a non-profit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited.

All Wisconsin technical colleges are accredited by the Higher Learning Commission of the Northcentral Association of Colleges. This is the exact same "gold standard" regional accreditation that is used by all UW institutions and by independent colleges and universities such as Marquette University and other members of the Wisconsin Association of Independent Colleges and Universities (WAICU).

Similarly, our nursing programs are accredited by the same organizations as UW and WAICU-offered nursing programs in the state. Technical college credits also transfer to every UW and WAICU institution and to a wide range of public and private institutions worldwide.

In assessing the new law, the GAB staff memo for its September 12, 2011, board meeting determined the Legislature likely intended that “the institution must be both accredited and a university or college located in Wisconsin.” We agree with this interpretation: an institution must be both a college offering at least associate degrees and be accredited appropriately to meet the statute’s plain language. Given that Wisconsin technical colleges clearly meet these standards, there was no need for the GAB to go further in an attempt to find other indications of legislative intent that include or exclude technical college ID cards for voting.

While it is correct that an Assembly amendment was offered to expressly include technical colleges in the statute, and that the motion failed, this does not mean technical colleges are not accredited colleges in Wisconsin. First, it seems unusual to use a failed amendment that did not become law to determine the passed law’s intent when the statute is clear on its face. Many floor-offered amendments fail to pass (more than 80 for this bill between the houses) and do not, by that failure, somehow exclude the possibility that their content and intention is part of the ultimate statute.

Furthermore, the statute used to describe eligible institutions, Wis. Stats. § 39.30 (1)(d), is part of the law specific to the Higher Educational Aids Board and its Tuition Grant Program for *private and independent* colleges. While Wisconsin technical colleges were not specifically enumerated by name in this statutory section and were not added by amendment to the bill, neither were UW institutions. The rationale that technical colleges were not specifically enumerated would also apply to UW System schools which, like technical colleges, were not successfully added by amendment and are not enumerated in Wis. Stats. § 39.30 (1)(d).

Technical colleges are a creation of state statute found in chapter 38. University of Wisconsin schools are a creature of statute found in chapter 36. Neither is created in chapter 39, and Wisconsin Statutes do not confer or provide for college accreditation by statute in any fashion.

There is no indication that the Legislature intended to exclude technical colleges for voter ID purposes. The plain language and meaning of the new statute was intended to include technical college IDs. On this basis, we respectfully request the GAB revisit and reverse its interpretation as soon as possible. Thank you.

For the Wisconsin technical college district boards,

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Gabriel". The signature is fluid and cursive, with a large initial "P" and "G".

Paul Gabriel
Executive Director



September 28, 2011

Sent via Email

Mr. Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
P. O. Box 7984
Madison, WI 53707 7984

Dear Mr. Kennedy:

Please be advised that at the September 27, 2011, Milwaukee Area Technical College District Board meeting, a Resolution in Support of Technical College Students IDs Being Used for Voting was unanimously approved. This statement is being submitted as a record of that action in lieu of the Milwaukee Area Technical College District Board September 27, 2011, meeting minutes, which will be presented for approval at the October 25, 2011, meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Stephany McGuire".

Linda Stephany McGuire
Executive Assistant to the MATC District Board

C: MATC District Board
Michael L. Burke, Ph.D., MATC President

Attachment

Downtown Milwaukee Campus
700 West State Street
Milwaukee, WI 53233-1443

Mequon Campus
5555 West Highland Road
Mequon, WI 53092-1199

Oak Creek Campus
6665 South Howell Avenue
Oak Creek, WI 53154-1196

West Allis Campus
1200 South 71st Street
West Allis, WI 53214-3110

MATC.edu
414-297-MATC

**RESOLUTION IN SUPPORT OF TECHNICAL COLLEGE
STUDENT IDs BEING USED FOR VOTING**

Resolution BD0010-9-11

Background

Earlier this month, the Government Accountability Board (GAB) decided that Wisconsin technical college student identification cards cannot be used for voter identification purposes even though student identification cards issued by virtually every other public and private college could be used, assuming they meet the law's requirements.

The Wisconsin Technical College System believes this interpretation of the law is incorrect and has asked the GAB reconsider its ruling when it meets on November 9, 2011. The GAB's interpretation of the law was made upon a mistaken interpretation of legislative intent, and does not give appropriate weight to the plain language of the law, which is inclusive of being applicable to student IDs of institutions that are both accredited and a university or college located in Wisconsin – both of which apply to technical colleges across the state. In addition, the GAB's interpretation was made without any consultation with technical college leadership or boards.

In response to the voter ID law recently passed, Milwaukee Area Technical College District Board ("District Board") took prompt action to ensure its student IDs could be used for voting and has invested a significant amount of money in ensuring the cards meet the law's requirements.

Resolution

WHEREAS, the District Board disagrees with the GAB's interpretation of the Voter ID Law prohibiting the use of technical college student IDs for voting;

WHEREAS, the District Board strives to encourage and promote electoral participation by all MATC students, and the student identification cards issued by MATC and other technical colleges should be an acceptable form of voter identification; and

WHEREAS, MATC has made a significant investment to date to ensure its student identification cards are in compliance with the voter identification requirements so that these cards can be used at the polling place as proof of identification;

THEREFORE BE IT RESOLVED, the District Board requests that the GAB reconsider and reverse its action and allow technical college student IDs to be used for voting.



Dr. Susan A. May, President

1825 N. Bluemound Drive, P.O. Box 2277 • Appleton, WI 54912-2277
Phone (920) 735-5600 • Toll-free 1-800-735-FVTC (3882)
TTY (920) 735-2569 • FAX (920) 735-2582 • www.fvtc.edu

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GOVERNMENT
ACCOUNTABILITY BOARD

October 24, 2011

Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
212 East Washington Ave., Third Floor
P.O. Box 7984
Madison, WI 53707-7984

Dear Director Kennedy:

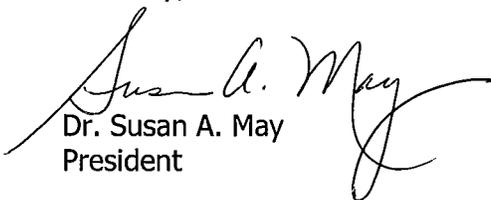
It is important that the Government Accountability Board reconsider its decision to exclude Wisconsin's technical college student IDs from being used for voting purposes. Wisconsin statutes provide a very clear definition of eligible colleges and universities in terms of student IDs being an acceptable form of identification at the polls, and the technical colleges meet that definition in every way. Specifically, Fox Valley Technical College and each of the other 15 technical colleges in our state:

- Is a public institution of higher education awarding credentials at the associate degree level
- Is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools
- Has credit transfer agreements with numerous other accredited public and private institutions in the State and beyond

There is no reason whatsoever that technical college students in this State should be treated any differently than UW students or students from our private colleges and universities. Given that currently our student IDs can be used for voter registration purposes, what sense would it make that they could not then be used for voting?

Please carefully reconsider this decision on the basis of straightforward facts, fundamental fairness, and the hope that we would make the process of voting clear and relatively easy in our state. Thank you.

Sincerely,


Dr. Susan A. May
President



Wisconsin Student Government

Wisconsin Technical College Student Advocacy Group
Est. 1972

Office of the President

RECEIVED
11 OCT 27 AM 9:38
GOVERNMENT
ACCOUNTABILITY BOARD

Wisconsin Government Accountability Board
P.O. Box 7984
Madison, Wisconsin 53707-7984

October 24, 2011

Members of the Government Accountability Board,

The Wisconsin Student Government (WSG) on behalf of the nearly 400,000 technical college students we represent, respectfully request that you revisit the exclusion of our student IDs as acceptable identification for voting. The fact that our IDs may be used for registration purposes but not for voting seems to be contradictory.

Wisconsin Technical Colleges are subject to the same accreditation process by the Higher Learning Commission of the North Central Association of Colleges as that of the state universities. This makes our exclusion even more questionable. Our students should be treated the same as other college and university students.

The State of Wisconsin should be encouraging our students, as responsible citizens, to become involved in the democratic process instead of impeding their involvement. Technical colleges represent a very diverse population and this has the potential to create undue hardship on them.

In addition, students should not have the added burden of providing proof of current enrollment either. So long as the ID issued meets the criteria set forth by the G.A.B. there should be no other paperwork necessary. This policy creates an environment that does not invite participation and that should not be the intent of the policy.

At this time we ask that you consider applying your ruling consistently to all equally accredited colleges and universities across the state. Our exclusion reflects poorly upon your opinion of the technical college system as a whole, which we are certain could not have been your intent.

Respectfully,

A handwritten signature in cursive script that reads 'Rebecca Gement'.

Rebecca Gement
President WSG



October 27, 2011

RECEIVED
11 OCT 31 AM 10:25
GOVERNMENT
ACCOUNTABILITY BOARD

Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, WI 53707-7984

**Student
Government
Association**

*Vicky Hunter,
President*

*Elizabeth Goldsworthy,
Vice President*

*Chris Johnson,
Secretary*

*Melody Smith,
WSG Governor*

*Rob Torgerson,
WSG Lt. Governor*

*Julie Morgan,
Advisor*

Phone: 715.365.4907
Fax: 715.365.4931

Dear Mr. Kennedy,

The Student Government Association of Nicolet Area Technical College would like to request that the GAB board reexamines the voter ID issue on your next agenda. We would appreciate it if you reconsidered its current interpretation excluding technical college student IDs. We have assembled a list of reasons why as follows:

- The plain language of the new statute includes technical colleges
- Wisconsin technical colleges are fully accredited colleges offering associate's degrees
- Wisconsin technical colleges offer transfer credits to all UW institutions and many other colleges and universities
- The legislature did not intend to exclude technical colleges

The Student Government Association of Nicolet Area Technical College would appreciate it if you shared this letter with the GAB board members.

Thank you for your time.

On behalf the Nicolet Area Technical College
Student Government Association,

President Vicky Hunter

P.O. Box 518
Rhineland, WI 54501
Phone: 715.365.4410
Fax: 715.365.4445
www.nicoletcollege.edu

Kennedy, Kevin - GAB

From: Robinson, Patricia [robinsop@fvtc.edu]
Sent: Wednesday, October 05, 2011 2:21 PM
To: Kennedy, Kevin - GAB
Subject: Voter ID and Technical Colleges
Follow Up Flag: Follow up
Flag Status: Green

Dear Attorney Kennedy:

I am writing to ask that the question of whether Wisconsin Technical College ID cards can be used as proof of identity for voting be placed on the agenda for reconsideration at the next Wisconsin Government Accountability Board meeting.

All Wisconsin Technical College System colleges are fully accredited by regional accrediting bodies, and offer associate degrees, both of which the statute specifically identifies as operative criteria. Nothing in the statute suggests that the legislature intended to exclude the WTCS colleges. In addition, many credits from the technical colleges transfer readily to institutions in the UW-System, as well as other public and private colleges and universities. There is simply no rational basis for singling out the Technical Colleges for exclusion, when all other similarly situated colleges and universities, public and private, are included. This exclusion unreasonably disadvantages WTCS students—and it is worthy of note that WTCS institutions serve many more students do UW System institutions.

Thank you,

Dr. Patricia A. Robinson
Executive Dean - Public Safety
Fox Valley Technical College
1825 N. Bluemound Dr.
PO Box 2277
Appleton WI 54912
920-993-5133
520-604-7391 (cell)

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State of Wisconsin\Government Accountability Board

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



JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of November 9, 2011

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Student Identification Cards

Summary

At the September 12, 2011 Meeting, the Board discussed a policy to permit the use of stickers on student identification cards to enable them to comply with the statutory criteria set out in Wis. Stats. §5.02 (6m)(f). The Board adopted the following motion:

***MOTION:** Adopt statutory interpretation of §5.02(6m)(f), Wis. Stats., to permit the use of stickers or labels affixed to student identification cards to document issuance and expiration dates and the cardholder's signature, provided that the sticker or label contains some indication that it was produced by the college or university. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.*

Following the Board meeting, the Joint Committee for the Review of Administrative Rules (JCRAR) requested the Director and General Counsel appear at a public hearing on September 27, 2011 to explain why the Board's policy on the use of stickers on student ID cards should not be promulgated as an emergency rule pursuant to Wis. Stats. §§227.10 (1), 277.26 (2) on the basis the Board's policy meets the definition of a rule under Wis. Stats. §227.01 (13).

On October 6, 2011, JCRAR held an executive session to take action on a proposed motion directing the agency to promulgate its policy on the use of stickers on student identification cards to enable them to comply with the statutory criteria as an emergency rule. A copy of the proposed motion is attached.

At the executive session, the Committee asked me to respond to additional questions based on a memorandum I had submitted. I informed the Committee that while we had not heard from all private colleges, we were informed the University of Wisconsin System campuses were pursuing an approach to use an alternate student identification card for voting issued upon student request. I suggested the use of stickers on student ID cards was probably a moot point except to add a signature line. After listening to my response to the proposed motion, the

Committee agreed to wait until after the Board had given additional consideration to the concerns raised by the Committee.

Given the focus of the Committee's concerns on the use of stickers on student identification cards to enable them to comply with the statutory criteria, staff recommends the Board clarify its guidance to colleges and universities.

Discussion

At the JCRAR hearing and in subsequent discussions with proponents of the photo ID law, it is clear the majority party in the Legislature believes the use of stickers on student identification cards is not an acceptable means of ensuring student identification cards conform to the standards set out in 2011 Wisconsin Act 23. The concerns articulated about the use of stickers focused on integrity/security issues related to the stickers. The G.A.B staff had suggested that the sticker contain a logo or other identifying symbol related to the university or college issuing the sticker. This did not alleviate concerns about the integrity/security of the temporary fix to ensure compliance with statutory standards.

Wis. Stats. §5.02 (6m)(f) sets out the following standards for the validity of student identification cards for use as acceptable identification for voting:

1. The identification card is unexpired;
2. The identification card contains the date of issuance;
3. The identification card contains the signature of the individual to whom it is issued;
4. The identification card contains an expiration date indicating that the card expires no later than 2 years after the date of issuance;
5. The individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented.

What is not specifically articulated in these criteria, but is applicable based on Wis. Stats. §5.02 (16c) (Proof of Identification) is that the identification card must also contain the name and a photograph of the individual.

The Board staff has been asked for guidance from universities and colleges relating to whether their student identification cards are an acceptable proof of identification. It was in this context that the staff suggested to the Board that a sticker may be an appropriate means to bring university or college student identification card into compliance with the statutory standards. Our goal was to have in place a list of acceptable, cost-effective university and college student identification cards which could be shared with election officials, and be a basis for communicating to students what they will need to participate in Wisconsin elections beginning in 2012.

Since the Board's action in September, we have received confirmation that many, if not all, of the University System campuses plan to develop separate identification cards available to a student on request. We have also been communicating with a representative of the Wisconsin Association of Independent Colleges and Universities (WAICU) on this issue as well. Based on those conversations, it appears most private colleges will not be making changes to their student identification cards, but will focus on get out the vote drives and voter education

initiatives with respect to residency, registration, identification and voting. The G.A.B staff will reach out to the WIACU as part of its voter photo ID outreach team to help coordinate with them on those activities as part of G.A.B's photo ID Speakers Bureau and community outreach efforts.

In the JCRAR hearings, legislators focused on the Board developing administrative rules that set out standards for the use of stickers related to adhesion, integrity and security criteria. Given the approaches to the development of student identification cards by colleges and universities articulated to staff, delving into this level of detail on stickers seems a misallocation of scarce staff resources. In light of the message from the Legislature on the use of stickers and feedback from representatives of colleges and universities that alternatives to a sticker approach will be pursued, staff recommends the Board refrain from advising colleges and universities that a sticker be used to meet the statutory student identification card standards.

Staff has received a number of examples of student identification cards from the UW System which meet the statutory standards. Attached to this memorandum are some of these examples.

With the Board's consent, the staff will work with colleges and universities to review not only the proposed student identification cards for compliance with statutory standards, but the procedures for making the cards available. Staff believes colleges and universities should have procedures in place to ensure there is no question that the student identification cards are only made available to students eligible to vote in Wisconsin.

Proposed Motion

The Government Accountability Board withdraws its motion of September 12, 2011 approving the use of stickers on student identification cards and directs staff to work with colleges and universities to review student identification cards for compliance with statutory standards as well as the procedures for making the cards available to ensure student identification cards are only made available to students eligible to vote in Wisconsin.



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR LEAH VUKMIR AND REPRESENTATIVE JIM OTT

That JCRAR finds the Government Accountability Board's motion to permit the use of stickers or labels affixed to student identification cards to meet photo identification requirements for voting is a interpretation of 5.02(6m)(f), Stats. that meets the definition of a rule under s. 227.01(13), Stats.; and, pursuant to s. 227.10(1) and 227.26(2), Stats., that JCRAR directs the Government Accountability Board to promulgate its action as an emergency rule within 30 days.

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: October 6, 2011

TO: Honorable Members, Joint Committee for the Review of Administrative Rules

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

SUBJECT: Administrative Rulemaking Process and Timeline

At its meeting of September 27, 2011, members of the Joint Committee for the Review of Administrative Rules (JCRAR), asked several questions regarding promulgation of administrative rules and the anticipated timeline for the Government Accountability Board (G.A.B. or Board) to carry out required procedures to implement emergency rules. This memorandum addresses those questions along with some specific discussion on the development of the rules in light of issues raised by the Committee at its September 27, 2011 hearing. I believe the agency can address the concerns raised by Committee Members without the Committee directing the G.A.B. to adopt emergency administrative rules.

Proposed Motion on Pre-Populating Address Information

I understand the Committee's concern that permitting an entity to pre-populate a recall petition with a potential signer's address information circumvents the traditional signature gathering process involving face-to-face contact between the petition signer and the petition circulator. In lieu of required rulemaking, I propose the G.A.B. staff share the Committee's concern with the Board and propose a different response to the individual who initiated the inquiry. The proposed response would be that current law requires the petition signer to affix their signature accompanied by their address and the date of signing and only the circulator may add residence information. Wis. Stats. §8.40 (1). GAB 2.05 (4), Wis. Adm. Code. This addresses the Committee's concern that a third party, not involved in the petition signature gathering process, is providing elector information. This would still permit the practice of circulators presenting a petition form for signing with the name of the municipality or the year of the date of signing listed. This approach effectively maintains the status quo for signing and circulating election-related petitions.

Proposed Motion on Permitting the Use of Stickers on Student Identification Cards

The G.A.B. staff has learned that most universities and colleges are not planning on using stickers as a means to cut costs in crafting student identification cards that meet the statutory

requirements for use in obtaining a ballot. Wis. Stats §5.02 (6m)(f). While the idea of utilizing a sticker attached to a current student identification card originated with university and college representatives, we are now being informed that most would prefer developing a separate student identification card issued to a student upon request that conforms to the statutory requirements.

The main barrier to the use of current student identification cards as acceptable voter identification is that the cost of redesigning current identification cards is excessive. Current student identification cards are designed to serve a multitude of functions such as an entrance key to university and college facilities, access to financial resources for payment for course materials, meals, supplies and checking out instructional materials from libraries and other campus facilities. This requires a design that permits interfacing with various electronic systems. The cards traditionally have an expiration date that is longer than permitted for use as identification for voting.

Committee Members suggested the use of stickers would require the development of standards to ensure the integrity of the sticker. These standards could include adhesive quality, difficulty in unauthorized reproduction and other factors. Given that universities and colleges are not inclined to implement the use of stickers to ensure student identification compliance with voter identification requirements, it appears unnecessary to direct the G.A.B. to develop emergency rules. This would be a gross misallocation of resources.

The one aspect where a sticker may be helpful to ensure conformity with the statutory voter identification requirements is for the student's signature. This could be easily affixed and not have the same concerns about unauthorized reproduction. A voter is required to sign the poll list in order to receive a ballot. The poll list signature can be used as a forensic tool in the event of an attempt at unauthorized voting.

In lieu of required rulemaking, I propose the G.A.B. staff share the Committee's concerns with the Board and recommend that stickers may only be used to add a student's signature to ensure conformity with the statutory voter identification requirements.

Practical Implications of Developing Administrative Rules

Given the frequency with which Board staff is required to provide guidance and interpret statutory language for local election officials including 1,850 municipal clerks, 72 county clerks, candidates, and the public, and given the Board's regular meeting schedule, it is impractical to complete emergency rules for each and every policy requiring implementation within three months or less. Despite the statutory language requiring an agency to complete an emergency rule within 30 days of a directive issued by JCRAR, the actual process for completing an emergency rule will likely take four to five months, assuming the Board does not hold special board meetings; thus, incurring additional costs. Furthermore, an emergency rule is only valid for 150 days, while permanent rule-making normally takes months or years to complete, which will likely result in gaps between the expiration of an emergency rule and the effective dates of any permanent rules. This negatively impacts the clarity and certainty of guidance which the Board is authorized and required to issue, as well as the uniform

administration of laws pertaining to elections, campaign finance, lobbying, and ethics for public officials.

Section 227.24, Wis. Stats., as affected by 2011 Act 21 (and as amended by 2001 Act 32) requires the following steps to promulgate an emergency administrative rule:

1. The agency staff submits a Statement of Scope to the Governor for review and either approval or rejection. There is no statutory deadline for gubernatorial approval or denial of a Statement of Scope.

The Secretary of Administration issued a memo on July 19, 2011 indicating that the Governor intended to respond to submissions within “a few days;” however, the G.A.B.’s experience with the one Statement of Scope submitted thus far shows that it actually takes weeks (submitted on July 14, 2011 and written approval received on August 24, 2011.) In addition, the Secretary of Administration’s July 19, 2011 memo indicated that the Governor was expected to issue an Executive Order providing further guidance on the rule-making procedures, which could make the rule-making process more complex; however, the G.A.B. is unaware of any such Executive Order as yet.

2. Upon the Governor’s written approval of the Statement of Scope, it must be published in the Administrative Register for at least 10 days before approval by the Government Accountability Board. The practical impact of this requirement is that if staff were to draft a Statement of Scope this week and submit it to the Governor for approval, the gubernatorial written approval would need to be received by October 16, 2011, if the Board is to meet the October 17, 2011 deadline for publishing in the November 1, 2011 Administrative Register.
3. The Board’s next scheduled meeting is November 9, 2011. If the Statement of Scope is published on November 1, 2011, that meeting date does not satisfy the ten-day publishing requirement, meaning that the Board would need to grant approval at its December 13, 2011 meeting, hold a special meeting, or delegate the approval authority to the Board Chair.
4. Until the Board affirmatively approves the Statement of Scope, Board staff is specifically prohibited by statute from performing any work related to the rule. Assuming that expedited approval is granted by the Governor, that publication occurs on November 1, 2011, and that the Board either holds a special meeting to grant approval in November or delegates to its Chair authority to approve the Statement of Scope, the earliest the Board could consider a proposed emergency rule at a regular meeting is December 13, 2011.
5. Once the Board approves the emergency rule, it must be submitted to the Governor for written approval before it can be published in the official newspaper and Administrative Register. There are also no statutory deadlines for gubernatorial approval of an emergency rule, so it is impossible to predict whether or when gubernatorial approval might be received.

6. Publication of the emergency rule usually takes two to three weeks after the newspaper is notified. Publishing the emergency rule in the paper and filing of such notice in the Administrative Register determines the effective date of any emergency rule.
7. Within ten days of the emergency rule being published, the Board must prepare an abbreviated fiscal impact statement and provide it to each member of the Legislature.

Assuming that the Board schedules a special meeting or delegates authority to approve the Statement of Scope to its Chair, and assuming prompt gubernatorial approval of both the Statement of Scope and the emergency rule itself, the earliest publication date and effective date of any emergency rule would likely be some time in mid to late January. If the Board approves the Statement of Scope and emergency rule at its regularly-scheduled meetings, the completion date is likely to be delayed for another month. This timetable also assumes that the emergency rulemaking process is begun by October 7, 2011, and that no policy complications regarding the substance of the rule delay its promulgation.

This timetable illustrates that the effective date of an emergency rule initiated immediately would be too late to govern procedures for circulating nomination papers or possible recall petitions in the fall of 2011, or the validity of student identification cards to be used at the February 2012 Spring Primary. In the meantime, the Board will continue to be asked for guidance and policy determinations on these and related issues which will affect the decisions and actions of local election officials, voters, candidates circulating nomination papers, and any other parties circulating recall or other election petitions. The absence of an emergency rule will not eliminate the need for the Board to make identical policy determinations, except they will be made on a more *ad hoc* basis, which reduces the clarity and uniformity of election administration decisions. The *ad hoc* advice provided to local election officials could also result in multiple clerks applying the statutes in multiple different fashions, further undermining the clarity, uniformity and integrity of the application of the statutes and administration of elections.

Conclusion

On behalf of the Government Accountability Board, I request the Committee refrain from adopting the proposed motions directing the promulgation of emergency administrative rules. Instead, the G.A.B staff will present the Committee's concerns to the G.A.B at its November 9, 2011 meeting with a recommendation to modify its approach to the issue of pre-populated address information on election-related petitions and the use of stickers on student identification cards.

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JUDGE THOMAS BARLAND
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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of November 9, 2011

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: 2012 Redistricting Issues

Summary

Board staff has received inquiries from the Legislature and the public regarding the effective dates related to the recently-enacted redistricting legislation. Based on the language of the legislation as well as prior Attorney General opinions, staff has concluded that legislators began representing their new districts on August 24, 2011, but that the new district boundaries would not govern any special or recall elections conducted prior to the 2012 General Election. This memorandum summarizes administrative issues raised by the delayed effective date for recall elections, as well as the potential effect of pending federal litigation challenging the constitutionality of the new legislative districts.

Staff recommends that the Board affirm the guidance contained in the attached memorandum to the Senate and Assembly Chief Clerks as well as the attached draft Guideline pertaining to the effective date of Act 43 for purposes of legislative elections and constituent representation. **However**, it is important to note that at the time this memorandum was prepared, new legislation was being introduced to change the effective date for elections to recall state senators, so that the new legislative districts would govern any such elections after November 9, 2011. Therefore, this recommended action may be modified depending upon developments in the Legislature prior to the Board's meeting.

Background

The attached memorandum provides a more detailed analysis regarding the effective dates of the redistricting legislation. The Legislature and the Governor enacted 2011 Wisconsin Act 43 to reapportion Wisconsin's legislative districts, and the Act was published on August 23, 2011. As outlined in the attached memorandum and draft Guideline, therefore, the general effective date of the Act is August 24, 2011, and that is the date at which legislators began representing their new districts. However, Section 10 of the Act also states as follows:

SECTION 10. Initial applicability.

(1) This act first applies, with respect to regular elections, to offices filled at the 2012 general election.

(2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2012 general election.

Based upon the plain language of section 10(2) of Act 43, staff has concluded that any special or recall election to be filled or contested prior to the 2012 General Election must be conducted using the legislative district boundaries which existed prior to the enactment of Act 43.

Redistricting typically results in some constituents being represented by a legislator before having an opportunity to vote in that legislative district. But the difference between the effective dates for regular and recall elections in Act 43 creates a unique set of issues in the current political climate due to public statements that recall petitions against several state senators may be initiated prior to the 2012 General Election.

Following the issuance of the attached staff opinion, several legislators have questioned the wisdom of conducting recall elections under the old legislative districts, especially after the Spring Primary and Spring Election for local and county offices will be conducted using new municipal and county ward boundaries. Unless recall petitions are submitted early in 2012 and there are no administrative or legal delays in certifying the petitions and scheduling elections, recall elections for state senators are likely to occur after the April election. Municipal clerks would need to conduct elections using different sets of ward maps in a short period of time. After voting in the spring elections using the new wards and possibly new polling places, some electors will then return to voting in their former wards and polling places for a recall election, and then vote using the new district boundaries again in the regular fall elections in 2012. While these procedures present some administrative complications and potential confusion for election officials and voters, it is the result that is required pursuant to the effective dates in Act 43.

An additional complication is that the legislative districts created by Act 43 are the subject of a court challenge in *Baldus et al. v. Brennan et al.*, in the Eastern District federal court. The Board is represented by the Department of Justice in that litigation. On October 21, 2012, the Court denied the State's motion to dismiss the plaintiffs' complaint. Staff expects trial dates to be scheduled in the early part of 2012. In the event that the Court finds the Act 43 legislative districts to be unconstitutional and draws new boundaries, relying on the new districts to govern recall petitions and elections could also lead to complications and confusion for recall petitioners, election officials, and voters.

The Board's SVRS staff is currently working with the Legislative Technical Services Bureau (LTSB) to convert the new legislative boundaries as created by Act 43 into the correct data files so that the necessary election administration tools can be set up in SVRS. LTSB is creating map-based files which will be used by Board staff to determine the voters that reside in each district, so that voter lists, poll lists, ballot styles, and other election tools can be produced. If recall elections prior to November 2012 are governed by the new districts pursuant to the proposed legislation, and depending on the timing of any recall petitions, the new voter and district data may not be available in SVRS to assist the public and incumbents in

determining the residences in each district, and to assist in the Board's review of recall petitions.

On October 26, 2012, the Senate Committee on Transportation and Elections held a public hearing to discuss several election-related proposals and issues, including the guidance issued by Board staff regarding the effective dates of Act 43. At that time I outlined our analysis contained in the attached memorandum and responded to questions regarding some of the administrative issues summarized above. Another public hearing by the Committee was scheduled for October 31, 2012 to consider a proposed bill to require that any senate recall petitions initiated after November 8, 2012 be governed by the new districts created by Act 43. A copy of the proposed bill is also attached.

Finally, Board staff has drafted the attached Guideline to summarize its opinions related to the effective dates contained in Act 43. Guidelines approved and issued by the Board are intended to serve as a plain language summary of the law. Absent any additional legislative action, staff recommends that the Board approve the draft Guideline. If legislation is enacted to alter the effective date of Act 43 for senate recall elections, staff recommends adopting the Guideline except that the analysis related to the first issue listed would require modification.

Recommended Motions

1. The Board adopts the analysis and conclusions contained in the attached staff memorandum dated October 19, 2011 related to the effective dates governing elections and constituent representation established by 2011 Wisconsin Act 43.
2. The Board approves the attached draft Guideline pertaining to the effective dates established in Act 43, subject to any legislation which alters the conclusions contained in the draft Guideline.

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

DATE: October 19, 2011

TO: Robert Marchant, Senate Chief Clerk
Patrick Fuller, Assembly Chief Clerk

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

SUBJECT: Legislative Redistricting: Effective Date and Use of State Funds

On September 6, 2011, Jonathan Becker, Nathaniel Robinson and I from the Government Accountability Board ("G.A.B.") met with you and staff of the Legislative Council to discuss the impact of redistricting on incumbent legislators. Prior to this meeting, you and Legislative Council staff received a number of inquiries about the impact of 2011 Wisconsin Act 43 with respect to the ability of incumbent legislators to communicate with constituents and to run for and hold legislative office. Because these were not new issues, we agreed to review past decisions of the former Elections and Ethics Boards and guidance from the Department of Justice.

On October 10, 2011, I received copies of past guidance from the Department of Justice. G.A.B. staff forwarded this information to Legislative Council staff and you. We had a brief meeting on October 12, 2011, in which you asked whether a 1982 Attorney General Opinion, OAG 48-82, 71 Wis. Op. Atty. Gen. 157 (Wis. A.G. 1982), resolved the issues on the use of state funds by incumbent legislators to communicate with constituents and travel in legislative districts created by 2011 Wisconsin Act 43, as well as the conduct of special or recall elections. At the time of that meeting, I believed it did, but I noted that the G.A.B. staff had not fully analyzed the material.

After reviewing all of the material, the G.A.B. staff believes that the 1982 Attorney General Opinion to Senator Risser (71 Wis. Op. Atty. Gen. 157 (Wis. A.G. 1982)) is not directly on point with the current issue. That opinion was based on a federal court finding that existing legislative districts were unconstitutional. As a consequence of that finding, the federal district court specifically ordered that the then-existing legislative districts could not be used for purposes of nomination and election after June 17, 1982, at which time and by the same court order new legislative district lines became effective. In the present situation, unlike 1982, there has been no judicial determination that the existing legislative districts are unconstitutional, and the Legislature has specifically addressed the initial applicability of 2011 Wisconsin Act 43 for various purposes.

Although the 1982 Attorney General Opinion is not directly on point, some of its language, as well as subsequent opinions including a 1983 Attorney General Opinion (OAG 47-83, 72 Wis. Op. Atty. Gen. 172 (Wis. A.G. 1983)), and the language of 2011 Wisconsin Act 43 itself all provide helpful analysis and application to the current situation, as affected by 2011 Wisconsin Act 43.

At the October 12, 2011 meeting, I promised to provide the G.A.B. staff position as quickly as possible. Below are the G.A.B. staff opinions and analyses regarding the initial applicability of

2011 Wisconsin Act 43 with respect to 1) elections, and 2) communication and representation of constituents.

1. Initial Applicability Date with Respect to Elections: November 6, 2012

a. Opinion

It is the G.A.B. staff's position that the legislative districts created by 2011 Wisconsin Act 43 are not in effect for the purpose of "special or recall elections to offices filled or contested" prior to the General Election on November 6, 2012.

b. Analysis

The Legislature enacted legislation reapportioning the legislative districts and members, 2011 Wisconsin Act 43, as required by the state constitution. Wis. Const. art. IV, § 3. The legislation was signed by the Governor and published on August 23, 2011. Unless specified in the legislation, every act is effective on the day following publication. WIS. STAT. § 991.11. However, 2011 Wisconsin Act 43 specifically provided for the initial applicability of the act for certain purposes. The Act "first applies, with respect to regular elections, to offices filled at the 2012 general election." 2011 Wis. Act 43, § 10 (1). In addition, the Act "first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2012 general election." 2011 Wis. Act § 10 (2).

"First applies" historically means that an act is in effect for the first time on a certain date or occurrence and remains in effect after that date or occurrence. *Dettwiler v. Wisconsin Dept. of Revenue*, 2007 WI App 125, ¶6 n.3, 301 Wis. 2d 512, 517, 731 N.W.2d 663, 666 (Wis. Ct. App. 2007).

Wisconsin Stats. s. 5.02 (5) defines "general election" as the election held in even-numbered years on the Tuesday after the first Monday in November conducted to elect, among other offices, state senators and representatives to the assembly. WIS. STAT. §5.02 (2011). The next general election will occur on November 6, 2012.

By the specific terms of 2011 Wisconsin Act 43, any recall election or special election to fill a vacancy conducted before November 6, 2012 shall be conducted in the legislative districts in effect prior to the enactment of 2011 Wisconsin Act 43. For example, the special election to fill the vacancy in the 95th Assembly District was ordered by the Governor on September 2, 2011 to be conducted under the district lines in effect before the passage of 2011 Wisconsin Act 43. 2011 Executive Order 41.

This differs significantly from the situation presented in 1982 when the Attorney General Opinion (71 Wis. Op. Att. Gen. 157) was issued. As noted above, in 1982, a federal court had found that existing legislative districts were unconstitutional and ordered all subsequent elections to be conducted under a reapportionment plan set out in the court order and beginning on the specific date of June 17, 1982. *The Wisconsin State AFL-CIO et al. v. Elections Board et al.*, No. 82-C-0112 (E.D. Wis. 1982). In the 1982 Attorney General Opinion to Senator Risser (71 Wis. Op. Att. Gen. 157), the Attorney General interpreted and applied this specific court order and opined that the former districts were not in effect for the conduct of elections or the use of public funds by incumbent legislators after June 17, 1982. The Attorney General's opinion was released on August 19, 1982,

and therefore the language in the opinion assumes that the new court-ordered legislative districts were already in place and effective.

The meaning and effect of the initial applicability provisions of 2011 Wisconsin Act 43 are better understood in the context of the October 4, 1983 Attorney General Opinion to Representative Loftus (72 Wis. Op. Atty. Gen. 172). Here, the Attorney General offered an opinion on the effective dates of the redistricting described in 1983 Wisconsin Act 29, the Act adopted to replace the federal district court's redistricting plan that had been effective since June 17, 1982.¹ This Attorney General's opinion concluded that the effective date of the Act is also the effective date for new legislative districts unless the legislature specifically provided other exceptions to the initial applicability of the Act for certain purposes. The Attorney General opinion concluded that, by reason of Wisconsin Stats. s. 991.11, the publication date of the Act, July 20, 1983, was also the effective date of the Act except for specific statutory exceptions. The only exception in the Act was related to specific language setting the initial applicability of sections 8.15(9) and 8.20(10) of the statutes, which related to the Election Board's duty to provide new district maps to candidates.

The language of 2011 Wisconsin Act 43 is very clear as to the initial applicability exceptions from the Wisconsin Stats. s. 991.11 effective date of the Act (August 24, 2011). The Act initially applies for the purposes of regular elections to offices filled at the 2012 general election and to special or recall elections to offices filled or contested concurrently with the 2012 general election. Therefore, for purposes of any elections in 2012, the new legislative districts found in Act 43 do not apply to special or recall elections to offices filled or contested prior to the November 6, 2012 general election.

2. Initial Applicability Date with Respect to Communication and Representation of Constituents: August 24, 2011

a. Opinion

It is the G.A.B. staff's position that beginning on August 24, 2011, neither this legislation nor any provisions of the Code of Ethics for Public Officials and Employees, Wisconsin Stats. Ch 19, Subchapter III, restricts the use of public funds by incumbent legislators to send mail or travel within the boundaries set forth in 2011 Wisconsin Act 43 for the purpose of conducting legislative business.

b. Analysis

- i. 2011 Wisconsin Act 43 is effective as of August 24, 2011 for representation purposes.

The effective date of 2011 Wisconsin Act 43 with respect to representation differs from its effective date for election purposes. The 1982 Attorney General Opinion to Senator Risser (71 Wis. Op. Att. Gen. 157) specifically provides that with respect to the former legislative districts, the "vitality

¹ The 1982 redistricting plan was found unconstitutional in 1992, following the 1990 census. See *Prosser et al. v. Elections Board, et al.*, 793 F. Supp. 859, 865 (W.D. Wis. 1992). In 1992, a three-judge panel created a redistricting plan that was effective for all elections held after June 2, 1992. *Prosser v. Elections Board*, 793 F. Supp. at 871. The 1992 redistricting plan was held unconstitutional in 2002, following the 2000 census. See *Baumgart et al. v. Wendelberger*, Case No. 01-C-0121; see *Jenson et al. v. Wendelberger*, Case No. 02-C-0366. The federal district court created a redistricting plan that was effective for all elections held after May 30, 2002. *Id.* However, 1983 Wisconsin Act 22, first held unconstitutional in the context of the 1990 census, was not challenged as unconstitutional between its effective date of July 29, 1983 and the 1990 census. *Prosser v. Elections Board*, 793 F. Supp. at 871

depends upon the purpose being inquired into.” OAG 48-82, 71 Wis. Op. Att. Gen. 157 (Wis. A.G. 1982). The 1983 Attorney General Opinion to Representative Loftus (72 Wis. Op. Atty. Gen. 172) emphasized that even though the Elections Board did not need to provide new district maps to candidates until the 1984 primary and general elections, this did not mean that the “the new districts [we]re not effective before 1984.” 72 Wis. Op. Atty. Gen. 172. Thus, even though the new districts do not take effect for election purposes until November 6, 2012, this does not mean that 2011 Wisconsin Act 43 is not effective for other purposes before that date.

It appears that it is constitutionally permissible, per the 1983 Attorney General Opinion, for the Legislature to enact redistricting legislation that will “apportion and district anew the members of the senate and assembly,” Wis. Const. art IV, Section 3, upon publication of an act, while at the same time the act provides exceptions for initial applicability of the act for specific purposes. In 2011 Wisconsin Act 43, it seems the Legislature intended to effectuate the Act on the Wis. Stats. s. 991.11 date (August 24, 2011) for purposes of representation.

- ii. 2011 Wisconsin Act 43 does not affect the current status of elected officials.

Even though the new districts took effect on August 24, 2011, this does not affect the current status of elected senators and representatives. The 1982 Attorney General Opinion to Senator Risser (71 Wis. Op. Att. Gen. 157) and the 1983 Attorney General Opinion to Representative Loftus (72 Wis. Op. Atty. Gen. 172) also provide applicable guidance on the treatment of the residence of incumbent legislators with respect to retaining their current office and running for election under the new district plan. The former Elections Board applied these opinions in response to inquiries with respect to the 2002 redistricting. Correspondence to Representative David Travis, April 25, 2002. In the response to Representative Travis, the Elections Board noted that for purposes of representation (and absent contrary language in the act or statute), redistricting takes effect with the adoption of the new plan. Representation is based on a previous election and holding office, not on a future reelection. Seeking reelection is not relevant to representation and is only relevant to campaigning for the office to which a candidate seeks election.

- iii. 2011 Wisconsin Act 43 does not change how current elected officials may use state funds.

The new legislation does not affect the laws governing how currently sitting elected officials who seek reelection or election to another office may use state funds. The guidance from the Attorney General in 1983 discussed the use of state funds by incumbent legislators with respect to the former and new districts under the judicial and legislative plans. 72 Wis. Op. Atty. Gen. 172. The opinion noted that the restrictions of Wis. Stats. s. 11.33, limiting the use of public funds after the first day for circulating nomination papers, are still applicable. It also provided that a legislator may not use funds for a purely private, non-public, purpose. However, a legislator may expend funds which have been appropriated for the legislator’s use for mailings and travel within or outside the legislator’s district if connected with the legislator’s representation of his or her constituents subject to legislative rules and applicable statutes. 72 Wis. Op. Atty. Gen. 172.

The G.A.B. and the former Ethics Board have consistently found that great deference should be given to the Legislature’s determination of public purpose consistent with other statutes such as the restriction on the distribution of 50 or more substantially similar items or communications after the first date for circulating nomination papers, see Wis. Stats. s. 11.33, the use of public office to obtain a private benefit, see Wis. Stats. s. 19.45 (2), or the use of public office to obtain an unlawful benefit

or advantage, see Wis. Stats. s. 19.45 (5). In light of the discussion in the 1983 Attorney General opinion, the use of public funds to communicate or travel in districts related to the legislator's initial election or subsequent re-assignment by 2011 Wisconsin Act 43 does not appear to be actively designed to obtain a private benefit or unlawful benefit or advantage as restricted under the Code of Ethics for Public Officials.

The Legislature appears to have developed fiscal and policy restraints on the use of public funds by legislators with respect to constituent communication and travel. The proposed policy that permits the use of public funds within those constraints to communicate and travel within the district from which a legislator was elected and the related district under 2011 Wisconsin Act 43 does not contravene provisions in Wis. Stats. s. 19.45. Such communications are, however, also subject to the limitation in Wis. Stats. s. 11.33.

This does not mean that a legislator may use public funds for communications or travel to obtain a private benefit or unlawful benefit or advantage, including for campaign purposes. The G.A.B. would investigate a complaint that set forth facts alleging such activity.

3. Conclusion

This is an opinion of the G.A.B. staff. It is not an opinion issued pursuant to Wis. Stats. s. 5.05 (6a). As we discussed in our initial meeting, the staff plans to present its conclusions to the Board in the form of recommended guidance to share with legislators and the public.

Sincerely,

GOVERNMENT ACCOUNTABILITY BOARD

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

Kevin J. Kennedy
Director and General Counsel

Legislative Redistricting: Act 43 Effective Dates for Election and Representation Purposes

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

The Wisconsin Legislature, through 2011 Wisconsin Act 43, changed the boundaries of senate and assembly districts in this state, due to the results of the 2010 federal census. Constituents who previously lived in one legislative district may now reside in another. This Guideline summarizes the effective date and implications of the new districts with regard to elections, incumbents in changed districts, and communication with constituents.

When do the new districts take effect for elections? The legislative districts created by 2011 Wisconsin Act 43 will first take effect for the General Election on November 6, 2012, due to the specific applicability date contained in the Act. Candidates will campaign and electors will vote in the new districts starting with the 2012 General Election. Any special or recall election for a state office held before this date will reflect the previous district lines.

When do the new districts take effect with regard to constituent representation and communication? For purposes of representation, the legislative districts created by 2011 Wisconsin Act 43 took effect on August 24, 2011, the general effective date for the remainder of Act 43. On and after that date, legislators elected under the previous districts represent constituents assigned to the corresponding numbered districts created by Act 43. Subject to legislative rules, legislators may use state funds for the public purpose of communicating with new constituents. Legislators may also continue to communicate with constituents in the former district regarding legislative business, but may not use public funds to produce or distribute campaign communications to any individuals.

How do the new districts affect incumbents in changed districts? Although the new districts took effect, for purposes of representation, on August 24, 2011, new boundaries do not affect the current status of elected officials. All legislators elected under the previous districts now represent the constituents of the corresponding numbered district created by 2011 Act 43. This remains true even if the elected official no longer lives within the new district. In that case, the legislator may reside outside the new district which he or she represents, but must become a resident of that district prior to taking office if re-elected.

Note: This guideline reflects the language of 2011 Wisconsin Act 43, which specifically provides that the effective date, with respect to elections, does not occur until the 2012 general election. This guideline is also based upon prior Opinions of the Attorney General which concluded that redistricting legislation became effective on the date of publication except as provided explicitly in the legislation.

Legal references: WIS. STAT. §§ 5.02; 11.33; 11.37; 19.45(2); 991.11; 2011 Wis. Acts 39, 43, 44, 45; Opinion Attorney General 47-83, 72 Wis. Op. Atty. Gen. 172 (Wis. A.G. 1983); 71 Wis. Op. Atty. Gen. 157 (Wis. A.G. 1982).

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of November 9, 2011

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Preparation of Recall Petitions

Summary

At the September 12, 2011, Meeting the Board discussed a policy to permit the use of a single signature on a recall petition where the only signer of the petition was also the circulator. The Board also discussed whether an organization supporting a recall petition could pre-populate address data of a potential signer on recall petition, which the potential signer could access online, print, sign, date and return to the organization to submit when it offered recall petitions for filing.

The Board adopted the following motion:

***MOTION:** Approve the one-signature petition form as an acceptable instrument for petition signature collection, but take no position on Mr. Williams' proposed online process for petition circulation. Moved by Judge Deininger, seconded by Judge Brennan.*

Following the Board meeting it was widely and inaccurately reported that the Board had approved the online circulation of recall petitions. The Joint Committee for the Review of Administrative Rules (JCRAR) requested the Director and General Counsel appear at a public hearing on September 27, 2011 to explain why the Board's policy on pre-populating recall petitions should not be promulgated as an emergency rule pursuant to Wis. Stats. §§227.10 (1), 277.26 (2) on the basis the Board's policy meets the definition of a rule under Wis. Stats. §227.01 (13).

Following that meeting, JCRAR held an executive session to take action on a proposed motion directing the agency to promulgate its policy on accepting election related petitions with signer's address information pre-populated as an emergency rule. A copy of the proposed motion is attached.

After listening to the Director and General Counsel's response to the proposed motion, the Committee agreed to wait until after the Board had given additional consideration to the concerns raised by the Committee.

Given the focus of the Committee's concerns on the preparation of recall petitions and pending legislative proposals to change statutory requirements governing the preparation of recall petitions, staff recommends the Board clarify its guidance on the preparation of recall petitions with respect to a single signature for a signer and circulator and the pre-population of address data of a potential signer on recall petition.

Discussion

The driving concern of a majority of the JCRAR members is that permitting potential signers to access a recall petition with the signer's address information pre-populated from some other source makes it too easy to collect recall signatures and provides an opportunity for gathering fraudulent signatures. Committee Members expressed a preference for requiring recall petition circulators to personally obtain information on a recall petition through face-to-face encounters between circulators and signers.

A legislative proposal was the subject of a public hearing on October 31, 2012 to require that the certificate of circulator be changed to an affidavit of circulator, which must be signed before a person authorized to administer oaths. LRB-3341/1. This would return the form for recall petitions to something similar to the form in use before August 2000. 1999 Wisconsin Act 182 changed the affidavit of circulator on election-related petitions to a certificate.

While the Board's motion did not expressly permit the pre-population of recall petition signers' address information, it acted in the context of a request from Patrick Williams that contemplated making a recall petition form available to potential signers with all information required for sufficiency printed with the exception of the signer/circulator's name and the date of signing. Since that time, staff has received a similar inquiry from Mark Balwinski where a potential signer would enter their address information online and print the form for signing and dating.

Like the Williams proposal, this approach contemplates a single signature for the signer/circulator. Both proposals are focused on standardizing signer information through the use of technology to facilitate validation of the signer. The Board's signature verification process is based on a facial review of the information on an election-related petition form. Wis. Admin. Code GAB 2.05 (3). Filing officers would not have access to the electronic data behind this process. Filing officer may have forms that are easier to read, but would receive a larger number of single signature forms, which increases the amount of paper to be processed.

In light of the concerns expressed by some JCRAR Committee Members and others along with the proposed legislation to add a verification of the circulator through a notary requirement, staff recommends the Board clarify its advice to Mr. Williams and Mr. Balwinski relating to the use of a single signature for a signer/circulator. Staff also recommends a clarification on the preparation of election-related petitions with respect to listing signer address and date information.

Signer/Circulator

Staff recommends that the Board take the position that;

1. If the circulator of an election-related petition is also a signer of the petition page circulated by the circulator, then the individual must sign twice; once in a section of the form designed to collect information from qualified electors signing the election-related petition; and
2. If the circulator of an election-related petition is also a signer of the petition page circulated by the circulator, then the individual must sign a second time in a section of the form designed to obtain a certification from the circulator.

The second signing indicates that the individual circulating the form personally circulated the petition page, personally obtained each signature, knows the signers are electors of the jurisdiction or district in which the petition was circulated, knows the signers signed the petition with full knowledge of its content, knows the signers respective addresses given and each signer signed on the date stated opposite his or her name along with required information identifying the circulator.

A review of the applicable statutes demonstrates that signing and circulating election-related petitions are two separate actions. Wis. Stats. §§8.10, 8.15, 8.20, 8.40, 9.10, 9.20. While a single individual may do both with a particular petition page, the page should reflect the separate actions. A single signature in the format approved by the Board blurs the distinction between the two acts of gathering signatures. Whether a single signature format may meet the technical requirements of the law and facilitate collection of signatures from a large number of signers, the Board gets to determine the form of the petition for determining the validity of signatures. Wis. Stats. §8.40 (3).

The Board has adopted a policy presuming the validity of signatures on election-related petitions, subject to challenge. Wis. Admin. Code GAB 2.05 (4). In administering the policy the Board has counted a signature on an election-related petition, where the signer is the only signer and is also the circulator. The Board has also counted a signature on an election-related petition, where required information about the signer or circulator is incomplete, but can be determined by reference to other information on the form. Wis. Admin. Code GAB 2.05 (5).

Listing Required Information on Election-Related Petitions

Staff recommends that the Board take the position that election-related petitions can be prepared with certain required information related to the content of the petition printed on the petition form and made available to the circulators of the form. This includes information required to identify the type of petition, the specifics related to the filing officer, candidate, official to be recalled or election. Similarly, required information about the circulator, including name and address can be printed on the petition form and made available to the circulators of the form.

There should be no reason to restrict whether this pre-populated information is distributed online, by mail or in person to the circulators of the form. This is consistent with the practice

of the Board staff and local filing officers in reviewing election-related petitions before circulation.

Signers are required to sign their name to an election –related petition. Wis. Stats. §§ 5.62 (2)(a); 8.10 (2)(b), (4)(b) ; 8.15 (2), (5)(a); 8.20 (2)(a), (5); 8.40 (1); 9.10 (1)(b), 9.20 (1). The general rule for election-related petitions is that the signer shall affix his or her signature “accompanied by” the signer’s address, including street, number and municipality along with the date of signing. Wis. Stats. §8.40 (1). References in the nomination paper statutes require the signer to list his or address and date of signing. Wis. Stats. §§ 8.10 (4)(b) ; 8.15 (2)(b),; 8.20 (5). Criteria in the recall petition statute provide a signature may not be counted if the signature cannot be determined by the address given, is not that of a resident of the jurisdiction or district or is otherwise unqualified as an elector. Wis. Stats. §9.10 (2)(e)4.,5.,6,7., 8. References in the recall petition statute also provide a signature may not be counted if the signature is not dated, is dated outside the circulation period or is dated after the date of the certification of circulator. Wis. Stats. §9.10 (2)(e)1.,2.,3.

The Board has adopted a policy for treating the correction of missing information required for the validity of signatures or circulator information on election-related petitions. Wis. Admin. Code GAB 2.05 (3),(4),(5). Corrections may only be made by the signer or circulator under oath based on personal knowledge. In the case of a nomination paper, corrections may also be made by the candidate under oath based on personal knowledge. Wis. Admin. Code GAB 2.05 (4)

It is clear from the statutes, the signer has some level of responsibility with respect to listing his or her address and the date of signing. In light of that, staff recommends the Board adopt a policy that restricts anyone other than the signer or the circulator from preparing an election-related petition with a signer’s specific residential address information or the full date of signing pre-populated. However, an election-related petition may have the municipality of residence and the month or year of signing pre-populated to foster a properly completed petition form.

Recommended Motions

1. The Board adopts the analysis and conclusions contained in the staff memorandum that if the circulator of an election-related petition is also a signer of the petition page circulated by the circulator, then the individual must sign once in a section of the form designed to collect information from qualified electors signing the election-related petition and a second time in a section of the form designed to obtain a certification from the circulator.
2. The Board adopts the analysis and conclusions contained in the staff memorandum that no one other than the signer or the circulator may prepare an election-related petition with a signer’s residential address information or the full date of signing pre-populated. However, an election-related petition may have the municipality of residence and the month or year of signing pre-populated.



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR LEAH VUKMIR AND REPRESENTATIVE JIM OTT

That JCRAR finds the Government Accountability Board's recognition that a nomination paper, recall petition or direct legislation petition could be printed with the signer's address completely pre-populated is a statement of policy and an interpretation of ss. 8.40, and 9.10, Stats. and s. GAB 2.05, Wis. Admin. Code that meets the definition of a rule under s. 227.01(13), Stats.; and, pursuant to ss. 227.10(1) and 227.26(2), Stats., that JCRAR directs the Government Accountability Board to promulgate its action as an emergency rule within 30 days.

Kennedy, Kevin - GAB

From: Mark Balwinski [mba@printcolor.net]
Sent: Friday, October 14, 2011 1:07 PM
To: Kennedy, Kevin - GAB
Cc: Barbara Balwinski
Subject: Single Signer petition.
Attachments: petition(2).pdf; ATT00001..htm

October 14, 2011

Kevin Kennedy
Executive Director of Government Accountability Board
State of Wisconsin
Madison, WI

Dear Mr. Kennedy.

I spoke with you last week regarding a fraudulent proof idea that we've been working on for assisting in the recall election process.

I know that the GAB has allowed single signer petitions to be submitted, and am including a PDF form that we've created based on the language provided in the Recall Manual.

<http://gab.wi.gov/publications/manuals/recall>

I am also submitting for your consideration as a proof of concept, the form that we are proposing to use as a single signer petition document.

I would also like to follow up with you regarding the attachment and to schedule a time to come out to meet with you and the rest of the GAB to further explain to you, the additional processes that will implemented alleviate concerns with regards to data verification and the prevention of fraudulent entries.

The process in detail is relatively simple.

Print it, Sign it, Mail it in.

The data is typed in via a single petitioner accessing a web site, where the person who wishes to participate in the recall activity, will enter their own information. There is no way to import any purchased data base and each file is created and generated separately so there is no batch processing if you will. The participant will complete an online questionnaire that will correspond to the fields indicated on the attached PDF.

The elector will have had to manually enter in all required information required by statute including a valid address and their municipality listings. Information once submitted will then be processed and verified by one of the major credit reporting agencies data centers to ensure that the information

provided including the residential address and municipality are valid.

The signatory can also be screened against a host of other varied criteria, such as NCOA, and Death Registry.

The user once completed with the form will be prompted to print, sign and date, and mail in their completed forms so that they may gathered, collated, and numbered in accordance with GAB submission requirements.

The information that is being entered into the form via manual entry and is printed simply to aide in legibility to assist in the GAB's process of certification. The data is not going to be submitted to your organization, and is only used to generate the PDF.

I hope this gives you a better understanding of what we're looking to accomplish.

If you have any questions, or require a further explanation or demonstration please feel free to contact me at either my email address, MBA@printcolor.net or via telephone to 262-681-9950.

If you could please let us know to whose attention the document will need to be addressed it will be most helpful.

Thank you for your consideration and I look forward to working with you to ensure that this process operates smoothly and efficiently for all.

Mark Balwinski

WALKER RECALL PETITION

TO: _____, Government Accountability Board, State of Wisconsin

I, the undersigned qualified elector of the State of Wisconsin, petition for the recall of
Scott Walker, Governor

from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and §.9.10 of the Wisconsin Statutes.

Statement of Elector and Certification of Circulator:

- I certify that I reside at the address and in the municipality listed below.
- I am a qualified elector of the jurisdiction or district represented by the officeholder named in this petition.
- I personally signed this paper with full knowledge of its content on the date indicated opposite my name.
- I support this recall petition.
- I am aware that falsifying this certification is punishable under §.12.13(3)(a), Wis. Stats.

ELECTOR:

NAME:

ADDRESS:

CITY/ZIP:

MUNICIPALITY:

Signature of elector/circulator

Date signed (DD-MM-YYYY)

- INSTRUCTIONS:**
- 1 PRINT**
 - 2 SIGN & DATE**
 - 3 MAIL TO:**
[Recall Entity
Mailing Address
City, WI Zip]

Generated by [Recall Entity] at [URL] upon the request of elector/circulator listed above on

KLEEFISCH RECALL PETITION

TO: _____, Government Accountability Board, State of Wisconsin

I, the undersigned qualified elector of the State of Wisconsin, petition for the recall of

Rebecca Kleefisch, Lieutenant Governor

from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and §.9.10 of the Wisconsin Statutes.

Statement of Elector and Certification of Circulator:

- I certify that I reside at the address and in the municipality listed below.
- I am a qualified elector of the jurisdiction or district represented by the officeholder named in this petition.
- I personally signed this paper with full knowledge of its content on the date indicated opposite my name.
- I support this recall petition.
- I am aware that falsifying this certification is punishable under §.12.13(3)(a), Wis. Stats.

ELECTOR:

NAME:

ADDRESS:

CITY/ZIP:

MUNICIPALITY:

Signature of elector/circulator

Date signed (DD-MM-YYYY)

INSTRUCTIONS:

- 1 PRINT**
- 2 SIGN & DATE**
- 3 MAIL TO:**
[Recall Entity
Mailing Address
City, WI Zip]

Generated by [Recall Entity] at [URL] upon the request of elector/circulator listed above on

GAB-170 (Rev. 6/2007) The information on this form is required by §§. 8.40 and 9.10, Wis. Stats. This form is prescribed by the Government Accountability Board, P.O. Box 7984, Madison, WI 53707-7984. 608-266-8005, <http://gab.wi.gov>, email: gab@wi.gov

To: State of Wisconsin Government Accountability Board (GAB)

From: Patrick Williams, Milwaukee

Date: September 1, 2011

Re: Acceptability of Single-Signature Recall Petitions and the Use of Such in Online Recall Initiatives to be Offered as Public Input at the September 12, 2011 GAB Meeting

Attachments: Attachment 1 and Attachment 2

Honorable Board Members:

Thank you for your service to the citizens of Wisconsin, and your consideration of this public input. I am Patrick Williams of Milwaukee, acting solely as a Wisconsin citizen and qualified elector, unaffiliated with any organization, political action committee (PAC), or political party. I own and operate the web site WisconsinRecall.net (<http://WisconsinRecall.net>) in my free time, without compensation in any form. Having other full-time employment, I neither accept nor solicit any funds for myself or the website, but I do use the web site encourage the contribution of effort and funds to other organizations related to past and potential future recall initiatives and elections.

In light of the wide availability and low cost of the enabling technology, and of recent and potential recall initiatives, some as early as fall of this year, I respectfully submit that now is the time to implement an online recall process that will make it significantly easier for the vast majority of Wisconsin electors to obtain and submit recall petitions to the GAB. Qualified electors seeking redress through the recall process should not have to rely on other people physically presenting them, door-to-door, with a recall petition for signing, or on having to drive to locations where such signatures are being collected. An online process reduces the vagaries of signature collectors gathering and submitting those signatures incorrectly or illegally. It also reduces the burden on those supporting recalls to field a large number of signature gatherers. It allows for a more direct, private and accurate means by which qualified electors can express their recall preferences to the GAB.

The purpose of this public input is to respectfully ascertain the following from the GAB, in relation to a potential online recall initiative as early as this fall, employing single-signature recall petitions:

1. If a single-signature recall petition similar to either Attachment 1 or Attachment 2 arrived at the GAB, would it be considered valid if it was:
 - a. Duly signed and dated by a qualified elector in accordance with a recall initiative duly filed with the GAB, and
 - b. Forwarded by that elector directly to the GAB (identified by the return mailing information) in the appropriate time frame?

2. If batches of single-signature recall petitions similar to Attachment 2 arrived at the GAB, would they be considered valid if they were:
 - a. Duly signed and dated by a qualified elector in accordance with a recall initiative duly filed with the GAB, and
 - b. Forwarded by the electors to some organization representing the recall committee (identified by the return mailing information) that would collate and otherwise "in-process" them, and
 - c. Forwarded by the organization representing the recall committee to the GAB in batches in the appropriate time frame?

Attachment 2 includes an example of a unique code, also bar coded. This code is from a petition request database, presumably administered by some organization representing the recall committee(s), although it could conceivably be administered by the GAB itself. This database would be accessible by electors via the internet. Electors would enter their name, address and other information in this database, and verify the individual(s) they wish to recall (recallee(s)). Then a record ID unique to each elector and recallee combination would be generated (e.g., 1234567). A two-digit code (01, 02, etc.) would then be appended to the ID to indicate the recallee explicitly.

From this information a recall petition customized to each elector and recallee would be generated electronically on an appropriate date dictated by the recall filing, after which the elector could download the petition(s) for signing, dating and mailing. The barcode facilitates faster, in-processing of signed and dated forms, elector address validation, etc., by use of readily-available barcode scanning devices.

Optionally, another two-digit code (01, 02, etc.) might be appended to the unique ID to indicate the location at which the recalling organization would initially in-process the signed and dated petition, if applicable. Additional coding could be appended to indicate a relevant political district, but that is ignored here in anticipation of the recall of statewide officials.

This database might also allow people to request recall petitions for other people, such as an elderly relative or someone who has no computer access, so long as both the requestor and elector are clearly identified by name, address, and the requestor phone an e-mail address.

Given this information, two more questions remain:

3. In the case of either 1 or 2 above using Attachment 2, would the GAB accept access to a database similar to that described above to facilitate on your end the validation of single-signature petitions generated via an online recall process?
4. Between cases 1 and 2 above and Attachments 1 and 2, which is preferable to the GAB?

Again, thank you for your time and consideration of this public input. I look forward to working with the GAB to make online recalls a reality in the very near future. Please feel free to contact me at any time regarding this.

Best Regards,

Patrick Williams
Milwaukee, WI
Mobile: 414-241-1889
E-Mail: admin@WisconsinRecall.net

ATTACHMENT 1 - SAMPLE RECALL PETITION

TO: THE GOVERNMENT ACCOUNTABILITY BOARD

STATEMENT OF ELECTOR AND CERTIFICATION OF CIRCULATOR

I, the undersigned, petition for the recall of

<Office Holder Name and Office>

from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and §9.10 of the Wisconsin Statutes. I certify that I am a Qualified elector of the jurisdiction or district represented by the officeholder named in this petition, and that I reside at the address and in the municipality listed below. I personally obtained this recall petition and signed this petition on the date indicated below, in accordance with the signature gathering timeline and requirements specified for gathering recall signatures in Article XIII, Section 12 of the Wisconsin Constitution and §9.10 of the Wisconsin Statutes. I signed this petition with full knowledge of its content. I support this recall petition. I am aware that falsifying this certification is punishable under §.12.13(3)(a), Wis. Stats.

(Signature of elector/circulator)

(Date of signing)

<Name of Elector>

<Address of Elector>

<Municipality Type> of <Residence Municipality>

- - - > IMPORTANT RETURN MAILING INFORMATION < - - -
Please mail this petition by <Mail Date> in a stamped business envelope to:

<Return Office Name>

<Return Address>

<Return City>, WI <Return Zip Code>

Generated by <Recall Committee Name> on <Document Creation Date>
at the request of elector/circulator listed above.

GAB- 170ss (8/2011) The information on this form is required by §§. 8.40 and 9.10, Wis. Stats.
This form is prescribed by the Government Accountability Board, P.O. Box 7984, Madison, WI 53707- 7984
608- 266- 8005, <http://gab.wi.gov> email: gab@wi.gov

Page No. _____

ATTACHMENT 2 - SAMPLE CODED RECALL PETITION

TO: THE GOVERNMENT ACCOUNTABILITY BOARD

STATEMENT OF ELECTOR AND CERTIFICATION OF CIRCULATOR

I, the undersigned, petition for the recall of

<Office Holder Name and Office>

from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and §.9.10 of the Wisconsin Statutes. I certify that I am a Qualified elector of the jurisdiction or district represented by the officeholder named in this petition, and that I reside at the address and in the municipality listed below. I personally obtained this recall petition and signed this petition on the date indicated below, in accordance with the signature gathering timeline and requirements specified for gathering recall signatures in Article XIII, Section 12 of the Wisconsin Constitution and §9.10 of the Wisconsin Statutes. I signed this petition with full knowledge of its content. I support this recall petition. I am aware that falsifying this certification is punishable under §.12.13(3)(a), Wis. Stats.

(Signature of elector/circulator)

(Date of signing)

<Name of Elector>

<Address of Elector>

<Municipality Type> of <Residence Municipality>

- - - > IMPORTANT RETURN MAILING INFORMATION < - - -
Please mail this petition by <Mail Date> in a stamped business envelope to:

<Return Office Name>

<Return Address>

<Return City>, WI <Return Zip Code>



12345670101

Generated by <Recall Committee Name> on <Document Creation Date>
at the request of elector/circulator listed above.

GAB- 170ss (8/2011) The information on this form is required by §§. 8.40 and 9.10, Wis. Stats.
This form is prescribed by the Government Accountability Board, P.O. Box 7984, Madison, WI 53707- 7984
608- 266- 8005, <http://gab.wi.gov> email: gab@wi.gov

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State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: September 12, 2011

TO: Mr. Patrick Williams
WisconsinRecall.net

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

SUBJECT: Staff Response to Mr. Williams' Specific Questions
with Respect to Potential Online Recall Process

Thank you for your interest in the electoral process and your desire to introduce a technology-based option to the conventional method of petition circulation. Your proposal has been carefully reviewed by the Government Accountability Board Staff.

In your communication dated September 1, 2011 you pose four questions to the Government Accountability Board. Board staff has addressed each question, in turn, below.

1. *If a single-signature recall petition similar to either Attachment 1 (sample recall petition) or Attachment 2 (sample coded recall petition) arrived at the GAB, would it be considered valid if it was:*
 - A. *Duly signed and dated by a qualified elector in accordance with a recall initiative duly filed with the GAB, and*
 - B. *Forwarded by that elector directly to the GAB (identified by the return mailing information) in the appropriate time frame?*

Response: Yes. The single petition would be considered valid if properly and accurately completed by a single qualified elector. Please note however, that the Government Accountability Board does not accept petition pages sent by individual electors. The petition must be filed once, in its entirety, by the person registering the Recall Committee or an agent of that registrant. The date of filing sets the deadlines for challenge, rebuttal and reply, and for the filing officer to determine the sufficiency or insufficiency of the petition. A date of filing cannot be determined if petition pages are received piece meal.

2. *If batches of single-signature recall petitions similar to Attachment 2 (sample coded recall petition) arrived at the GAB, would they be considered valid if they were:*
- A. *Duly signed and dated by a qualified elector in accordance with a recall initiative duly filed with the GAB, and*
 - B. *Forwarded by the electors to some organization representing the recall committee (identified by the return mailing information) that would collate and otherwise "in-process" them, and*
 - C. *Forwarded by the organization representing the recall committee to the GAB in batches in the appropriate time frame?*

Response: Electors requesting a petition could be directed to mail or deliver their petition pages to a central collection site where the pages would be collated for delivery to the Government Accountability Board. The central location could "batch" the pages according to criteria established by the recall committee or the collection site. The batches however, must be delivered to the Government Accountability Board in one filing.

3. *In the case of either (question) 1 or 2 above using Attachment 2 (sample coded recall petition), would the GAB accept access to a database similar to that described above to facilitate on your end the validation of single-signature petitions generated via an online recall process?*

Response: The G.A.B. may accept access to the data base as a tool to facilitate review of the recall petitions. However, any information provided to the G.A.B., including a data base as described in your proposal, would be subject to the Wisconsin Public Records law.

4. *Between cases 1 and 2 above and Attachments 1 and 2, which is preferable to the GAB?*

Response: Either case number 1 or number 2 is acceptable for the preparation and delivery of the recount forms subject to the qualifications noted in those scenarios. If the data base is made available to the G.A.B., then, the coded form makes the most sense from a practical stand point.

Once again Mr. Williams, thank you for bringing this request to our attention. Please let us know if we can provide additional assistance.

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

Diane Lowe
 Lead Elections Specialist
 Government Accountability Board

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of November 9, 2011

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:
Michael Haas, Staff Counsel
Edward Edney, SVRS Application Trainer

SUBJECT: Legislative Status Report

Following is a summary of legislative proposals that Board staff is monitoring:

1. Senate Bill 271: Voting at the polls by electors who voted by absentee in the same election

SB271 provides that if an elector casts an absentee ballot, either by mail or in person, the municipal clerk or board of election commissioners shall not return the ballot to the elector. SB271 also provides that an elector who casts an absentee ballot at an election is not permitted to vote in person at the same election on Election Day. SB271 was referred to committee and a public hearing was held on October 31, 2011.

2. Senate Bill 270: Notary requirement for recall petition circulators

SB270 requires that when a circulator signs a petition for the recall of an elective officer, the statement must be in the form of an affidavit acknowledged by a notary who administers an oath affirming the circulator's identity and that the circulator appeared before the notary and executed the statement in the notary's presence. SB270 was referred to committee and a public hearing was held on October 31, 2011.

3. Senate Bill 269 and Assembly Bill 169: Residency of election officials

SB269 and AB169 are separate versions of bills that allow an individual who serves as an election official at a polling place on Election Day to be an elector of the county where he or she serves. AB169 was referred to committee and had a public hearing on June 9, 2011. SB269 was also referred to committee and had a public hearing held on October 31, 2011.

4. Senate Bill 268: The applicability of Wisconsin Act 43 to special and recall elections

SB268 provides that Wisconsin Act 43 first applies to special and recall elections for assembly representatives held concurrently with the 2012 general election and to special and recall elections for senators held on or after November 9, 2011. SB268 also provides that Act 43 first applies to petitions filed on or after November 9, 2011 for the recall of senators. SB268 was referred to committee and a public hearing was held on October 31, 2011.

5. Senate Bill 267: Method for reporting election returns by municipalities

SB267 allows a municipality that combine wards for voting purposes at a single location to also combine wards when reporting election returns, except when a separate ballot is required in a partisan or nonpartisan election, in which case the municipality must report separate results for the offices listed on each separate ballot. SB267 was referred to committee and a public hearing was held on October 31, 2011.

6. Senate Bill 256: Fee exception for duplicate identification cards

SB256 includes duplicate identification cards in the the fee exception under Wisconsin Act 23, and requires that the Department of Transportation (DOT) charges no fee for duplicate identification cards. SB256 was referred to committee and has not been scheduled for public hearing.

7. Senate Bill 245: The GAB and administrative rule-making procedures requiring Governor Approval

SB245 exempts the GAB from administrative rule-making requirements involving the approval of the governor. In particular, SB245 exempts the GAB from presenting for approval statements of the scope for proposed rules, the final draft form of the proposed rules, and the final draft form of all emergency rules. SB245 was referred to committee and has not been scheduled for public hearing.

8. Senate Bill 213 and Assembly Bill 317: Creation of a Wisconsin Election Campaign Fund

SB213 and AB317 are companion bills that allow individuals to designate on their state income tax return \$1 to be transferred to an election campaign fund administered by the GAB and the state treasurer. Both bills were referred to committee and have not been scheduled for public hearing.

9. Assembly Bill 296: Contributions used to finance recall petition drives

AB296 makes contributions used to finance recall petition drives subject to the contribution limitations under campaign finance laws. AB296 was referred to committee and has not been scheduled for public hearing.

10. Senate Bill 176 and Assembly Bill 268: Filling legislative vacancies

SB176 and AB268 are companion bills that change statutes to specify that a special election must be ordered by the governor within 60 days after a vacancy occurs in the senate or assembly, subject to the current exception. Both bills were referred to committee and have not been scheduled for public hearing.

11. Assembly Bill 264: Political contributions by certain elective state officials

AB264 prohibits any incumbent or elected partisan state official from accepting any political contribution for the purpose of promoting their nomination or reelection from January 1 of an odd-numbered year up to the date the biennial budget act is enacted. AB264 also prohibits an incumbent governor or lieutenant governor, or an individual who has been elected to either of those offices from accepting any political contribution for the purpose of promoting their nomination or reelection from the day after the general election through the succeeding first Monday in January. Violators are subject to a civil penalty and intentional violators are guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than six months or both.

AB264 was referred to committee and has not been scheduled for public hearing.

12. Senate Bill 165: Birth certificates for Milwaukee County residents

SB165 allows a resident of Milwaukee County to obtain a free birth certificate, for one year following its effective date, if the resident needs the birth certificate in order to obtain a driver license or identification card for the purpose of voting. SB165 was referred to committee and has not been scheduled for public hearing.

13. Senate Bill 162 and Assembly Bill 226: Notice of the fee for free ID cards

SB162 and AB226 are companion bills which would require the Department of Transportation (DOT) to include on its application forms for identification cards a statement that there is no fee for the initial issuance, renewal, or reinstatement of an identification card for voting purposes. The bills also requires DOT staff to inform any person inquiring about an identification card that identification cards are available without charge for purposes of voting. Both SB162 and AB226 were referred to committee and have not been scheduled for public hearing.

14. Senate Bill 148 and Senate Bill 149 and Senate Bill 150: Redistricting

SB148, SB149, and SB150 are companion bills related to the state redistricting plans based on the 2010 federal census. SB148 redistricts state legislative districts and SB149 redistricts congressional districts. SB150 requires that municipal ward plans, and the aldermanic and supervisory districts upon which they are based, reflect municipal boundaries on April 1 of the year of each federal decennial census.

SB148, SB149, and SB150 were all referred to committee and had public hearings on July 13, 2011. The bills passed in the Senate on July 19, 2011. SB148 was amended with one senate amendment, and SB150 was amended with two senate amendments. SB149 was not amended. All bills were then concurred in the Assembly on July 20, 2011. The governor approved SB148, SB149, and SB150 on August 9, 2011 and they were published on August 23, 2011 as Wisconsin Act 43, 44, and 39 respectively.

15. Senate Bill 157 and Assembly Bill 198: Redistricting Standards

SB157 and AB198 are companion bills which require the Legislative Reference Bureau and the Government Accountability Board to jointly develop standards for legislative and congressional districts based on population requirements under the Wisconsin Constitution and the U.S. Constitution and requirements under Section 2 of the Voting Rights Act. Both bill were referred to committee and have not been scheduled for public hearing.

16. Assembly Bill 196: Restrictions on campaign finance rule making authority

AB196 prohibits the promulgation of certain rules concerning campaign financing by the Government Accountability Board. Under AB196, the Board is unable to promulgate a rule that affects the authority of a corporation or cooperative to make a disbursement independently of a candidate or any agent or authorized committee of such a candidate. In addition, apart from the requirements imposed under the campaign finance law, the board is unable to impose upon any person, including any organization, any registration, reporting, filing, accounting, treasury, or fee payment requirement, or any attribution requirement in making communications.

AB196 was referred to committee and was not scheduled for public hearing. It was then referred to the committee on Rules but referred back to committee on September 13, 2011.

17. Senate Bill 116 and Assembly Bill 161: Changing the September Partisan Primary

SB116 and AB161 are companion bills which would change the date of the September primary from the 2nd Tuesday in September to the 2nd Tuesday in August, and rename it the "Partisan Primary". SB116 and AB161 also change the dates of related election events to accommodate the change in the date of the primary. In addition, the bills make various changes in the laws pertaining to absentee voting by military and overseas electors.

SB116 and AB161 were referred to committee and had public hearings on June 02, 2011. While in committee AB161 was amended twice and then referred to the committee on Rules. It was made a special order of business for November 1, 2011.

In the Senate, SB116 was amended with one substitute amendment and passed on June 08, 2011. The Assembly received SB116 and referred it to committee. It was then withdrawn from committee and amended with assembly substitute amendment 1 on October 25, 2011. It was also made a special order of business for November 1, 2011.

18. Senate Bill 115 and Assembly Bill 162: Changing the Presidential Preference Primary

SB115 and AB162 are companion bills which would change the date of the presidential preference primary from the 3rd Tuesday in February to the first Tuesday in April in those years in which the president and vice president are elected. The bills also change the dates of all related election events to accommodate the change in the date of the primary.

Both SB115 and AB162 were referred to committee and had public hearings on June 02, 2011. While in committee AB 162 was amended with one substitute amendment and then referred to the committee on rules. On September 13, 2011 AB162 was laid on the table in the Assembly.

In the Senate, SB115 was amended with one senate substitute amendment and passed on June 08, 2011. The Assembly concurred on September 14, 2011. SB115 was then approved by the Governor on September 30, 2011 and published as Wisconsin Act 45 on October 14, 2011.

19. Senate Bill 35: Reducing legislative districts

SB35 reduces the number of State Senators from 33 to 25 and the number of Assembly Representatives from 99 to 75. It would apply to the next decennial legislative redistricting that occurs after its enactment. SB35 was referred to committee and has not been scheduled for public hearing.

20. Senate Bill 25 and Assembly Bill 36: Dissolving regional transit authorities

SB25 and AB36 are companion bills which would eliminate legislative authorization to create regional transit authorities, dissolve any existing regional transit authority and the Southeastern Regional Transit Authority, and eliminate the Southeast Wisconsin transit capital assistance program. RTAs may conduct referendum elections, and therefore this legislation would affect the Board's administration of SVRS. The companion bills have been referred to the respective oversight committees.

21. Assembly Bill 32: Communications by legislators

AB32 would modify the statute which prohibits legislators who are up for re-election from distributing more than 49 pieces of substantially identical material between June 1st of the election year and the date of the election. The bill would create an exception for communications to constituents during the 45 days following a declaration of emergency if the communication relates to the subject of the emergency.

AB32 was referred to committee and had a public hearing on June 2, 2011. The bill was then referred to the committee on Rules on August 2, 2011. It passed in the Assembly on September 13, 2011 and was referred to committee in the Senate on September 14, 2011.

22. Senate Bill 17 and Assembly Bill 28: Reporting by nonresident committees

SB17 and AB28 are companion bills which would expand the amount of campaign finance information which is required to be reported by nonresident political committees. Currently such committees are required to report only contributions received by Wisconsin residents and expenditures made which involve Wisconsin elections. SB17 was referred to committee, but has not been scheduled for a public hearing. AB28 was also referred to committee, which held a public hearing on June 9, 2011.

23. Senate Bill 6 and Assembly Bill 7 and Assembly Bill 67: Photo ID

SB6 and AB7 were introduced as identical companion bills which would require electors to show a valid form of photo identification prior to receiving a ballot. SB6 was amended, but laid on the table in the Senate on June 8, 2011. AB7 was also amended through two substitute amendments, but was made a special order of business before the Assembly on May 11, 2011. The Assembly adopted both substitute amendments, and passed the bill. The Senate concurred on May 19, 2011. The bill was then approved by the Governor on May 25, 2011 as Wisconsin Act 23, which was published on June 9, 2011.

AB67 was introduced as a separate companion bill to SB6 which would require electors to show a valid form of photo identification prior to receiving a ballot. AB67 would in addition change the deadlines for late registration and in-person absentee voting, and require G.A.B. to provide an interactive electronic registration form. The bill was referred to committee, but was not taken up.

24. Assembly Joint Resolution 63: Recall of elective officers and a code of ethics for government officials

AJR63, proposed on first consideration, limits the grounds for the recall of an incumbent congressional, judicial, or legislative elective officer or any county elective officer specified in the Wisconsin Constitution. Under AJR63, an elective officer may be recalled only if they were charged with a serious crime or if a finding of probable cause has been made that they violated the state code of ethics. AJR63 was referred to committee.

25. Assembly Joint Resolution 56: Granting the right to vote to persons convicted of a felony or a certain misdemeanor

AJR56, proposed on first consideration, grants felons and persons convicted of certain misdemeanors the right to vote as well as hold and run for public office. AJR56 was referred to committee.

26. Assembly Joint Resolution 51: Constitutional amendment to change certain elected offices

AJR51, proposed on first consideration, makes elections for the office of district attorney, sheriff, register of deeds, county clerk, treasurer, surveyor, coroner, and clerk of circuit court nonpartisan and changes the term of office to begin on the first Monday in June. AJR51 was referred to committee.

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the November 9, 2011 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by:

Shane W. Falk, Staff Counsel

SUBJECT: Promulgation and Amendment of ch. GAB §1.28(3)(b), Wis. Adm. Code
Statement of Scope

Introduction, Status and Recommendation:

Pursuant to §5.05(1)(f), Stats., the legislature authorized the Government Accountability Board specific power to promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration. At the Board's meeting on December 22, 2010, the Board adopted an Emergency Rule 1.28 (EmR 1049) that was effective from its published date on January 7, 2011 through two extensions and when it expired on October 3, 2011. The Emergency Rule 1.28 removed the second sentence of GAB 1.28(3)(b), Wis. Adm. Code, which was effective on August 1, 2010 and the subject of several lawsuits. At the Board's meeting on March 22-23, 2011, the Board adopted a proposed permanent rule GAB 1.28(3)(b) that mirrored the emergency rule; however, the Legislature and Governor considered and enacted new laws regarding administrative rule-making. This has slowed staff's promulgation of the permanent rule GAB 1.28(3)(b) that mirrors the emergency rule.

Pursuant to 2011 Act 21 (effective June 8, 2011) and as amended by 2011 Act 32, §§2725d-2740 (effective July 1, 2011), staff submitted a Statement of Scope for the proposed permanent Rule 1.28 to Governor Walker on July 14, 2011. On August 24, 2011, staff received Governor Walker's written approval to proceed with publishing the Statement of Scope in the Wisconsin Administrative Register, where it appeared on September 14, 2011. Following this Memorandum are copies of the Statement of Scope and Governor Walker's approval.

More than 10 days has now expired since the Statement of Scope was published in the Administrative Register on September 14, 2011 and the Board must affirmatively approve it before staff can prepare a draft proposed rule for the Board's consideration. Pursuant to 2011

Act 21 (as amended by 2011 Act 32), staff is specifically prohibited from doing any work on the proposed rule until the Board has affirmatively approved the Statement of Scope.

Upon the Board's approval of the Statement of Scope, staff will return to the Board at the next meeting with a draft proposed rule for the Board's consideration. Thereafter, staff must prepare a detailed economic impact analysis after receiving comments from affected persons and entities (and pursuant to the Board's direction from the August 2, 2011 Board meeting regarding the method of soliciting comments.) Once the economic impact analysis is complete, staff can submit both the draft proposed rule and fiscal impact analysis to the Legislative Council for review. At the same time, staff must also submit the economic impact analysis to the DOA, the governor, and to the chief clerks of each house of the Legislature, who shall distribute the analysis to the presiding officers of their respective houses, to the chairpersons of the appropriate standing committees of their respective houses and to the co-chairpersons of the joint committee for review of administrative rules.

Recommendation: Staff recommends that the Board affirmatively approve the Statement of Scope for GAB 1.28(3)(b).

Background:

As part of a lawsuit against the Board in the U.S. District Court for the Western District of Wisconsin, and after consulting with its litigation counsel from the Wisconsin Attorney General's office, the Board previously executed a joint stipulation with the plaintiffs, asking the Court to permanently enjoin application and enforcement of the second sentence of ch. GAB §1.28(3)(b), Wis. Adm. Code. On October 13, 2010, the Court issued an Opinion and Order which, among other things, denied the parties' request for that permanent injunction and stayed the case pending the outcome of a separate case in the Wisconsin Supreme Court. In denying the permanent injunction, the District Court noted that "G.A.B. has within its own power the ability to refrain from enforcing, or removing altogether, the offending sentence from a regulation G.A.B. itself created" and emphasized that "removing the language—for example, by G.A.B. issuing an emergency rule—would be far more 'simple and expeditious' than asking a federal court to permanently enjoin enforcement of the offending regulation." *Wisconsin Club for Growth, Inc. v. Myse*, No. 10-CV-427, slip op. at 2 (W.D. Wis. Oct. 13, 2010). The Court further noted that staying the case would give the Board time to resolve some or all of the pending issues through further rulemaking. *Id.*, slip op. at 14.

In addition, the Board, through its litigation counsel, has represented to the Wisconsin Supreme Court that it does not intend to defend the validity of the second sentence of ch. GAB § 1.28(3)(b) and that it would stipulate to the entry of an order by that Court permanently enjoining the application or enforcement of that sentence.

On December 22, 2010, the Board adopted an Emergency Rule Order bringing ch. GAB § 1.28 into conformity with the above stipulation and with the representations that have been made to the Wisconsin Supreme Court. The emergency rule also comported with the suggestions made in the October 13, 2010, Opinion and Order of the U.S. District Court for the Western District of Wisconsin.

The only change that the emergency rule made to the August 1, 2010, rule is the repeal of the second sentence of GAB 1.28(3)(b). All other portions of GAB 1.28 remain unchanged. However, all of the revisions to GAB 1.28 that were effected on August 1, 2010, remain temporarily enjoined pending further order of the Wisconsin Supreme Court. Oral arguments for the litigation against the Board that is pending before the Wisconsin Supreme Court were held on September 6, 2011; however, a decision from the Supreme Court is not expected until some time in 2012. Promulgation of a permanent rule mirroring the emergency rule is necessary to maintain the Board's previous commitments made in the course of litigation.

Proposed Motion:

MOTION: Pursuant to §§5.05(1)(f), 227.11(2)(a), and 227.135, Wis. Stats., the Board affirmatively approves the Statement of Scope for the amendment of ch. GAB §1.28(3)(b), Wis. Adm. Code. and directs staff to return to the Board with a draft proposed permanent rule mirroring the emergency rule adopted on December 22, 2010.

Statement of Scope
Government Accountability Board
The definition of the term “political purpose,” s. GAB 1.28(3)(b)

Subject

Amend s. GAB 1.28(3)(b) relating to the definition of the term “political purpose.”

Objective of the Rule

The present amendment involves only the repeal of the second sentence of s. GAB 1.28(3)(b). All other portions of GAB 1.28 effected on August 1, 2010, including the first sentence of s. GAB 1.28(3)(b), are unchanged.

The first sentence of s. GAB 1.28(3)(b), provides that any communication that “is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate” is a communication “for political purposes” within the meaning of s. 11.01(16), Stats., and hence is subject to all of the campaign finance regulations under ch. 11 of the Wisconsin Statutes that apply to communications for a political purpose — subject, of course, to any additional requirements or limitations contained in particular statutes.

The second sentence of s. GAB 1.28(3)(b) additionally identifies communications which are susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. That is, any communications that possess the characteristics enumerated in the second sentence of s. GAB 1.28(3)(b) would automatically be deemed communications for a political purpose and, as a result, would automatically be subject to the applicable campaign finance regulations under ch. 11 of the Wisconsin Statutes.

As a result of litigation challenging the validity of the August 1, 2010, amendments to s. GAB 1.28, the Board has entered into a stipulation to refrain from enforcing the second sentence of s. GAB 1.28(3)(b). The Board, through its litigation counsel, has also represented that it does not intend to defend the validity of that sentence and has sought judicial orders permanently enjoining its application or enforcement. This sentence is removed by this rule.

Policy Analysis

The revised rule will subject to regulation communications that are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” The revised rule will subject communications meeting this criterion to the applicable campaign finance regulations and requirements of ch. 11, Stats. The scope of regulation will be subject to the United States Supreme Court Decision, *Citizens United vs. FEC* (No. 08-205), permitting the use of corporate and union general treasury funds for independent expenditures.

Statutory Authority

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

Comparison with Federal Regulations

The United States Supreme Court upheld regulation of political communications called “electioneering communications” in its December 10, 2003 decision: *McConnell et al. v. Federal Election Commission, et al.* (No.02-1674), its June 25, 2007 decision of: *Federal Election Commission (FEC) v. Wisconsin Right to Life, Inc. (WRTL II)*, (No.06-969 and 970), and pursuant to its January 21, 2010 decision of: *Citizens United vs. FEC* (No. 08-205).

The *McConnell* decision is a review of relatively recent federal legislation – The Bipartisan Campaign Reform Act of 2002 (BCRA) – amending, principally, the Federal Election Campaign Act of 1971 (as amended). A substantial portion of the *McConnell* Court’s decision upholds provisions of BCRA that establish a new form of regulated political communication – “electioneering communications” – and that subject that form of communication to disclosure requirements as well as to other limitations, such as the prohibition of corporate and labor contributions for electioneering communications in BCRA ss. 201, 203. BCRA generally defines an “electioneering communication” as a broadcast, cable, or satellite advertisement that “refers” to a clearly identified federal candidate, is made within 60 days of a general election or 30 days of a primary election and, if for House or Senate elections, is targeted to the relevant electorate.

In addition, the Federal Election Commission (FEC) promulgated regulations further implementing BCRA (generally 11 CFR Parts 100-114) and made revisions incorporating the *WRTL II* decision by the United States Supreme Court (generally 11 CFR Parts 104, 114.) The FEC regulates “electioneering communications.”

Entities Affected by the Rules

Any person, committee, individual or political group that will sponsor communications “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”

Estimate of Time Needed to Develop the Rules

20 hours.

Approval by the Governor

This Statement of Scope was approved by the Governor in writing on August 24, 2011.



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

August 24, 2011

Kevin Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
212 E. Washington Ave., 3rd Floor
P.O. Box 7984
Madison, WI 53707-7984

RE: Statement of Scope for Modifications to Chapter GAB 1

Dear Director Kennedy,

I hereby approve the Statement of Scope submitted on July 14, 2011, pursuant to Wisconsin Statutes § 227.135, in regards to modifications to GAB 1.28 of the Wisconsin Administrative Code. You may send the Statement of Scope to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes §§ 227.135(3).

Sincerely,

Scott Walker
Governor

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: November 9, 2011

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Program Update

Tracey Porter, Ethics and Accountability Specialist
Richard Bohringer and Nathan Judnic
Campaign Finance Auditors

2011 July Continuing Campaign Finance Reports

Staff has continued to work on processing and auditing the July Continuing 2011 campaign finance reports filed by the **1,451** candidates, political parties, legislative campaign committees, PACs, sponsoring organizations, independent expenditure registrants, recall committees and conduits. For most committees, this report covers campaign finance activity from January 1 through June 30, 2011 and was due on or before July 20, 2011. As of 8:00 a.m. on October 31, 2011, **28** reports have not been received. The non-filers include 10 candidates, 3 political parties, 7 PACs, 1 recall committees, 3 sponsoring organizations and 4 conduits. Staff sent the first email notice of late reports on July 25, 2011. Staff sent a second email notice and began calling non-filers on August 24 and 25, 2011. The first formal letter to the non-filers was sent on October 3, 2011. Staff will continue to follow up with late filers to obtain and process their campaign finance reports. An update on the non-filers will be given to the Board at the next meeting.

Special Pre-Primary and Pre-Election Reports – Assembly District 95

Candidates and committees that participated in the Special Primary for Assembly District 95 were required to file special pre-primary campaign finance reports. This report covers finance activity from July 1, 2011, or the date of the last report, through September 26, 2011, and was due on October 3, 2011. All candidates required to file a special pre-primary report have filed.

Candidates and committees that participated in the Special Election for Assembly District 95 were required to file special pre-election campaign finance reports. This report covers campaign finance activity from September 27, 2011, or the date of the last report, through October 24, 2011, and was due on October 31, 2011.

The report to the Board was prepared before the campaign finance report due date, and as such only 2 candidates have filed the report.

2012 January Continuing Campaign Finance Notices

Staff will begin preparing campaign finance notices for the January Continuing 2012 reports the week of December 5, 2011, with an estimated mail date to all registrants of December 26, 2011.

Other Division Staff Activities

In addition to processing the high number of campaign finance reports generated by the special elections, division staff continues to collect forfeitures resulting from the staff audits of lobbyist contributions outside of the allowable window and contributions exceeding allowable limits for a campaign period and calendar year. Division staff continues to assist in investigation matters and the tracking of complaints filed with the Board.

Lobbying Program Update

Tracey Porter, Ethics and Accountability Specialist

6 Month Statement of Lobbying Activities and Expenditures Report

Chapter 13.68, Wisconsin Statutes, requires all registered lobbying organizations to complete a 6 month Statement of Lobbying Activities and Expenditures (SLAE) report that contains information related to the organizations’ lobbying effort between January 1 and June 30, 2011. The SLAE report was due on or before August 1, 2011. As a part of the SLAE report, those lobbyists who are authorized to lobby for the organization are required to complete a time report that identifies those hours spent communicating or working on other lobbying related matters for the organization. This report was also due on or before August 1, 2011. Both reports are filed electronically. The Government Accountability Board has received all of the 1506 lobbyist time reports from 717 lobbyists, and all 707 SLAE reports from those registered principal organizations required to file. To date, we have discovered that a number of organizations either failed to register or authorize lobbyists, or notify the G.A.B. of lobbying matters in a timely matter.

Eighty-four organizations failed to notify bills, budget bill subjects, topics, or rules in a timely manner. Twenty-one organizations were sent warning letters. Sixty-three organizations were required to pay forfeitures. As of 8:00 a.m. on October 31, 2011, we have received forfeitures from 34 organizations for a total of \$2,825. To date, nine organizations have requested reconsideration of their forfeiture amounts.

Lobbying Registration and Reporting Information

Government Accountability Board staff continues to process 2011-2012 lobbying registrations, licenses and authorizations. Processing performance and revenue statistics related to this session’s registration is provided in the table below.

2011-2012 Legislative Session: Lobbying Registration by the Numbers			
(Data Current as of October 31, 2011)			
	Number	Cost	Revenue Generated
Organizations Registered	721	\$375	\$270,375
Lobbyists Licenses Issued (Single)	611	\$350	\$213,850
Lobbyists Licenses Issued (Multiple)	125	\$650	\$81,250
Lobbyists Authorizations Issued	1577	\$125	\$197,125

New Lobbying Website Project Update

A significant amount of time has been allocated to develop the new lobbying application. Improvements to the public site and the user interface will continue through the end of December. Staff worked with the financial specialists in the agency and the State Controllers office to establish an epayment service. The application developer has continued Phase Three work on registration tools and has continued to work with the Department of Revenue and the Department of Children and Families to streamline the social security number checks for licensing. Weekly meetings, application testing and development will continue through the winter months on the project, with release of the application scheduled for early 2012.

Financial Disclosure Update

Cindy Kreckow, Ethics and Lobbying Support Specialist

Governor Appointments

Staff continues to process ongoing appointments by Governor Walker, to include securing statements of economic interests from all appointees and referring copies of their statements to the Senate for future confirmation hearings.

State of Wisconsin Investment Board Quarterly Transaction Reports

Staff received and processed **47** quarterly financial disclosure reports from State Investment Board members and employees that were due on or before October 31, 2011. Copies of the reports were delivered to the Legislative Audit Bureau for their review and analysis.

2012 Statements of Economic Interests Annual Filing Preparation

Government Accountability Board staff will be preparing for the 2012 Statement of Economic Interests filing period throughout the month of November. Database records, forms, instructions and reports will be updated to reflect the upcoming filing year. Staff has been in contact with all of the Wisconsin technical colleges to identify those technical college positions that each college's board determines are required to file a Statement of Economic Interests with the G.A.B. Staff will also be working to identify active reserve judges in order to mail pre-printed copies of their Statement of Economic Interests to them in early December. Reserve judges are required to file a Statement of Economic Interests with the G.A.B. within 21 days of taking a case. Municipal judge candidates, as well as state court candidates are required under Chapter 19.43(4), *Wisconsin Statutes*, to file a Statement of Economic Interests with the Government Accountability Board in order to have their name appear on the ballot for the spring election. In late November, pre-printed Statements of Economic Interests will be mailed out to incumbent judges who are up for re-election in the spring of 2012.

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the November 9, 2011 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Update

Election Administration Update

Introduction

Since the Government Accountability Board's September 12, 2011, meeting the Elections Division has focused on the following tasks:

1. Special Primary
(Assembly District 95)

On September 2, 2011, Governor Walker called an election to fill the vacancy in Assembly District 95 caused by the resignation of Jennifer Shilling. Five candidates (one Republican and four Democrats) qualified for the ballot, triggering a Democratic primary conducted on Tuesday, October 11, 2011. Candidate certified to the Democratic primary ballot were:

- Jill E. Billings
- Nick Charles
- Christine J. Clair
- David Krump

The winner of the Democratic primary was Jill E Billings. Ms. Billings will face Republican Candidate David A. Drewes in the special election scheduled for November 8, 2011. The La Crosse County Clerk submitted the canvass of the election on October 12. No petition for recount was filed, and Judge Deininger certified the canvass on October 18, 2011.

2. Extended Operating Hours to Support Clerk Partners and Voter Customers

G.A.B. staff continued the policy of offering extended office hours to our local election partners and voter customers in order to provide more effective election support for the October 11, 2011

special primary. Since there was only one office up for election involving one county, staff was available until 6:00 p.m. on Monday, October 10, 2011, until 9:00 p.m. on Election Day, and until 6:00 p.m. on Tuesday, October 11, 2011.

3. Spring Election Preparation

As of the writing of this memo, 17 candidates have registered for the April 3, 2012 Spring Election. The offices up for Election in spring 2012 are:

- Presidential Preference Vote
- Court of Appeals Judge, Districts 1, 2, 3 and 4
- Fifty one Circuit Court Judge positions in 28 counties

A Circuit Court Judge must resign no later than December 1, 2011 in order for the office to be up for election in spring 2012. Resignations after December 1, 2011 are filled at the next succeeding spring election.

4. Consultation with United States Postal Service (USPS) Representative

As related in the September 12, 2011 Elections Division Update memo, staff met with a Mailing Solutions Specialist with the USPS to discuss desired improvements to USPS customer service and delivery performance. At that meeting, the USPS Mailing Solutions Specialist repeated several times the importance of receiving approval from a Mail Piece Design Analyst because postal regulations and requirements change and are update so often. Wisconsin Act 23 requires several changes to the Absentee Ballot Certificate envelope. G.A.B. staff has completed the envelope designs and submitted the proofs to the USPS Mailing Solutions Specialist on September 19.

Although there has been intermittent contact with the USPS Mailing Solutions Specialist and repeated attempts to expedite approval of the proofs, the USPS Mailing Solutions Specialist, as of this writing, still has not responded with approval or disapproval. Clerks wish to use 2011 budget funds to purchase election supplies, so they need to start purchasing now. If not for the USPS Mailing Solutions Specialist's delay, the envelopes could have been printed and ready a month ago. Staff will continue to try to make contact with the USPS Mailing Solutions Specialist and has already contacted that person's supervisor in Washington D.C. If the USPS Mailing Solutions Specialist does not make contact early next week, staff will be forced to authorize the printing without USPS approval.

5. MOVE Act: Status of Wisconsin's Compliance with the Military and Overseas Voter Empowerment MOVE Act

The Wisconsin State Assembly adopted and passed SB-115 and it was signed by the Governor on September 30, 2011. SB-115, now known as 2011 Act 45 moves the Presidential Preference election to coincide with the April Spring Election. To comply with the MOVE Act, 2011 Act 45 also requires that a separate official Presidential Preference ballot be created and available 47 days before the Presidential Preference. The MOVE Act requires that official ballots for any federal election be sent out to military and overseas voters at least 45 days before the election.

The Government Accountability Board staff has been in communication with the Legislature on the next steps for SB-116. SB-116 and its companion AB-161 are intended to move the September Partisan Primary to the second Tuesday in August and address the timeline of other election related events. The passing of SB-116 or its companion AB-161 and its signing by the Governor means Wisconsin will be in full compliance with all provisions of the Federal MOVE Act.

The Deputy Director of the Federal Voting Assistance Program, Paddy McGuire, and Program Analyst, Scott Stinson visited Wisconsin October 12, 2011 to provide information and answer questions for the Governor and Legislative Leaders regarding the MOVE Act and its requirements. Mr. McGuire and Mr. Stinson had meetings scheduled with Senate and Assembly leaders, with 17 members of the Senate's Transportation and Elections and the Assembly's Election and Campaign Reform Committees and/or their staff, as well as members of the Governor's Executive policy team. During their meetings, the representatives from FVAP stressed the importance of making Wisconsin fully compliant with the MOVE Act by moving its Partisan Primary. The Legislative Leaders all understood the importance of the MOVE Act and indicated that they would be taking up SB-116 and/or its companion AB-161 in the October Legislative session.

6. Federal Voting Assistance Program Grant Application

In mid-May 2011, the Federal Voting Assistance Program (FVAP) through the Department of Defense announced a nationwide \$16 million dollar grant opportunity for all 50 states. The grant program, "Electronic Absentee Systems for Elections (EASE)," will be awarded to states, territories, and/or localities for proposals that fulfill a public purpose of support by improving the voting experience of military and overseas voters, reduce impediments faced by them and stimulate the development of innovative approaches to absentee voting by military and overseas voters.

On July 13, 2011, Board staff submitted a proposal to the FVAP for an EASE grant. In the proposal, staff delineated the creation of a system that will allow military and overseas electors to receive their absentee ballot online. This system would integrate with current online tools such as ballot tracking, voter look-up, the online mail-in registration system and the Statewide Voter Registration System (SVRS). It would require the development of a ballot preparation tool to create an online ballot, an online ballot delivery tool to link an elector's address to the correct ballot, and a data collection and evaluation tool, to integrate data from the new system with data collected in SVRS and the Wisconsin Election Data Collection System. Board staff asked for \$1.9 million over the next two years to complete the proposed project. Board staff have not received a response from FVAP.

7. The AccessElections! Wisconsin Disability Compliance System
(Voting Accessibility)

Board staff are in the process of following-up responses to findings provided to municipalities for the April 5, May 3, July 12, July 19 and August 9, 2011 Onsite Accessibility Compliance Audits. Board staff are also finalizing Accessibility Compliance Audit Reports from the August 16, 2011 Onsite AccessElections! Compliance Audits are being resolved as quickly and cost-effectively as possible. Board staff will take advantage of the November 8, 2011 Special Election in State Assembly District 95 to conduct additional Accessibility Compliance Audits.

Training/Education/Outreach/Technical Assistance

1. Voter Photo ID Education, Training, and Technical Assistance Rendered to Clerks

By the time the first round of Voter Photo training for clerks is completed on Friday, October 28, 2011, over 1,000 clerks and chief inspectors will have been educated on the new voting law and its requirements. Since the Board's September 12, 2011 meeting, staff have fulfilled the following Photo ID clerk training requests.

- Monday afternoon, September 26, 2011 Wisconsin Dells:
G.A.B.'s Photo ID Presentation to the Wisconsin County Clerks Association
55 of the 72 County Clerks participated

Presentation Team Led by: Director Kennedy

- Thursday afternoon, October 13, 2011 St. Croix Falls:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District II
75 Municipal Clerks participated
Presentation Team Led by: Division Administrator Robinson
 - Friday afternoon, October 14, 2011 Fond du Lac:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District VI
40 Municipal Clerks participated
Presentation Team Led by: Division Administrator Robinson
 - Thursday morning, October 20, 2011 Eagle:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District V
175 Municipal Clerks participated
Presentation Team Led by: Elections Supervisor Hein
 - Friday morning, October 21, 2011 Grand Chute:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District VII
125 Municipal Clerks and Chief Inspectors Participated
Presentation Team Led by: Division Administrator Robinson
 - Monday afternoon, October 24, 2011 Green Bay:
G.A.B.'s Photo ID Presentation to the Wisconsin Towns Association
225 Municipal Clerks, Chief Inspectors and Town Board Members participated
Presentation Team Led by: Division Administrator Robinson
 - Thursday morning, October 27, 2011 Dodgeville:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District IV
180 Municipal Clerks scheduled to participate
Presentation Team Led by: Division Administrator Robinson
 - Thursday afternoon, October 27, 2011 Crandon:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District VIII
50 Municipal Clerks scheduled to participate
Presentation Team Led by: Training Officer Coakley
 - Friday afternoon, October 28, 2011 Eau Claire:
G.A.B.'s Photo ID Presentation to the Wisconsin Municipal Clerks Association District III
80 Municipal Clerks scheduled to participate
Presentation Team Led by: Division Administrator Robinson
2. G.A.B. Voter Photo ID Speaker Bureau's Outreach Education and Training Rendered to Community and Advocacy Groups

G.A.B.'s Voter Photo ID Speaker Bureau's Outreach Education and Training was launched on September 15, 2011. Since that time, Board staff have fulfilled 15 Photo ID Speaker Bureau's requests. To date about 500 community and advocacy group representatives have been trained on the Photo ID law, its requirements and various strategies on how Wisconsin residents can comply with those requirements. These 500 community and advocacy participants represent thousands of constituents with whom they will share the Photo ID knowledge.

G.A.B. Regular/Basic/Core Election Administration Training

Please refer to the Attachment titled, "Training Summary," for a summary of our basic/core election administration training information.

Other Noteworthy Initiatives:

1. Voter Data Interface

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

Clerks process HAVA Checks and confirm matches on a continuous basis during the course of their daily election administration tasks. This process has been followed since the Interfaces became functional in SVRS on August 6, 2008.

Since the last Board Meeting, clerks processed approximately 4,021 HAVA Checks with DOT/SSA on voter applications in SVRS. This is down from the approximately 28,327 HAVA Checks reported at the last Board Meeting, which was higher than normal due to increased registration activity for the August Recall elections.

2. Retroactive HAVA Checks Status

There has been no update on this project since the last Board Meeting. Board technical staff are focused on implementing the new Voter Photo ID Law, as well as updating SVRS for the 2010 Decennial Redistricting process.

3. Voter Registration Statistics

As of Wednesday, October 19, 2011, there were a total of 3,294,005 active voters in SVRS. There were 1,029,068 inactive voters, and 280,963 were cancelled voters. 5,300 voters have been merged by clerks as duplicates since the last report.

Note: An active voter is one whose name will appear on the poll list. An inactive voter is one who may become active again, e.g. convicted felon or someone who has not voted in four years. A cancelled voter is one who will not become active again, e.g. deceased person.

4. G.A.B. Customer Service Center

The G.A.B. Customer Service Center (formerly called the "G.A.B. Help Desk") is supporting over 1,800 active SVRS users, the public and election officials. The Customer Service Center staff assisted with processing the canvass, data requests and testing SVRS improvements. Customer Service Center staff are continuing to improve and maintain the two training environments that are being utilized in the field. Staff is monitoring state enterprise network status, assisting with processing data requests and processing voter verification postcards.

Overall, the majority of inquiries to the G.A.B. Customer Service Center during September and October from clerks were regarding assistance with reconciling or closing out the August elections and running reports. The majority of calls in September and October remain from electors and election officials with questions about Voter ID requirements.

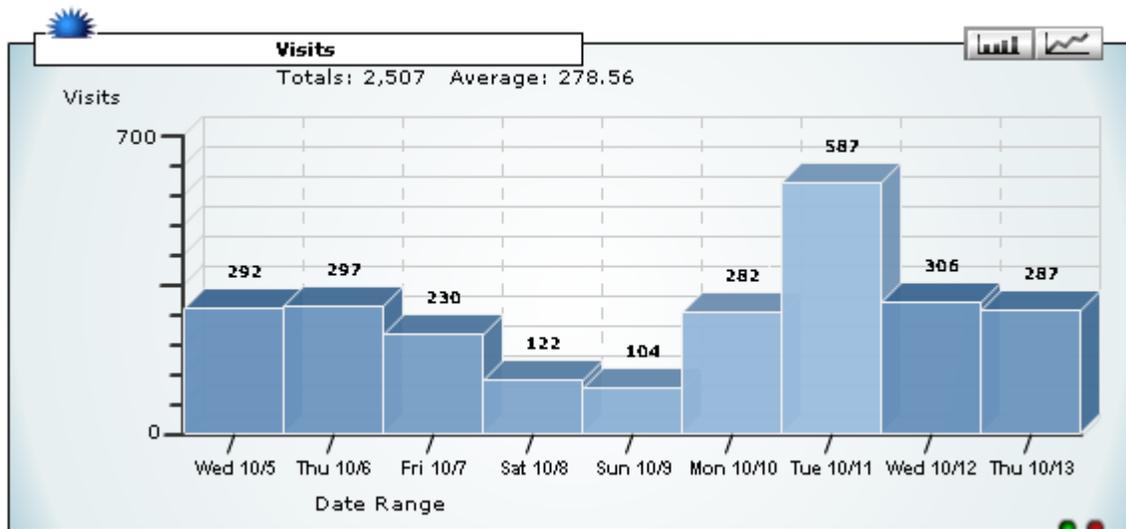
Calls for this period also consisted of clerks requesting information about redistricting and entering Election Day Registrations (EDR). Customer Service Center staff assisted with configuring and installing SVRS on new clerk computers.

The Ethics Division CFIS reporting also generated a considerable amount of call traffic during September due to filing deadlines.

G.A.B. Customer Service Center Call Volume (608-261-2028)	
September 2011	1,350
October 2011 (to October 19)	575
Total Calls for Period	1,925

The G.A.B. main business telephone (608-266-8005) has remained forwarded to the Customer Service Center. G.A.B. is currently researching a more permanent solution to current telephone technologies.

The graph below illustrates unique voter visits accessing the GAB Voter Public Access (VPA) website for the week of the October 11th District 95 Special Election. Election Day had 587 visitors, typically viewing 12 pages per visit.



5. The G.A.B. Click and Mail Voter Registration System

G.A.B.'s new Click and Mail voter registration system is nearing completion. The technical infrastructure to support Click and Mail was installed into the SVRS production environment on October 1, 2011. Staff performed extensive testing on the new system, and made several suggestions for refinement and improvement of the system.

6. Elections Division Dedicated IT Team

A new developer was added to the Elections Division IT Team, to work specifically on technical changes required to implement the new Voter Photo ID law. He brings not only broad

development experience to the team, but also specialization in mobile devices and smart phone applications.

7. The 2010 SVRS Census Redistricting Project

The G.A.B. IT Team continues work on the changes to SVRS that will facilitate the new redistricting data. Several initiatives are in progress.

- The first wave of SVRS changes were installed in the test environment and are being tested by G.A.B. staff
- Staff are cleansing approximately 22,000 addresses in SVRS that could not be validated against the new address verification software, and could therefore not be located on a map. As these addresses are updated, we will be able to assign the appropriate map coordinates for those voters.
- Technical staff are collecting the new GIS map files (called “shape files”) for the new districts, and loading them into the SVRS test environment for testing. The new wards and legislative districts are being provided directly from the Legislature. Staff are working with County GIS staff and other GIS partners to gather the school districts, as well as special districts like sanitary and lake districts that hold public elections.
- The first phase of SVRS changes, as well as the import of the new districts into SVRS are targeted to be complete and available to clerks by December 1, 2011. Clerks will be trained in the new Redistricting changes in December.

8. SVRS Core Activities

A. Software Upgrade(s)

On October 1, 2011 a new versions of SVRS (version 7.2) was installed. This update included an overhaul of the Voter Public Access (VPA) website to make it match the G.A.B. website format. The software upgrade also included important changes to the SVRS and VPA infrastructure to support the Click and Mail voter registration application which G.A.B. plans to launch January 1, 2012.

The next update to SVRS is planned for late November 2011 and includes updates related to Click and Mail and Redistricting.

B. System Outages

There were no unscheduled network service outages for this period.

C. Data Requests

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

The following statistics demonstrate the activity in this area since the last Elections Division Update through October 19, 2011:

- Twenty (20) inquiries were received requesting information on purchasing electronic voter lists from the SVRS system.
- Ten (10) electronic voter lists were purchased.
- \$18,135 was received for the voter lists requested.

30-45-60 Day Forecast

1. Continue full implementation of all aspects of the Voter Photo ID Law and the Legislatively-approved G.A.B. Voter Photo Plan for training local election officials and offering outreach informational services to the general public.
2. Continue to implement the G.A.B. Voter Photo ID Speakers' Bureau.
3. Remaining Photo ID Presentations at Clerk Customers/Partners' District Meetings.
 - October 27, 2011: WMCA District 4 Meeting (Dodgeville)
 - October 27, 2011: WMCA District 8 Meeting (Crandon)
 - October 28, 2011: WMCA District 3 Meeting (Town of Washington/Eau Claire County)
3. Continue to work with the Department of Transportation (DOT) to resolve Voter ID issues brought to DOT and G.A.B.'s respective attention – issues that require the two agency staffs to collaborate and resolve electors' customer service complaints.
4. Continue to follow-up responses to findings provided to municipalities as a result of the April 5 and May 3, 2011 Onsite AccessElections! Accessibility Compliance Audits. Staff is in the process of finalizing reports from the August 16, 2011 Onsite AccessElections! Accessibility Compliance Audits to be provided to respective municipalities.
5. Prepare for the Board's December 12, 2011 meeting.

Action Items

None.

ATTACHMENT #1

GAB Election Division's Training Initiatives
9/13/2011-11/8/2011

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Voter Registration	Basic training in adding voter registration applications, searching for voters, updated voters.	3 hours	Municipal and county clerks, staff and temp workers who provide election support only.	The WBETS site is available to train temporary workers.	10
WisLine	Series of programs designed to keep local government officers up to date on the administration of elections in Wisconsin.	90 minute program conducted by Board staff and the UW-Extension	Clerks and chief inspectors	9/21/2011: What we Learned from the Statewide Recount; 10/12/2011: Election Administration for School District Clerks; 11/2/2011: Ballot Access and Campaign Finance; 11/16/2011: Everything Absentee; 11/30/2011: A Review of Election Law Changes	Average of 200 per program; certain programs may have over 500 registrants
WBETS	Web Based Election Training System. Under development.	Varies	County and municipal clerks and their staff.	Phase 1 of eLearning training plan completed; Absentee Process training modules under construction.	Site is available for clerks to train temp workers in data entry; relies are also able to access the site upon request.

ATTACHMENT #1

GAB Election Division’s Training Initiatives
9/13/2011-11/8/2011

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Other	<ul style="list-style-type: none"> ▪ Board staff gave election administration presentations to municipal clerks attending the WMCA District meetings in St. Croix Falls, Fond du Lac, Eagle, Grand Chute, Crandon, Dodgeville and Washington. ▪ Board staff gave election administration presentations to county clerks attending the WCCA conference in Wisconsin Dells and town clerks attending the WTA in Green Bay. ▪ Board staff conducted two training sessions composed of recommended and qualified county and municipal clerks as “clerk-trainers” certified to conduct Baseline Chief Inspector training for new chief inspectors and Municipal Clerk Core training for new municipal clerks. ▪ Board staff training team implementing plan for the training and technical support of clerks and election inspectors for the full implementation of the Voter ID Law starting in the February 2012 Primary, including the development of training materials in video and audio formats. 				

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the November 9, 2011, Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been continuing to prepare for the implementation of Voter ID, several large scale procurements, preparing for a Contract Sunshine hearing, completing the close-out of FY-11, setting up for FY-12, preparing our agencies lapse plan, recruiting staff, communicating with agency customers, and developing legislative and media presentations.

Noteworthy Activities

1. Voter ID Implementation

The Public Information Development team has been working with Knupp, Watson and Wallman (KW2) to develop the advertising campaign for Voter ID implementation. Five focus group meetings were held around the state (Monroe, Menasha, Milwaukee (2), and Menomonie), targeting adults of voting age to determine the best campaign ad. In Milwaukee, two groups were held, one with English-speaking Hispanics and one with African Americans. The other three groups were ethnicity-neutral.

The ad agency also conducted interviews with Hmong community representatives and disability community representatives to get their insights on the language and presentation of the materials, as well as gathering ideas on best ways to distribute those materials.

KW2 will provide G.A.B. with a summary document including top-level findings as a result of the focus groups and interviews.

Additionally, we have been working with KW2 on the development of a microsite dedicated to the Voter ID program.

2. Procurements

The procurement staff has provided guidance and support to the Voter ID Public Information team towards securing the services of an advertising agency (Knupp, Watson and Wallman) and broadcast media buys through the Wisconsin Broadcasters Association for the ad campaign. Procurement staff ensured that cost benefit analyses were carried out for both of these projects, as directed by procurement rules. Procurement staff will remain involved in the campaign as it progresses, helping to ensure that documentation is kept up to date, related printing occurs as directed and any changes or alterations are allowable under state rules.

Also, procurement staff has assisted the SVRS team with procuring new technology and tools to ensure that the redistricting process in SVRS is handled in an effective manner.

3. Contract Sunshine Update

On October 13, Staff Attorney Mike Haas, Chief Administrative Officer Sharrie Hauge and Contract Sunshine Administrator James Malone testified before the Joint Legislative Audit Committee regarding the conclusions reached by the Legislative Audit Bureau (LAB) in their report on Contract Sunshine released on August 31, 2011. Members of the Legislative Audit Bureau testified first, answering questions about the report. Government Accountability Board staff testified, then fielded questions from members of the Joint Committee.

There were several questions about the new Department of Administration's (DOA) OpenBook expenditure system, which was created as a result of 2011 Act 32. This website tracks spending over \$100 using data housed in the DOA-maintained WiSMART financial system. G.A.B. staff has had the opportunity to preview the OpenBook system, which is staggered into a three-phase approach designed to give a full and complete picture of state spending. The first phase will contain purchase data, the second phase will include contract information and the third phase will include items such as grants and state employee salaries. The website draws data automatically from state agencies accounting transactions, so this system will be able to avoid the large investment of time and the likely potential for human error that exists within the Contract Sunshine system.

G.A.B. staff concurred with the recommendation of the LAB that the Joint Legislative Audit Committee should review the OpenBook website in January to determine its progress, and if found to be sufficient, that Contract Sunshine should begin a phase-out concurrent with each successful implementation of a phase. In fact, due to the larger and more comprehensive scope of the OpenBook website, successful implementation of phases one and two would cover everything currently captured within Contract Sunshine. It is the position of the G.A.B. staff that we will continue to update and maintain the Contract Sunshine website until that responsibility is rescinded by the Legislature; however, it is also our position that the OpenBook legislation and website is much closer to what the public wants from a state purchasing website.

As part of our ongoing efforts with Contract Sunshine, we are maintaining our quarterly certifications. The latest certification deadline was on October 15 and covered procurement activity between July 1, 2011, and September 30, 2011. We received certifications from all but three agencies as of October 26, and G.A.B. staff continues to work with these agencies to identify the issues that are preventing their certifications. We also rolled out a series of updates and usability enhancements on October 31. Finally, we scheduled training with staff from the Department of Corrections on November 7 and will be doing a training session on November 16 for the

Department of Health Services. Overall, the Contract Sunshine program continues to run at a strong pace and will continue to do so until such time as we are legislatively directed to end the program.

4. Fiscal Year 11 Close-Out Activities and FY-12 Operating Budget Preparations

- Finalized the annual FY-2011 Form 78 – Appropriation Certifications for signature and forwarded to State Controller’s Office.
- Compiled the GAAP & CAFR reporting schedules and disclosure forms for Funds 100, 218 & 220.
- Compiled and reconciled the FY-2011 Schedule of Expenditures of Federal Awards for the Legislative Audit Bureau, to maximize the transparency and accountability of spending under the American Recovery and Reinvestment Act.
- Finalized the federal HAVA Sections 101, 251 & 261 budget projections for the state fiscal year 2012 and created the FY-12 appropriations for salary & fringe within the Wismart accounting system.

5. 2011-13 Lapse Allocation

The 2011-13 Biennial Budget (2011 Wisconsin Act 32) was balanced in part on achieving the following required lapses and transfers of funds to the general fund:

- Unallocated lapse of \$174.3 million from GPR and PR appropriations with cash balances, of which at least \$123.2 million is to occur in fiscal year 2011-12.
- PR lapses related to employee compensation changes, elimination of long-term vacant positions and across-the-board reductions.
- GPR and PR lapses related to the 2 percent pay increase received by represented employees in June 2009.

On October 14, 2011 all agencies received a memorandum from the Department of Administration Secretary Mike Huebsch notifying us of our required lapse amounts for this biennium. Given the economic uncertainty this biennium, agencies are now being asked to plan for a \$300 million lapse instead of the \$174.3 million lapse.

The G.A.B.’s portion of the GPR lapse is \$369,650, the 2% lapse portion is \$11,600 and the PR lapse portion is \$38,600, totaling \$419,850 this fiscal year.

The agency is required to submit its lapse plan to Brian Hayes, State Budget Director by November 7. As such, we are diligently working on the plan, but it presents a significant challenge to our operational needs.

6. Other Financial Services Section Activity

- Prepared and filed the necessary bank forms with the US-EAC to receive the \$1,285,090 of FY-2010 HAVA 251 Requirements Payments, then set up the proper Wismart grant accounting records; created a process flow document for future reference.

- Assisted with the Wisconsin Elections Data Collection grant final progress report, to recover \$200,686 of grant expenditures from the federal government US-EAC office.
- Began preparing the annual Federal Financial Reports for HAVA expenditures and unobligated fund balances on a federal fiscal year.
- Finalized the comprehensive IT services budget for tracking future savings of transition from DET to agency-contracted IT projects.
- Prepared the journal entries to transfer the Wisconsin Election Campaign Fund balance to the general fund in compliance with new legislation; initiated the process to turn off the monthly interest earnings journal entry to this fund.
- Reviewed & approved purchase orders, travel vouchers and invoice payments; followed up on collecting NSF checks.
- Logged existing staff time and calculated wages spent on Voter ID legislation; fiscal Y-T-D salaries and benefits total \$87K.
- Calculated the third quarter payroll adjustment and booked the journal entry to properly allocate staff time spent on federal vs. state programs.
- Reconciled 1st quarter FY-2012 expenditures to internal financial records.
- Evaluated and applied for the e-payment services application to be used by lobbyists for electronic receipt of their fees.

7. Staffing

We are currently recruiting for all five Voter ID Implementation positions and have recently filled an Office Operations Associate position to assist HAVA program staff.

8. Communications Report

Since the September 9, 2011, Board meeting, the Public Information Officer has engaged in the following communications activities in furtherance of the G.A.B.'s mission:

- The PIO continued to respond to an unusually high number of media and public inquiries on a variety of subjects, including the G.A.B.'s investigation of the Waukesha County Clerk, the implementation of the new Voter Photo ID Law, and the likelihood of statewide recall elections in 2012. The PIO set up interviews with print and electronic journalists for Mr. Kennedy and also gave multiple interviews when he was not available.
- The PIO gave a speech on October 11 to the League of Women Voters of the La Crosse Area, discussing the history and role of the G.A.B., as well as its efforts to implement the Voter Photo ID Law.
- In addition to responding to media and public inquiries about Voter Photo ID Law, the PIO arranged and facilitated interviews with three advertising agencies to help Board staff develop the multi-media public information campaign, which will launch in January 2012

and run through the November 2012 General Election. The firm KW2 of Middleton was selected, and the PIO has been serving on the Executive Oversight Team overseeing day-to-day management of the contract.

- The PIO also arranged two visits through the International Institute of Wisconsin for visits by groups from Germany and Yemen.

The PIO has also worked on a variety of other projects including responding to concerns from Legislators on a variety of topics and communicating with our clerk partners.

9. Meetings and Presentations

During the time since the last Board meeting, Director Kennedy has participated in a series of meetings and worked with agency staff on several projects. The primary focus of the staff meetings has been to address legislative and budget implementation issues, including several internal and external meetings on Voter Photo ID implementation.

Legislative activities have included meetings on September 27, 2011, and October 6, 2011, with the Joint Committee for the Review of Administrative Rules (JCRAR) on policies adopted by the Board at its September 12, 2011, meeting related to student identification cards and preparation of recall petitions. The September 27, 2011 hearing can be viewed on Wisconsin Eye at: <http://www.wiseye.com/videoplayer/vp.html?sid=7006>

The October 6, 2011, hearing can be viewed on Wisconsin Eye at: <http://www.wiseye.com/videoplayer/vp.html?sid=7062>

On October 26, 2011, the Senate Committee on Transportation and Elections held an informational hearing on a staff memo related to the effect of 2011 Wisconsin Act 43 on conducting recall and special elections. The Committee also took public comment on several election administration issues. The hearing can be viewed on Wisconsin Eye at: <http://www.wiseye.com/videoplayer/vp.html?sid=7198>

The Committee hearing was followed by a subsequent public hearing on October 31, 2011, to address several pieces of legislation drafted following the October 27, 2011, hearing. Legislative action based on that hearing is addressed elsewhere in materials prepared for this meeting.

Considerable time has been spent meeting with attorneys from the Department of Justice on the large number of lawsuits to which the agency is a party, as well as the related court hearings. Another primary focus has been meeting with staff and special investigators on pending investigations.

The media has continued to make a number of inquiries on recall and legislative initiatives, particularly Voter Photo ID and redistricting, as well as the rules and costs associated with recall. This has led to extended interviews with print journalists along with a number of television and radio appearances.

On September 23, 2011, the Director and Division Administrators Jonathan Becker and Nathaniel Robinson hosted a meeting with a number of journalists from Germany to discuss transparency in government. The meeting was arranged by the International Institute of Wisconsin in cooperation with the U.S. Department of State. The International Institute arranged for second meeting on October 3, 2001 with visitors from Yemen.

On September 26, 2011, the Director, Elections Division Administrator Nat Robinson, Elections Supervisor Ross Hein, and Elections Division staff Allison Coakley, Katie Mueller and Sarah Whitt made a presentation on several different topics to the Wisconsin County Clerks Association in Wisconsin Dells.

On September 28, 2011, staff counsel Shane Falk presented at a State Bar of Wisconsin seminar on public records and open meetings. His presentation focused on the unique challenges faced by state and local election administrators under the open meeting and public records laws.

On September 29, 2011, the Director along with Elections Supervisor Ross Hein and Elections Division staff Katie Mueller and Sarah Whitt made a presentation in Green Bay on the new photo ID law to Brown County municipal clerks and staff of the Brown County Clerks office. Darlene Marcelle, the Brown County Clerk, arranged the meeting.

On September 30, 2011, Director Kennedy was part of a panel presentation for the State Bar of Wisconsin's Diversity Council in Milwaukee on the new Photo ID law. Assistant Attorney General Roy Korte, Assistant Milwaukee City Attorney Adam Stephens and Marquette Law School professor Edward Fallone also participated on the panel which was moderated Milwaukee alderwoman Milele Coggs.

On October 11, 2011, Director Kennedy observed elections at polling places in the 95th Assembly District Special Primary election. He also attended a presentation for the LaCrosse area League of Women Voters of Wisconsin on the Government Accountability Board featuring agency public information officer Reid Magney. After returning to Madison, the Director made presentation on the Government Accountability Board to a university/business government group, Ye Olde Warre Clubbe, at the request of Bob Laing, the Director of the Legislative Fiscal Bureau.

On October 12, 2011, the agency hosted Paddy McGuire, deputy director of the Federal Voting Assistance Program (FVAP), and Scott Stinson, FVAP program analyst. Director Kennedy and FVAP representatives met with several legislators, the Governor's staff and legislative staff to provide information on the importance of enacting legislation to implement the federal MOVE Act. Meetings were also held with agency staff and local election officials. A press opportunity was provided which drew considerable interest.

On October 13 and 14, 2011, the Director participated in a meeting of the American Law Institute (ALI) in Philadelphia. Director Kennedy is part of a group of special advisers to ALI on Principles of Election Law: Election Dispute Resolution.

On October 18, 2011, members of the agency Management Team: Kevin Kennedy, Jonathan Becker, Nat Robinson, Sharrie Hauge and Ross Hein; met with Chris Sarandos, the new state Chief Information Technology Officer. The team discussed the need for continuity and cost effectiveness of agency information technology (IT) operations. Agency IT initiatives and support needs were also discussed.

On October 19, 2011, members of the agency Management Team met with Brian Hayes, the State Budget Director to discuss agency finance issues. The discussion included the need to authorize approval of federally funded project positions to ensure the implementation and support of new agency initiatives related to election administration and means of addressing the funding lapse imposed by the new State Budget, 2011 Wisconsin Act 32.

On October 20, 2011, Director Kennedy participated in a panel discussion on the new Photo ID law for the 4th Street Forum, a production of Milwaukee Public Television. Also participating on the panel were State Representative Jeff Stone and Rene Shavers an activist supporting voter rights. The program was hosted by Denise Callaway. The program can be viewed at the following link on the agency website: <http://gab.wi.gov/node/2077>.

On October 25, 2011, the Director made a presentation to the Monona Chapter of the American Association of University Women (AAUW). The presentation focused on the origin and structure of the G.A.B. and current issues before the Board.

Looking Ahead

The staff begins preparations for the 2012 Spring election cycle including the Presidential Preference Vote on April 3, 2012. The looming threat of a statewide recall effort coupled with possible legislative recalls adds to our anticipated workload. Uncertainty about new legislative districts along with implementing local ward changes also impacts the agency workload as we wrap up the 2011 calendar year. The staff will also be actively engaged in implementing several provisions of the Voter Photo ID legislation as we prepare for full implementation beginning with the February 21, 2012 spring primary.

Action Items

None identified by staff.

The Board's next meeting is scheduled for Tuesday, December 13, 2011, beginning at 9 a.m.