

Meeting of the Board

Revised Agenda
(Note New Location)

Monday, August 30, 2010 – 9:30 A.M.

Open Session*

Risser Justice Center

120 Martin Luther King, Jr. Blvd., Room 150

Madison, Wisconsin

*The Board may convene in closed session and return to open session to consider any remaining open session items.

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O.	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.	

P. Reconvene into Open Session

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

Q. Adjourn

The Government Accountability Board has scheduled its next meeting for Monday, September 13, 2010 by teleconference to discuss the proposed agency budget. The public may attend the meeting at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor in Madison, Wisconsin, beginning at 9:30 am.

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

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

DRAFT

Not yet
approved by
the Board

Wisconsin Government Accountability Board
Joint Committee on Finance Hearing Room, 412 East
State Capitol
Madison, Wisconsin
July 21 and 22, 2010
9:30 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Selected Judge Nichol as Board Secretary	2
B. Approved staff recommendations to grant, and deny, ballot access to candidates for the fall election	2
C. Received University of Wisconsin report on Election Inspectors' Statements	5
D. Approved staff report on ballot access issues.	5
E. Adopted Campaign Finance Guidelines	6
F. Approved staff recommendation to request extension of Emergency Rule ch. GAB §1.91 and approved a public hearing notice	7
G. Approved Scope Statement to Create GAB Chapter 26 Relating to Administration of Contract Sunshine	7
H. Approved staff recommendations on administration of the Impartial Justice Act	8

Wednesday, July 21, 2010

Present: Judge Gordon Myse, Judge Thomas Barland, Judge Michael Brennan, and Judge Thomas Cane, and Judge David Deininger

Absent: Judge Gerald Nichol, arrived @ 4:12 p.m. July, 21, 2010.

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

A. Call to Order

Chairperson Myse called the meeting to order at 9:31 a.m.

B. Director’s Report of Appropriate Meeting Notice

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

C. Approval of Minutes of Previous Meetings

MOTION: Approve the minutes of the May 10, 2010 meeting of the Government Accountability Board. Moved by Judge Brennan, seconded by Judge Barland. Motion carried unanimously.

CC. Selection of Board Secretary

Kevin Kennedy reported that there is a vacancy in the office of Secretary for the Board. Following established Board procedure, Chairperson Myse drew the name of Judge Nichol from the four members not currently serving as Chair or Vice-Chair.

D. Personal Appearances on Ballot Access Issues

F. Board Review of Nomination Paper Challenges and Ballot Access Issues

1. Timothy Dietrich Complaint against Rich Zipperer, Republican candidate for the 33rd Senate District. Complaint EL-10-07.

No personal appearances.

MOTION: Accept staff recommendation to dismiss the complaint. Moved by Judge Cane, seconded by Judge Brennan. Motion carried unanimously.

2. Andrew Davis Complaint against Vittorio Spadaro, Independent candidate for the 13th Senate District. Complaint EL-10-08.

Attorney Jonathan Waclawski and Judi Rhodes Engels appeared in person on behalf of Andrew Davis. Vittorio Spadaro appeared by telephone.

MOTION: Dismiss the complaint and verify 402 valid signatures. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

3. Charla Halverson Complaint against Tammy Baldwin, Democratic candidate for the 2nd Congressional District. Complaint EL-10-09.

Attorney Mark Borns appeared on behalf of Tammy Baldwin.

MOTION: Adopt staff recommendation and dismiss complaint. Moved by Judge Deininger, seconded by Judge Cane. Motion carried unanimously.

4. Nicholl Caruso Complaint against Paris Procopis, Republican candidate for the 13th Assembly District. Complaint EL-10-10.

Attorney Matthew Lerner appeared on behalf of Nicholl Caruso.

MOTION: Accept staff recommendation to sustain the challenge, verify 192 signatures, and deny ballot access. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

5. Richard Sass Complaint against Scott Feldt, Republican candidate for State Treasurer. Complaint EL-10-11.

No personal appearances.

MOTION: Accept staff recommendation to dismiss complaint and verify 2747 valid signatures. Moved by Judge Deininger, seconded by Judge Cane. Motion carried unanimously.

6. Andrew Davis Complaint against Todd Kolosso, Democratic candidate for the 5th Congressional District. Complaint EL-10-13.

Appearances by Attorney Jonathan Wacławski on behalf of Andrew Davis and Attorney Matthew Lerner on behalf of Todd Kolosso.

MOTION: Accept staff recommendation and verify 1,089 valid signatures and grant ballot access. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

7. Kristen Crowell Complaint against Matt Bitz, Democratic candidate for the 75th Assembly District. Complaint EL-10-12.

Kristen Crowell appeared in person, and Attorney Wayne A. Arnold appeared on behalf of Matt Bitz, who also appeared in person. Judge Myse recused himself from the matter because Attorney Arnold is a relative.

MOTION: Accept staff recommendations to formally adopt interpretation of Article IV, Section 6, of the Wisconsin Constitution requiring that a candidate is not eligible to serve in the Legislature unless having resided in Wisconsin for one year immediately preceding taking office; and since Candidate Bitz returned to reside in Wisconsin on May 16, 2010 and has not resided in Wisconsin for one year preceding taking office, if elected, Candidate Bitz does not satisfy the requirements of Section 8.30(1)(c), Wis. Stats., and is denied ballot access. Moved by Judge Brennan, seconded by Judge Cane. Motion carried unanimously.

8. Andrew Davis Complaint against William Tucker, Independent candidate for the 1st Congressional District. Complaint EL-10-14.

Attorney Jonathan Waclawski appeared on behalf of Andrew Davis, and William Tucker appeared on his own behalf.

Deborah Ann Speckmann appeared and stated that Mr. Tucker should not be allowed to avail himself of the ADA as a reason for not complying with statutory deadlines for the nomination review process.

MOTION: Accept staff recommendation to reject acceptance of supplemental signatures received on July 16 as untimely, to accept the challenge of 65 signatures, deny challenges based upon headings and one date, verifying 977 signatures, and deny ballot access. Moved by Judge Deininger, seconded by Judge Brennan. Motion carried unanimously.

9. Andrew Davis Complaint against John Heckenlively, Democratic candidate for the 1st Congressional District. Complaint EL-10-15.

Attorney Jonathan Waclawski appeared on behalf of Andrew Davis, and John Heckenlively appeared on his own behalf.

MOTION: Accept staff recommendation to dismiss the complaint, verify 1,048 valid signatures and grant ballot access. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.

10. Andrew Davis Complaint against Andrew Wisniewski, Republican candidate for 25th Assembly District.

Attorney Jonathan Waclawski appeared on behalf of Andrew Davis.

MOTION: Approve the challenge, verify 196 valid signatures and deny ballot access. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

11. Ieshuh Griffin

Ms. Griffin, independent candidate in the 10th Assembly District, appeared on her own behalf regarding a compliance review complaint she filed challenging the staff's determination prohibiting her from using the words "NOT the 'whitemans bitch' " as a Statement of Principle on the ballot.

Staff Counsel Shane Falk presented the staff recommendation. Discussion.

MOTION: Affirm that the Board has the right to review language in the Statement of Principle, and allow Griffin to use the requested statement of principle. Moved by Judge Cane, seconded by Judge Barland.

Roll call vote:	Cane:	Aye	Deiningger:	Nay
	Brennan:	Nay	Barland:	Aye
	Myse:	Aye	Nichol:	Absent

Motion Failed. Four votes are required to take action pursuant to §5.05(1e), Wis. Stats. Chairperson Myse noted that staff's determination stands and Ms. Griffin will be listed on the ballot as an "Independent," without a Statement of Principle.

G. Public Comment

(This item was taken out of order to accommodate speakers who had to leave.)

1. **Annette Kuglich, Waukesha**, appeared on her own behalf to describe her experience as a poll worker. She urged the Board to devote more resources to poll worker training.
2. **Alderman James N. Witkowiak, Milwaukee**, appeared on his own behalf to describe his experience with voter fraud in Milwaukee in 2000 and 2008. He said he attempted to contact 400 newly registered voters in his district after the 2008 Primary Election, and had 80 postcards come back as undeliverable. He said he and a retired police officer canvassed, and only found five of the 80 people.

Chairperson Myse called a recess at 12:54 p.m. The Board reconvened at 1:38 p.m.

3. **Roxanne Dunlap, Sussex**, appeared on her own behalf to describe her experience as a poll worker in the 2008 Presidential Election at Grandville Fire Station in Milwaukee. She said she witnessed another poll worker remove ballots from the voting machine and mark ballots that were unmarked in two referenda questions. She also said that poll workers spoke freely about their political opinions and could be heard by voters at the polling place.

4. **Ardis Cerny of Pewaukee** appeared on her own behalf and read a written statement from Arlet Jorgensen of Menomonie, Wisconsin, regarding allegations of “border jumping” on Election Day in 2004 between Wisconsin and Minnesota. Ms. Cerny asked the Board to investigate.
5. **Maryanne Hanson of Brookfield** appeared on her own behalf to speak on a variety of concerns about election integrity, including Special Registration Deputies and how the Board refers complaints to the appropriate authorities.

J. University of Wisconsin Department of Political Science Presentation on Evaluation of November 2008 Election Inspectors’ Statements

Professor Barry Burden presented the first-ever analysis of incidents at Wisconsin polling places, as reported on form GAB-104. The analysis found an average of one incident per 100 voters, which he believes to be a low rate for a high-turnout presidential election. He recommended revising incident codes to better capture the types of incidents occurring at the polling place.

Discussion. The Board accepted the report.

G. Public Comment (continued)

6. **Deborah Ann Speckmann of Madison** appeared on her own behalf and commended the Board for its training efforts. She urged the Board to include racial sensitivity training for poll workers so people of color do not feel unwelcome when they vote.
7. **Debbie Morin of West Allis** appeared on her own behalf and described her experiences observing in-person absentee voting in Milwaukee for the 2008 election. She commented on the importance of having partisan poll workers from each party because they provide a check and balance.
8. **Attorney Mike Wittenwyler of Madison** appeared on behalf of the Association of Wisconsin Lobbyists and himself to comment on a proposed guideline for lobbyists contributions, GAB-250, asking for clearer guidelines on when lobbyists can send fund-raiser invitations to legislators. He also said that in implementing the Impartial Justice Act, the Board was adopting too broad a definition of what would trigger a disbursement.

E. Staff Report on Ballot Access Issues

(Presented by Nat Robinson, Diane Lowe, and Shane Falk.)

Nat Robinson introduced this agenda item. Lead Elections Specialist Diane Lowe and Staff Counsel Shane Falk presented the staff report.

Discussion.

MOTION: Adopt a policy that comports with the statutory language of §8.20(2)(c), Wis. Stats.: That the Government Accountability Board determines that independent candidates for the offices of Governor and Lieutenant Governor may file nomination papers containing both candidates' names or the name of a candidate for either office. Moved by Judge Deininger, seconded by Judge Cane. Motion carried unanimously.

MOTION: Affirm ballot status for all the candidates recommended to the Board, as well as those approved earlier in the meeting. Moved by Judge Cane, seconded by Judge Brennan. Motion carried unanimously.

Chairperson Myse called a recess at 3:47 p.m. The Board reconvened at 3:59 p.m.

I. Proposed Campaign Finance Guidelines

(Presented by Jonathan Becker. Item taken out of agenda order)

1. **231 - Charitable Solicitations**
2. **249 - Campaign Fundraising**
3. **250 - Campaign Contributions by Lobbyists and Principals**
4. **255 - Candidates and the Lobby Law**
5. **256 - Campaign Finance Registration and Reporting**

Ethics and Accountability Division Administrator Jonathan Becker presented an oral and written report to the Board regarding five draft Guidelines staff is asking the Board to adopt. Guidelines 249 and 256 are new. Guidelines 231, 250, and 255 are reiterations of existing Guidelines intended to provide clarification.

Judge Gerald Nichol joined the meeting at 4:12 p.m.

Discussion.

MOTION: To adopt Guidelines 231, 249, 250, 255 and 256, and to ask staff to report back at a future meeting on the issue of what constitutes an improper solicitation. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.

H. Administrative Rules

1. Revised ch. GAB §1.28, relating to the definition of the term “political purpose”

Staff Counsel Shane Falk presented an oral and written report to the Board regarding ch. GAB §1.28, which will be published and effective August 1, 2010. No Board action was required.

2. Creation of ch. GAB §1.91, relating to organizations making independent disbursements

Shane Falk presented an oral and written report to the Board.

MOTION: To authorize staff to request an extension of Emergency Rule ch. GAB §1.91 and approve the public hearing notice on both the Emergency and Permanent Rules. Moved by Judge Nichol, seconded by Judge Barland. Motion carried unanimously.

3. Request to Approve Scope Statement to Create GAB Chapter 26 Relating to Administration of Contract Sunshine

Shane Falk presented an oral and written report to the Board.

MOTION: Approve Statement of Scope and direct staff to return to the Board at a later meeting with proposed administrative rules regarding the administration of Contract Sunshine. Moved by Judge Cane, seconded by Judge Brennan. Motion carried unanimously.

4. Status Report on Pending Administrative Rules

Shane Falk provided the Board with an oral and written report on the status of pending administrative rules. No Board action was required. The Board accepted the report.

K. Staff Report on Contract Sunshine

(Presented by Sharrie Hauge and James Malone)

Contract Sunshine Administrator James Malone made an oral and written presentation to the Board about the status of Contract Sunshine. The website has been upgraded so there are no impediments to agencies reporting their contract activities. Agency heads have been contacted to remind them of the need to comply with the law. Training is being offered for agency staff who enter information into the system, and Board staff is developing a certification program to let the public know which agencies have complied with the law, and which agencies do not have reportable contracting activity. Kevin Kennedy recently testified at a hearing by the Joint Committee on Audit, which authorized an audit of the program to determine why agencies have not complied and to study options for its future.

Discussion. Board members and staff discussed the certification program and the upcoming audit. The Board accepted the report.

L. Staff Report on Implementation of the Impartial Justice Act

(Presented by Jonathan Becker and Michael Haas)

Staff Counsel Michael Haas presented an oral and written report to the Board regarding implementation of the Impartial Justice Act, which provides public funding for candidates for the Wisconsin Supreme Court. The Board accepted the report.

At 5:30 p.m., there was a motion by Judge Cane and a second by Judge Brennan to adjourn the meeting until 8:30 a.m. Thursday, July 22, 2010 at the G.A.B. office. Motion carried unanimously.

Thursday, July 22, 2010

At 8:37 a.m. Thursday, July 22, the Government Accountability Board reconvened in Open Session at the G.A.B. office. All members were present except Judge Barland, who was absent.

Michael Haas continued discussion with the Board regarding implementation of the Impartial Justice Act.

MOTION: Direct staff to administer provisions of the Impartial Justice Act as outlined in the staff memorandum. Moved by Judge Deininger, seconded by Judge Cane. Motion carried unanimously.

F. Board Review of Nomination Paper Challenges and Ballot Access Issues (continued)

Andrew Davis Complaint against Andrew Wisniewski, Republican candidate for 25th Assembly District.

Attorney Jonathan Waclawski appeared on behalf of Andrew Davis. Jason Sidener appeared by telephone on behalf of Andrew Wisniewski.

Shane Falk reported to the Board that he discovered a correcting affidavit this morning in the back of the Wisniewski file. The correcting affidavit, which rehabilitated 11 signatures, was timely filed, and would give Wisniewski more than the 200 signatures required. However, the affidavit was overlooked during the staff review of the challenge by Davis.

Attorney Waclawski requested time to review the correcting affidavit. Chairperson Myse advised the matter would be recalled at 1 p.m., following the closed session.

M. Director and General Counsel's Report

Elections Division Report – election administration

Written report from Nathaniel E. Robinson was included in the Board packet. Mr. Robinson gave an oral presentation, and discussed the status of Wisconsin's waiver application regarding the federal Military and Overseas Voter Empowerment (MOVE) Act requirements on primary election dates. He also updated the Board on staff efforts to quantify the level of voter fraud in the state.

Discussion. The Board and staff discussed public comments the previous day regarding allegations of election fraud, how best to handle the public comments section of meetings, and the status of the Retroactive HAVA Check project. Staff will report on the HAVA Checks at the next meeting.

Steven Angeli, administrative assistant to the Elections Division Administrator, presented an oral and written report on “Extending the Government Accountability Board’s Operating Hours for the 2010 Spring Election Season.” The Board accepted the report.

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

Tommy E. Winkler Jr., assistant administrator in the Ethics Division, presented an oral and written report, which was included in the Board packet. The deadline for July 2010 Continuing campaign finance reports went smoothly, with some staff members working long hours to assist committees and convert the many reports filed as Excel spreadsheets. Jonathan Becker reported that the new version of the Lobbying disclosure website will allow lobbyists to register electronically, instead of on paper. The Board accepted the report.

Office of Director and General Counsel Report – general administration

Written report from Kevin J. Kennedy, Sharrie Hauge and Reid Magney was included in the Board packet. Kevin Kennedy reported on the status of the federal audit of Help America Vote Act funds, work on developing a Memorandum of Agreement with the Department of Administration for information technology services, and the coming biennial budget request. The Board accepted the report.

N. 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 Nichol, seconded by Judge Cane.

Roll call vote: Brennan:	Aye	Cane:	Aye
Deininger:	Aye	Myse:	Aye
Nichol:	Aye	Barland:	Absent

Motion carried unanimously.

Hearing no objection, Chairperson Myse called a recess at 11:25 a.m. The Board reconvened in closed session beginning at 11:33 a.m.

Summary of Significant Actions Taken in Closed Session:

- A. Requests for Advice: One matter considered.
- B. Investigations and Enforcement: 11 pending matters considered; one referral to District Attorney authorized.
- C. Litigation: Three pending matters considered.

O. Open Session

The Board reconvened in open session at 1:10 p.m.

F. Board Review of Nomination Paper Challenges and Ballot Access Issues (continued)

Andrew Davis Complaint against Andrew Wisniewski, Republican candidate for 25th Assembly District.

Mark Jefferson, executive director of the Republican Party of Wisconsin, appeared in person to object to Wisniewski's name being placed on the ballot. Jason Sidener appeared by telephone on behalf of Andrew Wisniewski.

Discussion.

MOTION: To find that Wisniewski has submitted 207 valid signatures and is entitled to ballot access. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

P. Adjournment

MOTION: To adjourn. Moved by Judge Cane, seconded by Judge Deininger. Motion carried unanimously.

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The next meeting of the Government Accountability Board is scheduled for Monday, August 30, in Madison, Wisconsin, beginning at 9:30 a.m. The location for the meeting has not been determined.

July 21 and 22, 2010 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

August 3, 2010

July 21 and 22, 2010 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

August 30, 2010

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue, Third Floor

Madison, Wisconsin

August 9, 2010

1 p.m.

Teleconference Meeting

Open Session Minutes

DRAFT

Not yet
approved by
the Board

Present: Judge Gordon Myse, Judge Thomas Barland, Judge Michael Brennan, Judge Thomas Cane and Judge David Deininger appeared by telephone. Judge Gerald Nichol appeared in person.

Staff present: Kevin Kennedy, Jonathan Becker, Shane Falk, Michael Haas, Tommy Winkler, and Reid Magney. Also present from Wisconsin Department of Justice: Kevin St. John, Thomas Bellavia, and Clay Kawski. All appeared in person.

A. Call to order

The Board met by telephone conference call. Chairperson Myse called the meeting to order at 1:05 p.m. and called the roll.

Present: Judge Brennan, Judge Cane, Judge Deininger, Judge Myse, Judge Nichol (in person). **Absent:** Judge Barland.

B. Director's Report of Appropriate Meeting Notice

Kevin Kennedy informed the Board that appropriate notice of the meeting had been posted and distributed as required.

Discussion regarding whether the Board could reconvene into open session to take action following a closed session. Assistant Attorney General Thomas Bellavia advised that this meeting was not noticed for the Board to take action in open session. Also, the Open Meetings Law requires a body to wait 12 hours after adjourning from closed session to meet again in open session.

Discussion of Recently Filed and Anticipated Litigation Related to the Constitutionality of Various Campaign Finance Statutes and Rules

MOTION: To convene in closed session to confer with legal counsel concerning litigation strategy pursuant to Wis. Stats. § 19.85 (1) (g). Moved by Judge Nichol, seconded by Judge Cane.

Roll call vote: Brennan:	Aye	Cane:	Aye
Deininger:	Aye	Myse:	Aye
Nichol:	Aye	Barland:	Absent

Motion carried.

The Board convened in closed session at 1:09 p.m.

Judge Barland joined the closed session in progress by telephone.

C. Adjourn

MOTION: To adjourn the meeting. Moved by Judge Nichol, seconded by Judge Barland. Motion carried unanimously.

The meeting adjourned at 3 p.m.

###

The next meeting of the Government Accountability Board is scheduled for Monday, August 30, 2010, at the G.A.B. offices located at 212 East Washington Avenue, Third Floor in Madison, Wisconsin beginning at 9:30 a.m.

August 9, 2010 Government Accountability Board open session minutes prepared by:

Reid Magney, Public Information Officer

August 19, 2010

August 9, 2010 Government Accountability Board open session minutes certified by:

Judge Gerald Nichol, Board Secretary

August 30, 2010

State of Wisconsin \ Government Accountability Board

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JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010 Board meeting

TO: Members, Government Accountability Board

FROM: Jonathan Becker

SUBJECT: Soliciting and furnishing campaign contributions

Background. During the course of the Board's review of prior opinions of the Ethics Board, staff noted that, among the key issues that had arisen over the years, were the following:

What does it mean to furnish? Does it only mean to contribute one's own money? May a lobbyist physically furnish to a legislator a bundle of checks from other people? The Ethics Board said that furnishing includes physically furnishing and a lobbyist may not physically furnish others' contributions except during the June 1 to election day window. 1997 Wis Eth Bd 18, 1996 Wis Eth Bd 5.

Does the prohibition on an official's soliciting a lobbyist apply to asking a lobbyist to obtain contributions from others? Does the prohibition apply to soliciting before June 1 for a contribution to be given after June 1? Does the prohibition apply to an official soliciting a contribution at a time when the official may not accept a contribution, but the solicitation is for another individual or entity that may accept a contribution at that time? The Ethics Board has answered each of these questions in the affirmative. Some legislators have expressed disagreement with the Board's interpretations. 2007 Wis Eth Bd 6, 2004 Wis Eth Bd 3.

At its July 2008 meeting, the Board reaffirmed the cited opinions. The Board modified 1997 Wis Eth Bd 18 (attached) with the additional restriction "that a lobbyist may not ask another or use an agent to transmit or deliver a campaign contribution at a time during which the lobbyist is prohibited from furnishing a contribution."

Current issues. The issues raised at the July Board meeting are: (1) Whether sending an invitation to a fundraising event addressed to a lobbyist is a prohibited solicitation if the invitation contains a disclaimer to the effect that "If you are a lobbyist this is not intended as a solicitation;" (2) how should a legislator or legislative candidate communicate with an organization whose only employee is a lobbyist; and (3) how may a small organization convey checks to a legislator if the organization's only employee is a lobbyist.

Applicable statutes. Section 13.625 (1) and (2), *Wisconsin Statutes*, provides that no lobbyist or principal may furnish a campaign contribution to a partisan elected state official or candidate for partisan elected state office except between June 1 and the date of the general

election in the year of the candidate's election. The "window" closes for a legislative candidate if the Legislature has not concluded its final floorperiod or comes into special or extraordinary session.

Section 13.625 (3), *Wisconsin Statutes*, provides that no candidate for partisan elected state office or partisan elected state official *may solicit or accept* a contribution from a lobbyist or principal except as permitted and no personal campaign committee for a candidate *may accept* a contribution except as permitted.

Analysis. I start with the belief that the underlying policy of the lobbying law is to restrict a lobbyist's role in campaign fundraising as much as possible while the Legislature is in session. I also note that the lobbying law only restricts the timing of solicitations and contributions. A principal's PAC as well as its employees and members may make a contribution at any time. A candidate may solicit a lobbyist and a lobbyist may furnish contributions when the Legislature has concluded its session.

2004 Wis Eth Bd 03 (attached) squarely addresses most of the current issues. As that opinion states:

The restriction on soliciting does not cover only an explicit request. Rather, one must look at the totality of the circumstances to determine whether, by written or oral communication, or other conduct, a request is being made.

* * *

Because an invitation to a fundraiser is likely to be viewed as just that or as a request to solicit others for contributions, particularly given the current culture of campaign fundraising, simply adding language that the invitation is not a solicitation will not definitively determine that an invitation is not a solicitation.

2004 Wis Eth Bd 03, ¶¶ 11 and 12. In footnote 4, the opinion further stated:

The lobbying law prohibits a legislator *to solicit or accept* anything of pecuniary value except as permitted. The lobbying law also prohibits a legislator's personal campaign committee *to accept* a contribution except as permitted, but the statute neither expressly prohibits nor permits a campaign committee *to solicit* contributions. This is a distinction with little difference. To the extent that the committee acts at the behest, and as an agent, of a candidate, the candidate cannot shield himself or herself from the law's restrictions. As we have said in the past, the law does not permit an official to solicit through an agent that which the law prohibits the individual to solicit directly.

Having revisited these opinions, I recommend the following responses to the questions posed above.

(1) Whether sending an invitation to a fundraising event addressed to a lobbyist is a prohibited solicitation if the invitation contains a disclaimer to the effect that "If you are a lobbyist this is not intended as a solicitation."

An invitation sent to a lobbyist outside the window is prohibited. The Board will decide on a case-by-case basis whether to investigate or seek a forfeiture from a state elected official or candidate that violates the prohibition. I recommend that we change the existing paragraph in Guideline 249 from

What is a solicitation? A solicitation can be either oral, written, or electronic. A disclaimer on a written invitation to a fundraiser to the effect that "If you are a lobbyist,

please disregard or pass along” will not necessarily be taken to mean that the invitation is not a solicitation to a lobbyist – the Board may examine all circumstances to determine if an impermissible solicitation has occurred.

to

What is a solicitation? A solicitation can be either oral, written, or electronic. A fundraising invitation is a solicitation. A disclaimer on a written invitation to a fundraiser to the effect that “If you are a lobbyist, please disregard or pass along” does not change the fact that the invitation is still a solicitation.

(2) How should a legislator or legislative candidate communicate with an organization whose only employee is a lobbyist?

If an organization has no employees other than a lobbyist, then a simple solution is to wait until June 1 before sending the organization a fundraising solicitation. Another solution is to address an invitation to the organization’s PAC or conduit without addressing it to a named individual. The invitation should not be addressed directly to an organization that is a lobbying principal before June 1, because the statute prohibits that as well. Nor may a legislator or legislative candidate communicate personally with a lobbyist to solicit campaign contributions until June 1.

An organization may convey checks from its PAC or from others at any time as long as a lobbyist does not physically convey the checks.

(3) How may a small organization convey checks to a legislator if the organization’s only employee is a lobbyist?

If an organization has no employees other than a lobbyist, then a simple solution is to wait until June 1 before sending campaign contributions. Another solution is to create a PAC or organizational governing board composed of one or more non-lobbyists who may convey campaign contributions.

1997 Wis Eth Bd 18
LOBBYING AND LOBBYISTS

The Ethics Board advises:

(1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and

(2) that a lobbyist may sign a conduit check and transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only between June 1 and the date of the general election in the year of a candidate's election and to a legislative candidate during that period only if the legislature has concluded its final floorperiod and is not in special or extraordinary session. (November 4, 1997)

Facts

- ¶ 1. This opinion is based upon these understandings:
- a. You are a lobbyist.
 - b. You administer a conduit that furnishes campaign contributions.

Question

- ¶ 2. The Ethics Board understands your question to be:
- May you, consistent with the lobbying law, sign contribution checks and transmittal letters on behalf of the conduit?

Discussion

- ¶ 3. The lobbying law, §13.625(1), *Wisconsin Statutes*, is pertinent to your question. That section, reduced to its elements, provides:

No lobbyist
May furnish
To an agency official, legislative employee, elected state official, or
candidate for elective state office
Anything of pecuniary value

Except a campaign contribution
But a lobbyist may furnish a campaign contribution
To a partisan elected state official or candidate for a partisan elective
state office
Only between June 1 and the date of the general election in the year of
the candidate's election
And to a legislative candidate during that period only if the legislature
has concluded its final floorperiod and is not in special or
extraordinary session.¹

¶ 4. You are a lobbyist. It is our understanding that a conduit does not
itself provide money for campaign contributions. Rather, the amount and
recipient of contributions are designated by the individual contributors.² In
1992, the Ethics Board considered whether a lobbying principal, subject to

¹ Section 13.625(1)(b) and (c), *Wisconsin Statutes*, provides:

13.625 Prohibited practices. (1) No lobbyist may:

(b) Furnish to any agency official or legislative employe of the state or to any
elective state official or candidate for an elective state office, or to the official's,
employe's or candidate's personal campaign committee:

1. Lodging.
2. Transportation.

3. Food, meals, beverages, money or any other thing of pecuniary value, except
that a lobbyist may make a campaign contribution to a partisan elective state offi-
cial or candidate for national, state or local office or to the official's or candidate's
personal campaign committee; but a lobbyist may make a contribution to which par.
(c) applies only as authorized in par. (c).

(c) Except as permitted in this subsection, make a campaign contribution, as
defined in s. 11.01(6), to a partisan elective state official for the purpose of promot-
ing the official's election to any national, state or local office, or to a candidate for a
partisan elective state office to be filled at the general election or a special election,
or the official's or candidate's personal campaign committee. A campaign contribu-
tion to a partisan elective state official or candidate for partisan elective state office
or his or her personal campaign committee may be made in the year of a candidate's
election between June 1 and the day of the general election, except that:

1. A campaign contribution to a candidate for legislative office may be made
during that period only if the legislature concluded its final floorperiod, and is not
in special or extraordinary session.
2. A campaign contribution by a lobbyist to the lobbyist's campaign for partisan
elective state office may be made at any time.

² State campaign finance law, at 11.01(5m), *Wisconsin Statutes*, defines a conduit. That sec-
tion provides:

11.01(5m) "Conduit" means an individual who or an organization which receives a
contribution of money and transfers the contribution to another individual or
organization without exercising discretion as to the amount which is transferred
and the individual to whom or organization to which the transfer is made.

the same restrictions as a lobbyist, may, without violating the lobbying law, operate a conduit. We said that it could:

Although a conduit facilitates the ability of like-minded individuals to combine and deliver their campaign contributions, and provides administrative and other services to that end, the services (arguably of pecuniary value) are furnished to the individuals who otherwise would not be able to pool their contributions and not to the candidate.

1992 Wis Eth Bd 13, ¶3.

¶ 5. Subsequently, in 1996, the Ethics Board said that a lobbyist, without restriction from the lobbying law, may advise a lobbying organization's members or the members' employees about making campaign contributions as long as the lobbyist acts independent of any candidate or candidate's campaign committee. 1996 Wis Eth Bd 5, ¶6. We reaffirm these opinions and advise that a lobbyist, acting independent of a candidate or candidate's campaign committee, may administer a conduit without restriction from the lobbying law.

¶ 6. In our 1992 opinion, we also recommended that someone other than a lobbyist sign and convey the check provided to the candidate. 1992 Wis Eth Bd 13, ¶¶4,5. In our 1996 opinion we squarely addressed the question whether the lobbying law applies to a lobbyist's physically conveying another's campaign contribution. We said that it did because physically conveying an item falls within the accepted definition of furnishing. 1996 Wis Eth Bd 5, ¶7.³ We draw no relevant distinction between physically conveying a contribution to a candidate and signing the financial instrument or letter conveying the contribution.

³ Words in a statute must be construed according to common and approved usage. 990.01(1), *Wisconsin Statutes*. Common and approved usage can be determined by consulting a recognized dictionary. *Ervin v. City of Kenosha*, 159 Wis. 2d 464 (1991). Webster's *Third New International Dictionary* 923 (1986) defines "furnish" as "to provide or supply with what is needed, useful, or desirable." See also 80 Op. Att'y Gen. 205 (1992).

In *State ex rel. Milwaukee G.L. Co. v. Arnold*, 190 Wis. 602, 604 (1926), the Wisconsin Supreme Court held that the phrase "furnishing gas for lighting or fuel or both" included "the means by which the gas is supplied to the customer for use." And in *State v. Graves*, 257 Wis. 31, 34 (1950), the court held that a bartender who had sold and delivered beer to an adult with the knowledge that the adult was going to give the beer to a minor had "furnished" the beverage to the minor and could be prosecuted for violating a statute that forbade furnishing alcohol to a minor. Similarly, a merchant may be said to furnish a wide array of goods even though they are supplied by a wholesaler or be on consignment. There is nothing in the language of the statute to support an interpretation that "furnishing" does not mean the conveying of campaign contributions from others.

¶ 7. Of course, this does not mean that a lobbyist may not sign conduit checks or transmittal letters. It means only that a lobbyist may sign a conduit check or transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only during the times permitted by the lobbying law.⁴

Advice

¶ 8. The Ethics Board advises:

(1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and

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

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⁴ Neither statutes, rules, nor Elections Board instructions require that a conduit administrator sign the letter transmitting a conduit contribution to a candidate. See 11.06(11)(a), *Wisconsin Statutes*; Wis. Admin. Code 1.85; Elections Board forms EB-9 and EB-10 and Information on Conduits (rev. 9/95).

2004 Wis Eth Bd 03
LOBBYING LAW; SOLICITATION

The Ethics Board advises that:

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

Facts

- ¶1 This opinion is based upon these understandings:
- a. You are a consultant for a legislative campaign committee.
 - b. A Senator (Senator X) is in the first year of a four- year term as a state senator and plans to run for re-election.
 - c. Another Senator (Senator Y) is in the third year of a four- year term as a state senator and plans to run for re-election.

Questions and Advice

¶2 *Question 1. May Senator Y call a lobbyist to ask for a personal or PAC contribution for a legislative campaign committee before the re-election year?*

No. Senator Y may ask a lobbyist for the lobbyist's contribution or to arrange for another's contribution to a legislative campaign committee only between June 1 and the date of the general election in the year of Senator Y's election.

¶3 *Question 2. May Senator X ask a lobbyist to try to arrange a PAC contribution for Senator Y before the re-election year?*

No. Senator X may ask a lobbyist to arrange for a PAC contribution to Senator Y only between June 1 and the date of the general election in the year of *Senator X's* re-election.

¶4 *Question 3. When may Senator Y call a lobbyist to ask to whom the Senator can speak at the organization the lobbyist represents about obtaining a campaign contribution?*

Consistent with laws administered by the Ethics Board, Senator Y may call anyone, including a lobbyist, at any time to ask for the names of people that Senator Y may ask for a campaign

contribution as long as the senator does not directly or indirectly ask the lobbyist to furnish or arrange a campaign contribution.¹

¶5 *Question 4. Before June of the year of senator Y's re-election, may Senator Y send to a lobbyist an invitation to a campaign fundraiser if the invitation states that it is not a solicitation but only for informational purposes for the lobbyist's clients?*

No, unless under all the circumstances it is clear that the invitation does not solicit the lobbyist to furnish or arrange a campaign contribution.

¶6 *Question 5. When may Senator Y accept a contribution from the spouse of a lobbyist drawn from a joint checking account?*

Statutes that the Ethics Board administers place no limit on Senator Y's acceptance of a campaign contribution from a lobbyist's spouse.² Key to the law's application is whether the spouse's contribution is truly independent of the lobbyist.

¶7 *Question 6. When may Senator Y call a non-lobbyist employee of an organization that employs a lobbyist to ask for help in obtaining contributions from other employees?*

Any time. The lobbying law places no restriction on a legislator's soliciting a non-lobbyist employee of an organization that employs a lobbyist for a campaign contribution or for assistance in obtaining a campaign contribution from another.

Background

¶8 We have addressed most of the questions you have asked in prior opinions.

Wisconsin's lobbying law

¶9 Wisconsin's lobbying law prohibits a lobbyist to furnish a campaign contribution to a legislator except during specific time periods. Section 13.625 (1) (b) and (c), *Wisconsin Statutes*, provides:

13.625 Prohibited practices. (1) No lobbyist may:

¹ A lobbyist and organization that employs a lobbyist may advise or urge others to contribute to a candidate, but may not act in concert with a candidate to raise campaign contributions except during the time period when the lobbyist may contribute directly. 1996 Wis Eth Bd 5.

² *Katzman v. Ethics Board*, 228 Wis.2d 282 (Ct. App. 1999).

(b) Furnish to . . . any elective state official or candidate for an elective state office, or to the official's . . . or candidate's personal campaign committee:

* * *

3. [M]oney or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a partisan elective state official or candidate for national, state or local office or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

(c) Except as permitted in this subsection, make a campaign contribution, as defined in s. 11.01 (6), to a partisan elective state official for the purpose of promoting the official's election to any national, state or local office, or to a candidate for a partisan elective state office to be filled at the general election or a special election, or the official's or candidate's personal campaign committee. A campaign contribution to a partisan elective state official or candidate for partisan elective state office or his or her personal campaign committee may be made in the year of a candidate's election between June 1 and the day of the general election, except that:

1. A campaign contribution to a candidate for legislative office may be made during that period only if the legislature has concluded its final floorperiod, and is not in special or extraordinary session.

¶10 The lobbying law also limits a legislator's ability to solicit or accept a campaign contribution from a lobbyist. Section 13.625 (3), *Wisconsin Statutes*, provides:

13.625 (3) No candidate for an elective state office, elective state official, agency official or legislative employee of the state may solicit or accept anything of pecuniary value from a lobbyist or principal, *except as permitted* under subs. (1)(b)3 and (c), (2), (4), (5), (6), (7), (8) and (9). No personal campaign committee of a candidate for state office may accept anything of pecuniary value from a lobbyist or principal, *except as permitted* for such a candidate under subs. (1) (b) 3 and (c), (2) and (6).

(Emphasis added).

What is a solicitation?

¶11 The first question is what does it mean to solicit. "Solicit" means "to make solicitation or petition for something desired," *American Heritage Dictionary* (3d ed. 1992); "to seek to influence or incite to action," "to make a petition or request," *Random House Dictionary of the English Language* (2d ed. Unabridged 1987); "to approach with a request or plea," *Webster's Third*

New International Dictionary (1981); “to try to obtain by requests or pleas, *Webster’s Ninth New Collegiate Dictionary* (1983).” The restriction on soliciting does not cover only an explicit request. Rather, one must look at the totality of the circumstances to determine whether, by written or oral communication, or other conduct, a request is being made. We agree with the United States Supreme Court, which said, in a case interpreting the meaning of a federal statute using the phrase “solicitation of orders for interstate sales,”

We think it evident that in this statute the term includes, not just explicit verbal requests for orders, but also any speech or conduct that implicitly invites an order. Thus, for example, a salesman who extols the virtue of his company’s product to the retailer of a competitor’s brand is engaged in “solicitation” even if he does not come right out and ask the retailer to buy some.

Wisconsin Dept. of Revenue v. William Wrigley, Jr. Co., 505 U.S. 214, 223 (1992).³

¶12 Because an invitation to a fundraiser is likely to be viewed as just that or as a request to solicit others for contributions, particularly given the current culture of campaign fundraising, simply adding language that the invitation is not a solicitation will not definitively determine that an invitation is not a solicitation.⁴

Soliciting a lobbyist to furnish a contribution to another

¶13 The operative language of the statute is that a legislator may not solicit a lobbyist for anything of pecuniary value “except as permitted” by the referenced paragraphs. The statute is somewhat unclear because it prohibits a legislator to solicit anything of pecuniary value from a lobbyist “except as permitted” in other paragraphs, but not all the paragraphs referred to mention solicitation. We have always understood the statute to have the common sense meaning that a legislator may not solicit anything that a lobbyist may not permissibly furnish as set out in the referenced paragraphs.

³ 1997 Wis Eth Bd 8 ¶¶5 and 6.

⁴ The lobbying law prohibits a legislator *to solicit or accept* anything of pecuniary value except as permitted. The lobbying law also prohibits a legislator’s personal campaign committee *to accept* a contribution except as permitted, but the statute neither expressly prohibits nor permits a campaign committee *to solicit* contributions. This is a distinction with little difference. To the extent that the committee acts at the behest, and as an agent, of a candidate, the candidate cannot shield himself or herself from the law’s restrictions. As we have said in the past, the law does not permit an official to solicit through an agent that which the law prohibits the individual to solicit directly. 1998 Wis Eth Bd 5, ¶10; 1996 Wis Eth Bd 14, ¶6.

¶14 The issue then is whether the statute's restrictions on soliciting apply only if a legislator is soliciting something for the legislator's own benefit. It should not. The Board has consistently said that the prohibition on soliciting in §13.625 applies regardless whether the item or service solicited is directed toward the official's own benefit or to the benefit of another.⁵ This interpretation comports not only with the plain meaning of the statute, it is supported by the legislature's creation of specific exceptions when the legislature has wanted to permit the solicitation of contributions from lobbyists and lobbying principals for specific state programs. §§13.625 (8) and (9). These provisions would be superfluous if §13.625 (3) was meant only to prohibit the solicitation and acceptance of contributions by an official for his or her own benefit, a result to be avoided in statutory interpretation. The need for these provisions is predicated on a legislative understanding that the prohibition on soliciting includes soliciting for the benefit of others such as state agencies and programs.⁶

Soliciting a lobbyist to obtain a contribution from another

¶15 A third issue is whether the statute's restrictions on soliciting apply only if an official is soliciting a contribution from the lobbyist's own pocket. There is nothing in the statute's language to support such a limited reading. The language of the lobbying law does not distinguish between a legislator soliciting a lobbyist to furnish something of pecuniary value directly and soliciting a lobbyist to arrange for another's furnishing something of pecuniary value.⁷

Soliciting a lobbyist for a future contribution

¶16 A fourth issue is whether the statute's restrictions apply to a solicitation for a contribution that is intended to be made when a contribution is permitted if the solicitation is made at a time during which a contribution is not permitted. We believe that it does. The statute essentially says that a legislator may not solicit a contribution except as the furnishing of a contribution is permitted. Since the furnishing of a contribution is limited to a specific time period, the statute must be read to restrict soliciting except during the permitted period. Any other reading would defeat the statute's purpose of creating separation between the time during which contributions are sought from and made by those attempting to influence the Legislature and the time during which legislators are conducting legislative business.

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⁵ 1998 Wis Eth Bd 5 ¶14; 1998 Wis Eth Bd 2 ¶15; 1995 Wis Eth Bd 7 ¶8.

⁶ See, e.g., *State Central Credit Union v. Bigus*, 101 Wis.2d 237 (Ct. App. 1981); 80 Op. Att'y Gen. 19 (1991).

⁷ 1997 Wis Eth Bd 8 ¶7. Cf. 1996 Wis Eth Bd 5.

Campaign Fundraising

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

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

Soliciting a lobbyist or lobbying principal. State statutes limit when a member of, or candidate for, the Legislature may solicit a contribution from a lobbyist. A legislator or candidate for the Legislature may solicit a lobbyist for a contribution, whether asking for a personal contribution from the lobbyist or asking the lobbyist to obtain a contribution from a PAC or other person, **only between June 1 of an even-numbered year and the date of the general election in the year of the candidate's election.** This solicitation "window" does not open until after the Legislature concludes its final floor period (if the final floor period is scheduled for a date after June 1). The "window" closes during any time that the Legislature is in a special or extraordinary session. The limitation applies to soliciting a lobbying principal as well. Outside the permitted "window," contact should be limited to a non-lobbyist employee or representative of a PAC.

The restriction on soliciting applies whether a legislator or legislative candidate is soliciting a contribution for the candidate's own campaign committee, for another candidate, or for a legislative campaign committee. The restriction also applies to soliciting through an agent.

Accepting a contribution from a lobbyist or principal. A legislator or legislative candidate may accept a contribution from a lobbyist or lobbying principal only during the time period permitted for soliciting a lobbyist or principal. This restriction applies both to monetary and in-kind contributions.

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

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

Continued on next page 

What is a solicitation? A solicitation can be either oral, written, or electronic. A disclaimer on a written invitation to a fundraiser to the effect that “If you are a lobbyist, please disregard or pass along” will not necessarily be taken to mean that the invitation is not a solicitation to a lobbyist – the Board may examine all circumstances to determine if an impermissible solicitation has occurred.

Limitations on how much a legislator or legislative candidate may accept. A member of, or candidate for, the Assembly may accept up to \$500 from a single individual during any two-year period beginning January 1st of the year following the previous election. A member of, or candidate for, the Senate may accept up to \$1,000 from a single individual during any four-year period beginning January 1st of the year following the previous election. The maximum aggregate contribution from an single PAC or other candidate committee is also \$500 for Assembly candidates and \$1,000 for Senate candidates.

The aggregate that may be accepted from all PACs, candidate committees, and a WECF grant combined may not exceed \$7,763 for an Assembly candidate or \$15,525 for a Senate candidate. The maximum from all committees, including political parties, may not exceed \$11,213 for an Assembly candidate or \$22,425 for a Senate candidate. There is no limit on how much an individual may contribute to his or her own campaign committee unless the individual has applied for a WECF grant. (In that case, an Assembly candidate may contribute no more than \$1,000 to his or her own committee and a Senate candidate may contribute no more than \$2,000 to his or her own committee. These limits are lifted if a candidate’s opponent does not file for a grant and does not file an affidavit of voluntary compliance with spending limits.)

Exceptions to these contribution limits or time periods may apply when a candidate is subject to a recount or recall election, runs in a special election or election to a local office, or a candidate registers after January 1 of an odd-numbered year.

Legal references: §§11.26, 11.38, and 13.625, *Wisconsin Statutes*; *Plumbers and Gas Fitters Local 75 Political Action fund, et al. v. State of Wisconsin Ethics Board*, Dane County Circuit Court, 93-CV-3984 (February 23, 1994), *aff’d*, District IV Court of Appeals, 94-0826 (May 19, 1995), *rev. den.*, Supreme Court, 94-0826 (September 27, 1995).

Campaign Contributions and Activities by Lobbyists and Lobbying Principals

This Guideline is provided as an information resource only. For authoritative advice, contact the Wisconsin Government Accountability Board.¹

CAMPAIGN CONTRIBUTIONS BY LOBBYISTS

A lobbyist may make a campaign contribution from personal funds, or may deliver or convey a campaign contribution on behalf of a PAC, conduit, or other person:

TO

- a partisan elected state official² running for any office (even a local or national office),
- a candidate for election to a partisan state office, OR
- the campaign committee of either

ONLY

between June 1 of an even-numbered year and the date of the general election in the year of the candidate's election. For a candidate for the Legislature, this "window" does not open until after the Legislature concludes its final floor period (if the final floor period is scheduled for a date after June 1). The "window" closes for a legislative candidate during any time that the Legislature is in a special or extraordinary session.

Neither a partisan elected state official nor a candidate for partisan state office should solicit a lobbyist outside the "window" noted above. If a lobbyist receives such a solicitation, the lobbyist should refer the candidate to a non-lobbyist or report the matter to the Government Accountability Board.

A lobbyist may make, deliver, or convey a campaign contribution at any time to a candidate for a local, non-partisan state, or national office unless the candidate is currently a partisan elected state officeholder. A lobbyist's contribution to a partisan elected state official running for any office is subject to the "window" referenced above.

CAMPAIGN CONTRIBUTIONS AND ACTIVITIES BY LOBBYING PRINCIPALS

Under Wis. Stat. §11.38 (1) an incorporated lobbying principal – an organization that employs a lobbyist -- may not contribute to a candidate's campaign committee at any time. (Lobbying principals not subject to Wis. Stat. §11.38 (1) are still subject to the limitations on timing discussed above and may only make a contribution after June 1 when the "window" has opened.) Only an incorporated lobbying principal's PAC may make such a contribution to a candidate's campaign committee.

¹ Rules of the Assembly and Senate may impose additional restrictions on when contributions may be accepted by Legislators and when a Legislator may hold a fundraising event.

² Partisan state offices are those of the governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, state representative to the assembly, and district attorney [§5.02(23)].

This prohibition on incorporated lobbying principal contributions is true not only for monetary contributions but also for in-kind contributions such as a lobbying principal directing its employees or using its supplies to organize or run a golf outing, dinner, or other fundraising event for a candidate's benefit. A lobbying principal may provide such assistance to a candidate's campaign committee only through its PAC. A PAC, even one controlled by a lobbying principal may contribute to a candidate at any time, including an in-kind contribution and may reimburse a principal for the fair market value of supplies and services the PAC furnishes to a campaign committee.

Individuals who are not lobbyists – such as non-lobbyist employees of principals – may communicate at any time with candidates or their agents about fundraising for a candidate's campaign committee. Moreover, a lobbyist may communicate with a lobbying principal's own employees or members about a candidate fundraising event at any time provided he or she does not act in concert, consultation, or coordination with a candidate in doing so.

CAMPAIGN ACTIVITIES BY LOBBYISTS – AT ANY TIME

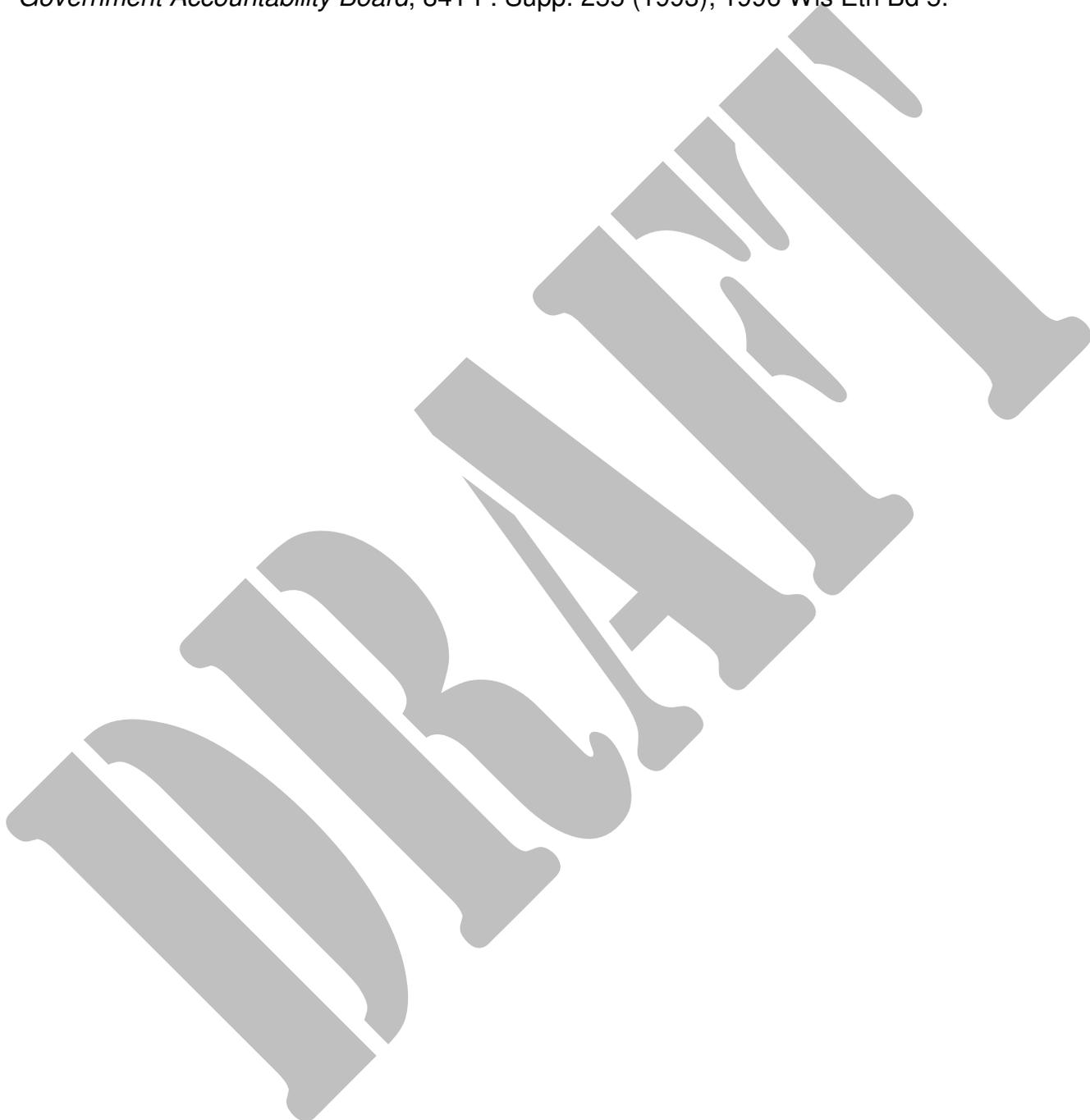
- **Endorsements.** A lobbyist may endorse a candidate or lend his or her name as a supporter or sponsor of a campaign event, including a fundraising event.
- **Advice to others.** A lobbyist, as a volunteer, may advise or urge others to contribute to a candidate, but may not act in concert with a candidate to raise campaign contributions except during the time period when the lobbyist may contribute directly.
- **Professional services.** A lobbyist may not, at any time, provide services (whether or not for compensation) to a candidate for any state office or a state official running for any office for which the lobbyist would normally charge a fee, such as legal, accounting, computer, or consulting services.
- **Uncompensated personal services.** A lobbyist may furnish uncompensated personal services (*e.g.*, distributing yard signs, stuffing envelopes, going door-to-door and bookkeeping *provided the lobbyist does not charge a fee to others for similar work*) to candidates.
- **Attending a fundraising event.** A lobbyist may attend a fundraising event at any time, but may furnish a contribution at such event only during permitted times.
- **Contributions to self or family.** A lobbyist may make a campaign contribution to the lobbyist's own campaign or to the campaign of the lobbyist's spouse, certain relatives (Wis. Stats. §13.62 (12g)), and members of the lobbyist's household.
- **Contributions to PACs and legislative campaign committees.** A lobbyist may make or convey a campaign contribution at any time to a political action committee, legislative campaign committee, political party, or the campaign committee of a candidate who neither holds nor who is seeking election to a partisan state office.
- **Contributions to conduits.** A lobbyist may deposit money into a conduit account at any time but may make a contribution to a candidate through a conduit account only during permitted times.

PAC CONTRIBUTIONS AND ACTIVITIES – AT ANY TIME

- **Contributions from Political Action Committees (PACs).** A PAC (even one controlled by an organization that employs a lobbyist), may contribute to a candidate's campaign as long as the committee is appropriately registered with the Government Accountability Board and the contribution does not exceed the limit imposed by campaign finance laws.

- **Sponsoring a fundraising event for a candidate.** Unless otherwise restricted by a rule or policy of the Senate or Assembly, a PAC (even one controlled by an organization that employs a lobbyist) may sponsor a fundraising event for a candidate at any time.

Legal references: §13.625, *Wisconsin Statutes*; *Barker, et al. v. State of Wisconsin Government Accountability Board*, 841 F. Supp. 255 (1993); 1996 Wis Eth Bd 5.



What candidates should know about Wisconsin's lobbying law

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

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

"Candidate" means a person for whom it is contemplated or desired that votes be cast at any election held in Wisconsin, other than an election to a federal office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. [§§11.01(1) and 13.62 (5g)].

Partisan state offices are those of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, state representative to the assembly, and district attorney [§5.02(23)].

CAMPAIGN CONTRIBUTIONS

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

the contribution is made between June 1 and the date of the November general election in the year of the candidate's election AND, in the case of a candidate for election to the Legislature, the Legislature has concluded its final floor period and is not in special or extraordinary session.

SERVICES FROM A LOBBYIST

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

A lobbyist may host a fundraiser for any candidate at a private residence but may not provide food or beverages at such a fundraiser for a partisan state elected official running for any office, or a candidate for a partisan elected state office, except during the time period permitted for contributions.

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

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

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

CANDIDATE’S BUSINESS RELATIONSHIP WITH ORGANIZATION THAT LOBBIES

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

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

BUSINESS RELATIONSHIPS WITH LOBBYISTS AND THE ORGANIZATIONS THAT EMPLOY THEM.

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

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

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

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

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JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of August 30, 2010

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:
Jonathan Becker, Ethics and Accountability Division Administrator
Michael Haas, Staff Counsel

SUBJECT: Guidelines Regarding Personal Political Activity and Independent Disbursement Organizations

Attached are two new Guidelines for the Board's review, which are intended to address numerous questions received by staff following promulgation of GAB 1.28 and the emergency rule GAB 1.91.

In the case of GAB 1.28, many of the questions and concerns have focused on longstanding provisions of the campaign finance statutes rather than the new administrative rule, and the Guideline is an opportunity to clarify the regulation of personal political activity and provide a ready resource for individuals to consult.

In the case of GAB 1.91, Board staff has fielded numerous inquiries from organizations seeking guidance regarding their funding and activities. The proposed guideline would serve as a summary of the major provisions of the rule and other regulations affecting those organizations.

The proposed guidelines have been circulated to the Chief Clerks, the legislative campaign committees, and the Association of Wisconsin Lobbyists for their review. The draft guidelines were not circulated in time to include input in the Board materials, but any such feedback will be shared with the Board at the meeting.

Board staff recommends adoption of the proposed guidelines related to personal political activity and independent disbursement organizations.

Personal Political Activity

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

Introduction: One of the cornerstones of Wisconsin's campaign finance laws is the principle that the public has a right to know the identity of individuals and organizations spending money in an effort to influence an election. However, Wisconsin Statutes protect the rights of individuals to participate in the political system through many routine actions without regulation by the government, such as communicating with family and friends, attending political rallies and events, writing letters to newspapers, and posting political signs. These activities are not subject to regulation as described in this Guideline.

Wisconsin law requires registration and reporting by individuals only when they spend money exceeding threshold amounts to support or oppose a candidate through independent disbursements. An independent disbursement is a cost paid directly by an individual to publish a political communication or to otherwise influence an election, other than through a political contribution made to a candidate or political committee. Contributions to a campaign or political committee are not considered disbursements requiring an individual to register or report the transaction.

This Guideline summarizes provisions of Wisconsin law applicable to the political activities of individuals. Additional information can be obtained by consulting the website of the Government Accountability Board at <http://gab.wi.gov>, or by contacting the Board at 608-261-2028.

Registration requirements: Individuals, other than a candidate or a candidate's committee, who accept political contributions or make independent disbursements in a calendar year exceeding \$25 are required to register with the Government Accountability Board if the political activity relates to a candidate for state office, and with the local filing officer if the activity relates to a candidate for local office. Such individuals are also required to file a statement under oath with the appropriate filing officer affirming that the individual is not coordinating the independent disbursements with any candidate or committee of a candidate who is supported by or benefits from the disbursement. The monetary threshold of \$25 for registering political activity has been established by Wisconsin Statutes since the 1970's. The threshold for registering political activity related to a referendum is \$750 in a calendar year.

Reporting and fee requirements: Individuals who make political disbursements exceeding \$25 in a calendar year are required to file regular campaign finance reports with the Board when such disbursements are related to a candidate for state office, and with the local filing officer if the activity relates to a candidate for local office. Individuals who make political disbursements exceeding a total of \$2,500 in a calendar year are also required to pay a filing fee of \$100 to the Board or local filing officer.

When is a disbursement or communication made for a political purpose? A disbursement or communication is made for a political purpose when it is done for the purpose of influencing the election or nomination of a specific state or local candidate, is related to the recall of an officeholder, or attempts to influence the outcome of a referendum. A communication is made for a political purpose when it refers to a specific candidate and expressly advocates the

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election or defeat of that candidate. Expenses paid for the costs of creating campaign signs, advertisements, and handbills are subject to the registration and reporting thresholds.

Exemptions: Political disbursements do not include the costs of printing and delivering personal correspondence, unless the individual also spends money to reproduce and distribute the correspondence to a wider audience. Travel expenses paid by an individual for their own transportation also are not considered disbursements, unless they are reimbursed by another committee, organization, or individual, in which case they must be reported by the party paying the expense. For example, an individual spending \$50 in gas to travel to and from a political rally is not required to report that disbursement, but a campaign or other political committee renting a bus to transport supporters to an event is required to report that cost.

In short, activities which do not involve the expenditure of an individual's own funds are not subject to registration. Contributions made to political candidates, committees, and other organizations are not counted as disbursements. Communications referring to candidates for federal office also are not regulated by the Government Accountability Board.

Blogging and electronic communications: Communications posted on blogs or social media sites that require no subscription fee are considered personal correspondence, provided that the individual posting the message is not paid by another individual, committee, or organization to do so. When an individual is not paid, the cost of the individual's computer, server, and internet connection are not considered to be political disbursements.

However, when an individual constructs and maintains a separate website used principally to convey political communications, any costs for developing and hosting the website are considered political disbursements. Similarly, if an individual sends political communications to a list of email addresses which the individual has purchased, the cost of such a list is subject to the registration and reporting requirements.

When an individual posts political communications on blogs or other social media, and is paid for that activity, the payment to the individual as well as any expenses for conveying the messages (such as computer equipment purchased for that purpose), are considered political disbursements. The person or organization making the disbursements, not the individual receiving payment, is subject to the registration and reporting requirements. In such cases the blogs or posts must also contain an attribution statement indicating the source of the funding. An exception to this rule is bloggers who are employed by the communications media, including newspapers, periodicals, radio and television stations.

Legal references: §§11.01, 11.05(2), 11.055, 11.06(7), 11.23, *Wisconsin Statutes*; GAB 1.28, Wis. Adm. Code.

Independent Disbursements of Corporations and Associations

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

Under Wisconsin Statutes and federal case law, corporations and associations may make independent political disbursements related to elections for state or local office, subject to certain registration and reporting requirements, without being subject to all of the restrictions applicable to political committees and individuals.

Independent Disbursement Organizations: This Guideline applies to for-profit and non-profit corporations and associations which are formed for non-political purposes (hereinafter referred to in this Guideline as Independent Disbursement Organizations). This Guideline does not apply to individuals or political committees. Independent Disbursement Organizations are permitted to accept contributions for, and make, independent political disbursements subject to the registration and reporting requirements described in this Guideline.

What is an independent political disbursement? In general, Wisconsin Statutes describe a political disbursement as a payment or expenditure made for a political purpose. An act is for a political purpose when it is done for the purpose of influencing the election or nomination of a specific state or local candidate, is related to the recall of an officeholder, or attempts to influence the outcome of a referendum. A communication is made for a political purpose when it refers to a specific candidate and expressly advocates the election or defeat of that candidate. To be independent, a disbursement must be made without cooperating or consulting with, and not in concert with, or at the request or suggestion of, any candidate or authorized committee of a candidate who is supported by the disbursement.

Reporting and registration requirements for independent disbursements related to candidates: An Independent Disbursement Organization which accepts contributions for, incurs obligations for, or makes independent disbursements exceeding \$25 in a calendar year in support of or in opposition to a state or local candidate, must comply with the following requirements:

- 1) Designate a depository account for the deposit of all political contributions and payment of all political disbursements.
- 2) Designate a treasurer who must authorize all political disbursements and obligations.
- 3) Register with the Government Accountability Board if disbursements are made related to candidates for state office, or with the local filing office if the disbursements are related to candidates for local office.
- 4) Pay an annual filing fee of \$100 to the Board or the local filing officer if independent disbursements exceed \$2500 in a calendar year.

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- 5) File the oath for independent disbursements with the appropriate filing officer.
- 6) File campaign finance reports listing contributions received and disbursements made for political purposes.
- 7) Include an attribution statement in all political communications indicating the source of the independent disbursement, the name of the treasurer or other authorized agent of the organization, and indicating that the communication is not authorized by any candidate or candidate's agent or committee.

Reporting and registration requirements for independent disbursements related to referendum elections: A corporation or association receiving contributions or making disbursements exceeding \$750 in a calendar year to promote or oppose a vote at any referendum in Wisconsin must comply with the registration and reporting requirements applicable to political groups as outlined in Sections 11.38(8) and 11.23, Wis. Stats.

Contributions to and transfers between organizations: Independent Disbursement Organizations may receive unlimited contributions from individuals and corporations, but may not receive contributions from political committees. An Independent Disbursement Organization may transfer unlimited amounts to other Independent Disbursement Organizations. The transferred funds are reported as a disbursement by the contributing organization and as a receipt by the receiving organization, which is not required to report the source of the original contributions received by the transferring organization. An Independent Disbursement Organization may not make contributions to candidates or to political action committees.

Legal references: §§11.01, 11.05(2), 11.055, 11.06, 11.23, 11.30, 11.38, *Wisconsin Statutes*; GAB 1.91, *Wis. Adm. Code.*, *Citizens United v. FEC*, 558 U.S. ___, 2010.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of August 30, 2010

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

SUBJECT: Promulgation of Permanent Rule Amending GAB 3.01 and GAB 12.01

Currently, election inspectors are appointed for two-year terms beginning January 1 of an even-numbered year and ending December 31 of the following odd-numbered year. Municipal clerk and special registration deputy certification terms run from January 1 of odd-numbered years and end December 31 of the following even-numbered years. During these designated periods, election officials are required to complete various training requirements to be certified to conduct registration and election duties.

In 2005 Act 451, the Wisconsin Legislature changed the first year of the election inspector term to an even-numbered year, reasoning that with four scheduled elections that year, election inspectors would have an immediate opportunity to apply what they had learned in Baseline Chief Inspector training and any other training they may have received from their clerk. Also, Wisconsin political parties felt that the higher profile, even-year presidential or gubernatorial elections may draw a larger number of prospective election workers.

Wisconsin's "staggered" terms for election officials have created confusion for county clerks, who often provide recertification training for election officials, and for municipal clerks, who are not only responsible for documenting and tracking the training received by their election workers, but for ensuring that they themselves achieve recertification by accumulating six hours of election education per election cycle and reporting those hours to the Board for tracking purposes.

Input from the Clerk Advisory Committee on Training and from participants of subsequent listening sessions confirmed what staff had been hearing for some time from clerks regarding election officials' training terms. Uncertainty about election officials' training terms and training requirements were among the top five concerns voiced by those attending the listening sessions.

The attached Statement of Scope would permit Board staff to begin work on amending the sections of the administrative rules governing the training cycles of municipal clerks and special registration deputies, to make them consistent with the training cycle for election inspectors. Section GAB 3.01(6)

defines the election cycle for special registration deputies as beginning on January 1 of an odd-numbered year and continuing through December 31 of the following even-numbered year. The same definition is used to establish the election cycle for municipal clerks in Section GAB 12.01(2).

To address the transition period under the proposed rule, Board staff recommends that the current election cycle for municipal clerks and special registration deputies should be extended from the end of 2010 to the end of 2011. Beginning in 2012, the terms of all election officials for training purposes would run uniformly for a two-year cycle. Board staff recommends approval of the Statement of Scope.

Recommendation and Proposed Motion:

Staff recommends adoption of the following motion:

Pursuant to §§5.05(1)(f) and (c), and 227.11(2)(a), Wis. Stats., the Board formally approves the attached Statement of Scope, and directs staff to proceed with promulgation of amendments to GAB 3.01 and GAB 12.01.

Statement of Scope
Government Accountability Board
Voter Registration, s. GAB 3.01,
and Certification and Training of Municipal Clerks, s. GAB 12.01

Subject

Amend ss. GAB 3.01(6) and 12.01(2)

Objectives of the Rules

Amend s. GAB 3.01(6) to change the election cycle for special registration deputies so that the cycle begins on January 1 of an even-numbered year and continues through December 31 of the following odd-numbered year. Amend s. GAB 12.01(2) to change the election cycle for municipal clerk training so that the cycle begins on January 1 of an even-numbered year and continues through December 31 of the following odd-numbered year.

Policy Analysis

The amendments to ss. GAB 3.01(6) and 12.01(2) will have the effect of modifying the election cycles governing training of municipal clerks and special registration deputies. Under the current administrative rules, those respective elections cycles begin on January 1 of an odd-numbered year and continue through December 31 of the following even-numbered year. This two-year term runs counter to the election and training cycle for election inspectors, which runs from January 1 of an even-numbered year through December 31 of the following odd-numbered year, pursuant to §7.30(4), Stats. Reconciling the election cycles and making them uniform for all election officials would eliminate significant confusion and administrative difficulties for local election officials.

Statutory Authority

Sections 5.05(1)(f), 7.315(1), and 227.11(2)(a), Stats.

Comparison with Federal Regulations

The training and certification of local election officials is not regulated by federal statutes or regulations.

Entities Affected by the Rules

All individuals serving as special registration deputies pursuant to certification by local election officials or the Government Accountability Board, and all municipal clerks seeking certification to conduct elections by the Board.

Estimate of Time Needed to Develop the Rules

10-15 hours.

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Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Promulgation and Creation of ch. GAB §1.91, Wis. Adm. Code

Introduction and Recommendations:

The Emergency Rule Order creating ch. GAB §1.91, Wis. Adm. Code, relating to organizations making independent disbursements has been effective since May 20, 2010 and is set to expire on October 16, 2010. The Board directed staff to seek a 60 day extension to ensure that the rule was in place for the entire Fall Election period. The Joint Committee for Review of Administrative Rules held a hearing on August 24, 2010 and approved the extension.

The Board also directed staff to proceed with promulgation of a permanent rule creating ch. GAB §1.91, Wis. Adm. Code. Staff submitted the rule to the Legislative Council for a statutory review and the Legislative Council Report was returned to staff on August 3, 2010. The public hearing on both the emergency and permanent rule-making will occur at the August 30, 2010 meeting. Staff submission of a Legislative Report to the two standing committees in the Legislature is the next step for promulgation of a permanent rule creating ch. GAB §1.91, Wis. Adm. Code.

Staff recommends that the Board reaffirm and approve the permanent rule creating ch. GAB §1.91, Wis. Adm. Code, which is included in these materials and incorporates the Legislative Council Report recommendations. In addition, staff recommends that the Board direct staff to prepare a Legislative Report that succinctly answers two questions posed in the Legislative Council Report.

Background:

The Board previously approved the creation of an emergency rule creating ch. GAB §1.91, Wis. Adm. Code, relating to organizations making independent disbursements. In addition, the Board approved proceeding concurrently with promulgation of a permanent rule. This concurrent approach to promulgation of a rule permitted the Board to hold one public hearing jointly for both the emergency and permanent rule-making. This public hearing will be held at the August 30, 2010 meeting.

The Legislative Council Report was received on August 3, 2010 and the Board was required to hold the public hearing within 30 days. A Notice of Public Hearing was published in the August 14, 2010 Wisconsin Administrative Register, which provided appropriate notice. However, due to the timing of receipt of the Legislative Council Report on August 3, 2010, the Legislative Council's suggested revisions were not incorporated into the Notice of Public Hearing, as the deadline for publication in the Administrative Register was August 2, 2010. Fortunately, the Legislative Reference Bureau accepted staff's submission of the Board approved version of the rule and was able to timely publish the Notice of Public Hearing.

A copy of the Legislative Council Report is included with these materials and follows this Memorandum. The Legislative Council requests that the Board clearly explain two matters: 1) how regulation of an organization differs from regulation of a committee under ch. 11, Wis. Stats., and 2) the statutory authority for treating an organization differently than a committee under ch. 11. In addition, the Legislative Council Report provides additional recommendations regarding the substance of portions of the analysis section and organization of the rule. All of the suggested revisions to the analysis and rule itself have been incorporated into the Notice of Proposed Order Adopting Rule, CR 10-087, which also follows this Memorandum. The Board should know that both Iowa and Minnesota adopted legislation that was effective following the original drafting of the emergency rule. The analysis section of the rule following this Memorandum, correctly incorporates updated citations to rules cited in adjacent states.

Analysis:

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

The specific authority granted to the Government Accountability Board to promulgate rules interpreting or implementing the laws regulating election campaigns and ensuring their proper administration is broad. See §5.05(1)(f), Wis. Stats. In *SEB v. WMC*, the Wisconsin Supreme Court recognized this broad authority of the Government Accountability Board's predecessor agency, the State Elections Board, to craft a new standard of express advocacy for the State of Wisconsin pursuant to §5.05(1)(f), Wis. Stats. 597 N.W.2d 721, ¶ 33 (Wis. 1999). The Court specifically stated: "The creation of such a standard is properly the role of the legislature and the Board..." *Id.* The Court also noted that the level of regulation desirable in this area depends upon public policy considerations more appropriately explored in a forum other than

this Court and that the Court's role in areas "peppered with political perceptions and emotionally laden views," was one restricted to interpreting the scope of constitutional requirements. *Id.*

Wisconsin has adopted the "elemental" approach to determining the validity of an administrative rule, comparing the elements of the rule to the elements of the enabling statute, such that the statute need not supply every detail of the rule. *WCCCD v. DNR*, 204 WI 40, ¶14 (Wis. 2004). If the rule matches the elements contained in the statute, then the statute expressly authorizes the rule. *Id.* (citing: *Grafft v. DNR*, 2000 WI App 187, ¶7, 238 Wis. 2d 750, 618 N.W.2d 897.) A cardinal rule of statutory interpretation is that statutes must be construed so as to avoid absurd results. *Id.*

Given a choice of possible interpretations of statute, Courts must select the construction that results in constitutionality rather than invalidity. It is the cardinal principle of statutory construction to save and not destroy. *State v. Vonesh*, 401 N.W.2d 170, 175 (Wis. Ct. App. 1986). Likewise, an administrative rule should ordinarily be given that construction which will, if possible, sustain its validity. *Law Enforcement Standards Board v. Village of Lyndon Station*, 305 N.W.2d 89, 97-98 (Wis. 1981). Rules made in exercise of a power delegated by statute should be construed together with the statute to make, if possible, an effectual piece of legislation in harmony with common sense and sound reason. *Id.* Furthermore, an administrative construction of an agency's own regulations is controlling in determining their meaning unless plainly erroneous or inconsistent with the regulations. *Id.* Conflicts between different statutes, by implication or otherwise, are not favored and will not be held to exist, if they may otherwise be reasonably construed. *Id.* Construction of statutes should be done in a way which harmonizes the whole system of law of which they are a part, and any conflict should be reconciled if possible. *Id.*

In *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to make independent disbursements and strengthened the ability of the government to require disclosure and disclaimer of the independent disbursements. However, the United States Supreme Court clearly indicated that persons wishing to make independent disbursements should not have to create a completely separate political action committee in order to engage in political speech in the form of independent disbursements, nor be subject to all of the same restrictions on political action committees. *Id.* (slip opinion pages 21-22). This portion of the *Citizens United* decision has been used in at least two lawsuits to argue that certain statutes are unconstitutional because they treat the organization making independent disbursements the same as a political committee.

The proposed rule GAB §1.91 interprets a number of statutory provisions in Chapter 11, Wis. Stats., and provides direction to persons making independent disbursements with respect to registration, reporting, and disclaimer requirements. The proposed rule interprets the definition of "committee" found in §11.01(4), Wis. Stats., and multiple sections of ch. 11, Wis. Stats., in the context of the *Citizens United* decision to harmonize the Wisconsin campaign finance statutes and to ensure their proper administration. Specifically, the proposed rule interprets and provides a definition for "person" as used in §11.01(4), Wis. Stats., to provide a mechanism for disclosure emphasized in the Legislature's declaration of policy as set forth in §11.001, Wis. Stats., and reinforced by the United States Supreme Court in *Citizens United*.

The Government Accountability Board's interpretation of ch. 11, Wis. Stats., as set forth in ch. GAB §1.91, avoids absurd results or unconstitutional applications of ch. 11, Wis. Stats. For instance, under ch. 11, Wis. Stats., corporations are prohibited from making contributions to a

“committee.” See 11.38(1)(a)1. and 3., Wis. Stats. Without the interpretation of ch. 11, Wis. Stats., as provided in ch. GAB §1.91, a corporation wishing to make independent disbursements would first have to establish a “committee,” but then would be precluded from making a “contribution” to that committee and prohibited from receiving contributions other than separate corporations. Likewise, §11.12(1)(a), Wis. Stats., prohibits a corporation from engaging in independent disbursements unless those disbursements are by or through a registered committee. This is directly contrary to the *Citizens United* decision which specifically permitted a corporation’s use of general treasury funds for independent disbursements and, in effect, reinstates the corporate prohibition on independent disbursements. Furthermore, without the interpretation of ch. 11, Wis. Stats., as provided in ch. GAB §1.91, a person’s or individual’s donations or contributions to the organization would apply to the \$10,000 aggregate contribution limits found in §11.26(4), Wis. Stats., which is also contrary to the *Citizens United* decision.

Finally, in a recently issued formal opinion, the Wisconsin Attorney General also has recognized that corporations are a “person” and, therefore, §§11.05(1) and 11.12(1)(a), Wis. Stats., apply to corporations, but also emphasized that “Wisconsin law must also permit corporations to register and file under §§11.05 and 11.06(7), Wis. Stats., so that they may exercise their constitutional right to engage in political speech.” See OAG 05-10, ¶¶ 30-31 (August 9, 2010.) The Attorney General specifically recognized that in addition this plain reading of the statutes, the Government Accountability Board has issued an emergency rule to “ensure the proper administration of the campaign finance statutes and properly address the application of *Citizens United v. FEC.*” *Id.* at ¶32. The Attorney General noted that the rule interprets §§11.05 and 11.06, Wis. Stats., and other relevant sections of ch. 11, Wis. Stats., to facilitate a corporation’s registration and filing requirements and concludes that both the statutes and the administrative code provide a mechanism for corporate reporting and avoid a ban on a corporation’s constitutionally protected political advocacy. *Id.* at ¶¶ 32-33.

The Government Accountability Board has properly exercised the broad rule-making authority specifically granted by the Legislature in §5.05(1)(f), Wis. Stats., and which was recognized by the Wisconsin Supreme Court in *SEB v. WMC*. However, the Government Accountability Board has also heeded the Wisconsin Supreme Court’s admonishments in *SEB v. WMC* by providing notice and clarity of the specific requirements of ch. 11, Wis. Stats., as they apply to organizations receiving contributions for, incurring obligations for, or making independent disbursements.

Proposed Motions:

1. **MOTION:** Approve the Notice of Proposed Order creating ch. GAB §1.91 (CR 10-087) containing the revisions recommended in the Legislative Council Report.
2. **MOTION:** Direct staff to submit a Legislative Report to the Legislature including a more detailed analysis of the agency’s authority to promulgate ch. GAB §1.91 and take all additional steps necessary to complete promulgation of the rule.

NOTICE OF PROPOSED ORDER ADOPTING RULE
GOVERNMENT ACCOUNTABILITY BOARD
CR 10-087

Organizations Making Independent Disbursements, GAB 1.91

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

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

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

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

4. Related statute(s) or rule(s): ch. 11, Stats., and ch. GAB 1, Wis. Adm. Code.
5. Plain language analysis: Within the context of ch. 11, Stats, the proposed order will provide direction to organizations receiving contributions for independent disbursements or making independent disbursements following the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010). The proposed rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions or making independent disbursements. Comporting with *Citizens United*, the proposed rule does not treat persons making independent disbursements as full political action committees or individuals under s. 11.05, Stats., for the purposes of registration and reporting. With respect to contributions or in-kind contributions received, this proposed rule requires organizations to disclose only donations “made for” political purposes, but not donations received for other purposes.

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

7. Comparison with rules in adjacent states:

Section 5/9-1.15, Ill. Stats., defines “expenditure” generally and to include an electioneering communication or a communication expressly advocating for or against the nomination for election, election, retention or defeat of a clearly identifiable public official or candidate that is not made in connection, consultation or concert with or at the request or suggestion of the public official or candidate, the public official’s or candidate’s designated political committee or campaign, or any of their agents. Persons, including individuals, making independent expenditures exceeding an aggregate of \$3,000 in any 12 month period in Illinois are by definition political committees and subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin. See ss. 5/9-8.6, 9-9.5, and 9-10. The Illinois administrative rules do not address independent expenditures likely due to the specificity and inclusiveness of the Illinois statutes.

Chapter 351—4.27 of the Iowa Administrative Code underwent redrafting in 2010 and prescribes requirements for registration and reporting of independent expenditures and it applies to any person, other than a candidate or a committee that has or should register, that makes one or more independent expenditures in excess of \$750.00 in the aggregate. 351—4.27, Iowa Adm. Code. A person subject to filing an independent expenditure statement must identify the person making the expense and for whom it benefits electronically on forms proscribed by the Iowa Ethics and Campaign Disclosure Board . 351—4.27 and 4.27(2) and (3), Iowa Adm. Code. A disclaimer on communications is required. 351—4.27(6), Iowa Adm. Code. A person making independent expenditures may need to instead file an organization statement as a political committee as defined by 68A.102(18), Iowa Stats., and comply with all committee reporting requirements.

Michigan Statutes ss. 169.203 and 169.208 provide a definition for an “independent committee,” which upon exceeding \$500.00 in contributions or expenditures is subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin. See Michigan Statutes ss. 169.224, et al. See also generally R 169, Parts 2 and 3, Michigan Admin. Code. Pursuant to Michigan Statutes s. 169.251 a person other than a committee who makes independent expenditures in the amount of \$100.01 or more in a calendar year is also required to make a report of the independent expenditure.

Minnesota statutes regulate independent expenditures, requiring registration upon a committee, fund, or party unit making or receiving a contribution, or making an expenditure exceeding \$100.00. ss. 10A.12(subd. 1a), 10A.14 and 10A.121, Minn. Stats. Campaign reports from a committee, fund, or party unit are prescribed by s. 10A.20, Minn. Stats. See also s. 211A.02, Minn. Stats. Individuals are also required to report independent expenditures exceeding \$100.00 within 24 hours of the expense. s. 10A.20(subd. 6b), Minn. Stats. Disclaimers are addressed in ss. 10A.17 and 211B.04, Minn. Stats. Minnesota has begun promulgation of an administrative rule specifically addressing disclaimers for independent expenditures (proposed Part 4503.1500.)

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes and federal case law.
9. Analysis and supporting documentation used to determine effect on small businesses: The rule may have a minimal effect on small businesses that will participate in receiving contributions or making independent disbursements. The economic impact of this effect is minor. Businesses may have a filing fee of \$100.00, if the amount of aggregate independent disbursements made in any year exceeds \$2,500.00.
10. Effect on small business: The creation of this rule may have a minimal effect on small businesses as explained above.
11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 266-2094; Shane.Falk@wisconsin.gov
12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, Attn: Shane W. Falk, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, no later than August 30, 2010.

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

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

TEXT OF PROPOSED RULE:

SECTION 1. GAB 1.91 is created to read:

1.91 Organizations Making Independent Disbursements

- (1) In this section:
 - (a) "Contribution" has the meaning given in s. 11.01(6), Stats.
 - (b) "Designated depository account" means a depository account specifically established by an organization to receive contributions and from which to make independent disbursements.
 - (c) "Disbursement" has the meaning given in s. 11.01(7), Stats.
 - (d) "Filing officer" has the meaning given in s. 11.01(8), Stats.
 - (e) "Incurred obligation" has the meaning given in s. 11.01(11), Stats.
 - (f) "Independent" means the absence of acting in cooperation or consultation with any candidate or authorized committee of a candidate who is supported or opposed, and is not made in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.
 - (g) "Organization" means any person other than an individual, committee, or political group subject to registration under s. 11.23, Stats.
 - (h) "Person" includes the meaning given in s. 990.01(26), Stats.
- (2) A corporation, or association organized under ch. 185 or 193, Stats., is a person and qualifies as an organization that is not prohibited by s. 11.38(1)(a)1., Stats., from making independent disbursements until such time as a court having jurisdiction in the State of Wisconsin rules that a corporation, or association organized under ch. 185 or 193, Stats., may constitutionally be restricted from making an independent disbursement.
- (3) Upon accepting contributions made for, incurring obligations for, or making an independent disbursement exceeding \$25 in aggregate during a calendar year, an organization shall establish a designated depository account in the name of the organization. Any contributions to and all disbursements of the organization shall

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

- (4) The organization shall file a registration statement with the appropriate filing officer and it shall include, where applicable:
 - (a) The name, street address, and mailing address of the organization.
 - (b) The name and mailing address of the treasurer for the designated depository account of the organization and any other custodian of books and accounts for the designated depository account.
 - (c) The name, mailing address, and position of other principal officers of the organization, including officers and members of the finance committee, if any.
 - (d) The name, street address, mailing address, and account number of the designated depository account.
 - (e) A signature of the treasurer for the designated depository account of the organization and a certification that all information contained in the registration statement is true, correct and complete.
- (5) The designated depository account for an organization required to register with the Board shall annually pay a filing fee of \$100.00 to the Board as provided in s. 11.055, Stats.
- (6) The organization shall comply with s. 11.05(5), Stats., and notify the appropriate filing officer within 10 days of any change in information previously submitted in a statement of registration.
- (7) An organization making independent disbursements shall file the oath for independent disbursements required by s. 11.06(7), Stats.
- (8) An organization receiving contributions for independent disbursements or making independent disbursements shall file periodic reports as provided ss. 11.06, 11.12, 11.19, 11.20 and 11.21(16), Stats., and include all contributions received for independent disbursements, incurred obligations for independent disbursements, and independent disbursements made. When applicable, an organization shall also file periodic reports as provided in s. 11.513, Stats.
- (9) An organization making independent disbursements shall comply with the requirements of s. 11.30(1) and (2)(a) and (d), Stats., and include an attribution

identifying the organization paying for any communication, arising out of independent disbursements on behalf of or in opposition to candidates, with the following words: "Paid for by" followed by the name of the organization and the name of the treasurer or other authorized agent of the organization followed by "Not authorized by any candidate or candidate's agent or committee."

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.



RECEIVED

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**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**
GOVERNMENT ACCOUNTABILITY BOARD

Ronald Sldansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 10-087

AN ORDER to create GAB 1.91, relating to organizations making independent disbursements.

Submitted by **GOVERNMENT ACCOUNTABILITY BOARD**

07-07-2010 RECEIVED BY LEGISLATIVE COUNCIL.

08-03-2010 REPORT SENT TO AGENCY.

RS:JKR

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Clearinghouse Director

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CLEARINGHOUSE RULE 10-087

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

The rule imposes registration and reporting requirements on organizations, including corporations and associations that make independent disbursements. Chapter 11, Stats., imposes registration and reporting requirements on committees. Section 11.01 (4), Stats., defines “committee” as any *person* other than an individual and any combination of two or more persons, permanent or temporary, that makes or accepts contributions or makes disbursements, whether or not engaged in activities that are exclusively political, except that a “committee” does not include a political “group.” “Person” is not defined in ch. 11, Stats.; however, s. 990.01 (26), Stats., defines “person” to include all partnerships, *associations*, and *bodies* politic or *corporate*.

It appears that under ch. 11, Stats., registration and reporting requirements already apply to a corporation or association that makes or accepts contributions or makes disbursements. That is, the corporation or association would be treated as a committee. An independent disbursement under the rule may be a disbursement for purposes of ch. 11, Stats., and subject to ch. 11., Stats., registration and reporting requirements. Consequently, the rule creates an alternate set of registration and reporting requirements that may apply to the same activity that is already subject to registration and reporting requirements under ch. 11, Stats.

In addition, for independent disbursements that are subject to registration and reporting requirements under the rule, but not to ch. 11, Stats., requirements, the rule creates a new system

of registration and reporting for independent disbursements that are not regulated by ch. 11, Stats.

In its report to the Legislature, the board should clearly explain the following matters:

- a. How the regulation of the new entity, "organization," under the rule differs from the regulation of a committee under ch. 11, Stats.
- b. The statutory authority for treating an "organization" differently than a committee under ch. 11, Stats.; the decision of the U.S. Supreme Court in *Citizens United v. FEC*, 558 U.S. ___ (dated January 21, 2010) may have invalidated portions of s. 11.38, Stats., but it did not alter the statutory structure under which the board administers and implements ch. 11, Stats. In other words, if *Citizens United* requires alterations in ch. 11, Stats., what power does the board, rather than the Legislature, have to effect those changes?

2. Form, Style and Placement in Administrative Code

- a. In the rule summary, the heading titled "Place where comments are to be submitted and deadline for submission" should be included. [s. 1.02 (2) (a) 12., Manual.]
- b. In s. GAB 1.91 (4) (e), the paragraph should be replaced with the following: "A signature of the treasurer for the designated depository account of the organization and a certification that all information contained in the registration statement is true, correct and complete."

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In the "statutes interpreted" section of the rule summary, "and" should be inserted between "11.38," and "11.513."
- b. In the "comparison with rules in adjacent states" section of the rule summary, it appears that the references to the Illinois Administrative Code should instead be to the Illinois statutes. In addition, chapter 351-4.27 (7) of the Iowa Administrative Code does not exist. Lastly, the agency should include a citation to support the assertion that Michigan statutes contain certain registration, reporting, and disclaimer requirements upon exceeding \$500 in contributions or expenditures.
- c. In s. GAB 1.91 (9), "s. 11.30 (1) and (2) (a) and (d), Stats." should replace "§ 11.30 (1); (2) (a) and (d), Wis. Stats." [s. 1.07, Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the title on the first page, "PROPOSED" should replace "PROPOSED."
- b. In the "Summary of, and comparison with, existing or proposed federal regulations" section of the rule summary, the following changes should be made:

- On the second line, the acronym “FEC” should be replaced by the name “Federal Election Commission.”
 - On the third line, “who” should be inserted between “and” and “make.”
 - On the sixth line, “in the aggregate” should be inserted between “expenditure” and “of.”
 - On the eighth line, “in the aggregate” should be inserted between “expenditure” and “of.”
- c. In the “comparison with rules in adjacent states” section of the rule summary, it appears that “\$750.00” should replace “\$100.00” when describing the Iowa Administrative Code provisions.
- d. In s. GAB 1.91 (1), the definitions should be arranged in alphabetical order. [s. 1.01 (7), Manual.]

State of Wisconsin \ Government Accountability Board

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JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Promulgation of ch. GAB 26, relating to Contract Sunshine

Introduction and Recommendations:

The legislature has generally authorized agencies, such as the Government Accountability Board, to promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute and ensure the proper administration of the statute. §227.11(2)(a), Stats. In addition, s. 19.48(11), Stats., provides that the Board shall maintain an Internet site on which information required to be posted by agencies under s. 16.753(4), Stats., and such information shall be accessible directly or by linkage from a single page on the Internet.

Staff recommends that the Board approve the Notice of Proposed Order Adopting Rule Creating ch. GAB 26, relating to Contract Sunshine and proceed with all other necessary steps to promulgate the rule. In addition, staff recommends that the Board direct staff to publish a Contract Sunshine Administration Manual and finalize a Certification of Contract Sunshine Compliance form.

Background:

Pursuant to §16.753, Wis. Stats., (also known as the "Contract Sunshine Act,") the G.A.B. is charged with collecting and publicly providing information via the internet regarding major expenditures by state agencies. This statute prescribes some limited details on the manner and method for compliance; however, further clarification is necessary. Administrative efforts taken by staff to improve the Contract Sunshine web site and agency compliance with reporting requirements will be greatly aided by adoption of ch. GAB 26, relating to Contract Sunshine. The proposed administrative rules provide further direction to agencies that are subject to the Contract Sunshine Act regarding the method and manner by which to comply with the Act. In addition, the proposed administrative rules clarify the responsibilities of the

Government Accountability Board regarding monitoring agencies' compliance with the Act and provide a limited enforcement mechanism.

Proposed Motions:

1. **MOTION:** Pursuant to §§5.05(1)(f), 19.48(11), 227.11(2)(a), 227.14(4m), 227.15(1), and 227.16-17, Wis. Stats., the Board formally approves the attached Notice of Proposed Order Adopting Rule Creating ch. GAB 26, and directs staff to submit the proposed rule to Legislative Council for review, submit a Notice of Submittal to Legislative Council Clearinghouse to the Legislative Reference Bureau, prepare and schedule a Notice of Hearing to incorporate any recommendations by Legislative Council, and directs staff to proceed with promulgation of the rule.
2. **MOTION:** Staff shall take all other steps necessary to complete promulgation of the rule creating ch. GAB 26, Wis. Adm. Code.
3. **MOTION:** Staff shall publish a Contract Administration Manual consistent with ch. GAB 26 and §16.753, Wis. Stats., and finalize a Certification of Contract Sunshine Compliance form,

NOTICE OF PROPOSED ORDER ADOPTING RULE
GOVERNMENT ACCOUNTABILITY BOARD
CR 10-_____
Contract Sunshine, ch. GAB 26

The Government Accountability Board proposes an order to create ch. GAB 26, Wis. Adm. Code, relating to Contract Sunshine.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statutes Interpreted: ss. 16.753, 19.48(11), 23.41(5), 25.18(1)(a), (f) and (m), 84.01(13), 84.06(2)(a), (3), and (4), 85.015, 102.81(2), 221.0903(4)(b), and 655.27(2), Stats.
2. Statutory Authority: ss. 19.48(11) and 227.11(2)(a), Stats.
3. Explanation of agency authority: Express rule-making authority to interpret the provisions of statutes the Board enforces or administers is conferred on it pursuant to s. 227.11(2)(a), Stats. In addition, s. 19.48(11), Stats., provides that the Board shall maintain an Internet site on which information required to be posted by agencies under s. 16.753(4), Stats., and such information shall be accessible directly or by linkage from a single page on the Internet.
4. Related statute(s) or rule(s): s. 16.753, Stats.
5. Plain language analysis: Pursuant to 2005 Wisconsin Act 410 (“Contract Sunshine”), state agencies are required to provide certain information to the Government Accountability Board regarding solicitations, contracts, or orders involving major expenditures. Furthermore, the Government Accountability Board is required to post the agencies’ information on an internet site. The proposed rule will provide direction to agencies subject to the Act regarding the method and manner by which to comply with the Act. In addition, the proposed rule will clarify responsibilities of the Government Accountability Board regarding monitoring agencies’ compliance with the Act.
6. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) and the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) codified requirements to report publicly via the internet certain assistance and procurement data for Federal agencies for all actions that obligate \$25,000 or more in Federal funds. The Office of Management and Budget established the www.USAspending.gov website to implement the statutory requirements. The Office of Management and Budget is promulgating rules to provide further guidance to agencies regarding assistance reporting, but has relied on guidance found in OMB Circulars to date. Rules for procurement reporting are generally found in Title 48 of the Code of Federal Regulations. (See

48 CFR ch. 1). Federal procurement data is first entered into the Federal Procurement Data System and then exported to www.USAspending.gov . The proposed rules and existing rules prescribe the manner and method for compliance with the two Acts.

7. Comparison with rules in adjacent states:

Illinois

Iowa

Michigan

Minnesota

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on state statutes.

9. Analysis and supporting documentation used to determine effect on small businesses: The rule will not have an effect on small business as state agencies have the reporting requirements.

10. Effect on small business: The creation of this rule will not have an effect on small businesses as explained above.

11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 266-2094; Shane.Falk@wisconsin.gov

12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, Attn: Shane W. Falk, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984, no later than September _____, 2010.

FISCAL ESTIMATE: The creation of this rule has a fiscal effect. Additional programming for increased internet site functionality is required and is estimated to cost \$11,000.00. Continued training for the users may be necessary as well. Registrants may file more reports with the Board, which may require additional staff support. The entire extent of the potential fiscal impact of this rule is undetermined.

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

TEXT OF PROPOSED RULE:

SECTION 1. ch. GAB 26 is created to read:

Contract Sunshine

26.01 Definitions. In this chapter:

- (1) “Agency” has the meaning given in s. 16.70(1e), Stats.
- (2) “Authority” has the meaning given in s. 16.70(2), Stats.
- (3) “Continuing purchases” means a single contract or order for the purchase of the same goods or services on a reoccurring basis that exceeds \$10,000.00 over the course of a fiscal biennium.
- (4) “Major expenditure” has the meaning given in s. 16.753(1), Stats., but excludes expenditures made in compliance with PRO-E-4, State Procurement Manual.
- (5) “Purchasing agent” means the designated agency representative responsible for the agency’s compliance with the requirements of this chapter and s. 16.753, Stats.,

26.02 Applicability.

- (1) Every agency, but excluding an authority, shall comply with the posting and reporting requirements as prescribed by this chapter and s. 16.753(2-4), Stats., unless otherwise expressly provided.
- (2) The posting and reporting requirements of subd. 1 are not limited to, but specifically apply to the following:
 - a. Contracts for construction work pursuant to s. 23.41(5), Stats.
 - b. Engineering, consulting, surveying, or other specialized services pursuant to s. 84.01(13), Stats.
 - c. Highway improvement contracts pursuant to s. 84.06(2)(a), Stats.
 - d. Contracts with counties or municipalities for direct labor or materials for highway improvements pursuant to s. 84.06(3), Stats.
 - e. Special contracts with railroads and utilities for highway improvements pursuant to s. 84.06(4), Stats.

- f. Costs of an attorney hired pursuant to s. 102.81(2), Stats.
 - g. Contracts for examination services pursuant to s. 221.0903(4)(b), Stats.
 - h. Contracted services for fund administration and operation pursuant to s. 655.27(2), Stats.
- (3) The posting and reporting requirements of subd. 1 do not apply to the employment of legal or investment counsel pursuant to ss. 25.18(1)(a), (f), and (m), Stats.
 - (4) The posting and reporting requirements of subd. 1 do not apply to grants or financial assistance, except as specifically required by s. 85.015, Stats.

26.03 Requirements and Certification of Compliance.

- (1) Every agency, but excluding an authority, shall designate a purchasing agent or agents and provide notice to the Government Accountability Board, identifying the designated purchasing agent or agents and providing contact information. Within 24 hours, the agency shall inform the Board of any change in the agency’s purchasing agent or contact information.
- (2) The purchasing agent for every agency, but excluding an authority, shall post to and report all information that the <http://sunshine.sundialsc.com/> specifies and otherwise as is required by the Government Accountability Board’s Contract Sunshine Administration Manual, including but not limited to the following:
 - a. Information required by s. 16.753(2) and (4), Stats., and to include the vendor name, within 24 hours of the time of initial solicitation or commencement of negotiations, but no later than 24 hours from the time the information becomes available. Initial solicitation occurs when a Request for Business, Request for Proposal, or simplified bid is entered into VendorNet.
 - b. Information required by s. 16.753(2) and (4), Stats., and to include the vendor name, for contracts and orders within 24 hours of an award, or following expiration of the 10 day protest period of an award or resolution of a protest, whichever occurs first.
- (3) The purchasing agent shall execute a Certification of Contract Sunshine Compliance certifying compliance with the requirements of this chapter

and s. 16.753, Wis. Stats., and file it with the Government Accountability Board. This certification shall be completed quarterly on a form prescribed by the Government Accountability Board. The Government Accountability Board shall maintain a list of agencies on <http://sunshine.sundialsc.com/> which fail to timely file a certification, until said certifications are filed.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

State of Wisconsin \ Government Accountability Board

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JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Status Report on Pending Administrative Rule-Making

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

STATUS REPORT ON PENDING ADMINISTRATIVE RULE-MAKING

Revise 1.10

Relating to: Registration by Nonresident Committees and Groups

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

Revise 1.15

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

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

Revise 1.20

Relating to: Treatment and Reporting of In-Kind Contributions

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

Create 1.21

Relating to: Treatment of Joint Account Contributions

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

Revise 1.26

Relating to: Return of Contribution

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

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

Revise 1.43

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

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

Revise 1.85 and 1.855

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

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

Create 1.90

Relating to: MCFL Corporation Registration and Reporting Requirements

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

Create 1.91

Relating to: Organizations Making Independent Disbursements

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

Emergency rule was published and effective May 20, 2010, but will expire on October 16, 2010. Staff has requested an extension so that the emergency rule is in effect throughout the Fall Election and this hearing is scheduled to occur before the Joint Committee for the Review of Administrative Rules on August 24, 2010. Staff

published the scope statement and on July 7, 2010 also submitted the proposed permanent rule to Legislative Council for review. The Legislative Council Report was received by staff on August 3, 2010. Within 30 days after receipt of the Legislative Council Report, a public hearing must be held on both the emergency and permanent rules. The public hearing is scheduled to occur at the August 30, 2010 Board meeting, at which the Board will consider re-approval of the permanent rule. Thereafter, staff must file a Legislative Report and await the standing committees' 30 day review before final publication.

Revise Chapter 3

Relating to: Voter Registration, HAVA Checks

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

Revise 3.01(6) and 12.01(2)

Relating to: Election Cycle Period for SRD and Municipal Clerk Training

Status: Scope Statement will be before the Board at the August 30, 2010 meeting and thereafter may begin rule-making process to change the election cycle for special registration deputy and municipal clerk training so that the cycle begins on January 1 of an even-numbered year and continues through December 31 of the following odd-numbered year. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to the legislature (unless someone petitions for a hearing.)

Repeal and Recreate Chapter 4

Relating to: Election Observers

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

Repeal and Recreation of Chapter 5

Relating to: Security of Ballots and Electronic Voting Systems

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

Revise 6.02

Relating to: Registration Statement Sufficiency.

Status: Board original action on March 30, 2009. Scope statement submitted for publication. Draft rule approved by the Board at the December 17, 2009 meeting and then can continue rule-making process to clarify sufficiency standards. Likely will complete with 30 day notice rule-making, which will not require a public hearing before submittal to legislature (unless someone petitions for a hearing.)

Revise 6.03

Relating to: Assistance by Government Accountability Board Staff

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

Revise 6.04

Relating to: Filing Documents by FAX or Electronic Means

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

Revise 6.05

Relating to: Filing Campaign Finance Reports in Electronic Format

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

Revise Chapter 7

Relating to: Approval of Electronic Voting Equipment

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

Revise 9.03

Relating to: Voting Procedures for Challenged Electors

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

Revise 12.01(2) See 3.01(6) above.

Creation of Chapter 13

Relating to: Training Election Officials

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

Repeal 21.01, 21.04 and Revise 20.01

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

21.04—transcripts of proceedings before former Ethics Board

20.01—procedures for complaints before former Elections Board

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

Creation of Chapter 22

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

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

Creation of Chapter 26

Relating to: Contract Sunshine

Status: Board original action at the July 21-22, 2010 meeting, at which the Board approved the scope statement. Staff published the scope statement and a proposed rule will be before the Board at the August 30, 2010 Board meeting. Upon approval of the proposed rule, staff will submit it to Legislative Council for review. Likely will proceed with a public hearing upon return of the rule from Legislative Council.

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Sarah Whitt
SVRS Functional Team Lead
Government Accountability Board

SUBJECT: Update/Status Report: The Retroactive HAVA Check Project

Background

During the Government Accountability Board's March 23, 2010, meeting, staff provided a report, "An Analysis of HAVA Checks in Wisconsin (January 1, 2006 through August 5, 2008)." When this study commenced, 777,561 voter records had not undergone a HAVA Check during the aforementioned review period. At the close of the Retroactive HAVA Check Project on March 1, 2010, and when the Final Report of the Retroactive HAVA Check Project was presented to the Board on March 23, slightly more than 70,000 (9%) non-matches remained (Note the breakdown of non-matches summarized in Table 7 excerpted from the formal report shared with the Board in March).

Table 7
Response Rates for Remaining Non-Matches

Category	Total	Percent
Remaining non-matches	70,065	
Remaining non-matches whose letter was returned undeliverable	18,443	26%
Remaining non-matches whose letter was delivered but the voter did not respond	45,214	65%
Remaining non-matches whose record was updated at some point during the project but still does not match ¹	7,125	10%
Non-matches whose Retroactive HAVA Check was initially a match but now shows a non-match	604	1%

¹ Note that some of these voters appear in more than one category. 1,095 of these voters also had a DMV Ping Letter returned as undeliverable. 226 of these voters had their Retroactive HAVA Check initially result in a match but now show a non-match; therefore, the sum of the categories is greater than the total.

Reiteration of Board Ruling on HAVA Check Non-Matches

During its July 28, 2008 meeting, the Government Accountability Board ruled that there would be no adverse consequence on a voter's registration status or on an individual's eligibility to vote for a HAVA Check non-match, consistent with Wisconsin's Constitution and voting eligibility statutes. The Board maintained that a Wisconsin elector's qualifications to vote are governed by Wis. Stats. §§ 6.02, 6.03 and 6.10. Under Wisconsin law, an individual is qualified to vote who:

- 1) Is a U.S. citizen;
- 2) Is age 18 or older;
- 3) Has resided in the election district or ward where he or she offers to vote for 10 days without any present intent to move, and to which, when absent, the person intends to return;
- 4) Has not been adjudged incompetent, and,
- 5) Has not been convicted of treason, felony, or bribery, unless the person's right to vote has been restored through pardon or completion of the sentence.
- 6) An elector may not be disqualified from voting unless the municipal clerk determines that the individual does not meet these qualifications. The standard for making the decision is "beyond a reasonable doubt." Wis. Stats. §6.325

Additionally, Dane County Circuit Court Judge Sumi in the Court decision in J.B. Van Hollen et. al v. Government Accountability Board et. al, Dane County Court Case 08 CV 4085, found that none of the provisions of HAVA affect the fundamental voter eligibility qualifications. HAVA establishes no additional voter qualifications, except in the limited case of a first-time voter who registered by mail and who must either provide a photo identification or current proof of residence, or else must vote by provisional ballot. A successful HAVA match eliminates this additional requirement.

Action Being Taken on Non-Matches

Of the 70,065 non-matches reported in March, the current number has been reduced to 66,521 as of August 19, 2010, due to follow-up efforts performed by municipal clerks. (Note: Even though the total number of non-matches is reduced to 66,521 as of August 19, and it will continue to decrease daily, for the purpose of this update and for consistency, we will continue to use the 70,065 non-match number). The 70,065 non-matches fall into three major categories:

1. Voters' DMV Ping Letter was returned to G.A.B. as undeliverable.
2. Voters received a DMV Ping Letter but did not respond.
3. Voters responded to the Letter, their information was updated, but they still show a non-match.

G.A.B. staff continue to work to resolve these non-matches even after the close of this project. The following strategies are being employed to resolve the HAVA Check non-matches for these different categories.

1. Non-Deliverables/Returned DMV Ping Letters

18,443 of the 70,065 Non-Match Letters Returned Undeliverable: These voters are being forwarded to local election officials for follow-up in accordance with standards delineated in Wis. Stats. §6.50 (3). Clerks are instructed to follow the law by sending letters to this group of voters notifying them that clerks have reason to believe their address has changed, and giving them 30 days to respond if the voter would like to remain registered. If the notification letter is returned undeliverable, or if the voter does not respond, their voter record will be marked inactive and the voter will not show up on the poll list on Election Day. An individual in this category would have to re-register before voting.

2. Voters Who Did Not Respond

45,214 of the 70,065 Non-Match Letters were Delivered but the Voter did not Respond: Voters in this category are subject to the Board's ruling that there will be no adverse consequence for a HAVA Check non-match on an individual's registration status or eligibility to vote, consistent with Wisconsin's Constitution and voter eligibility statutes. In other words, these voters cannot be determined to be ineligible merely because they did not respond to DMV Ping Letter. Additionally, Wis. Stats. §6.50 is specific and prescriptive about what steps and procedures must be taken to change a voter's registration status from eligible to ineligible. These include failing to vote in a 4-year period, receipt by the municipal clerk of reliable information the voter has changed his or her address, comparison with death records or upon the authorization of the voter.

Wis. Stats. §6.50 goes on to specify the text and format for the required notification letters (see Wis. Stats. §6.50 attached). Neither the Government Accountability Board staff nor a local election official may arbitrarily remove voters from registration lists or make a determination of inactivity without first going through a specific process detailed and mandated in Wis. Stats. §6.50 (1-10), and in accordance with the Board's August 2008 ruling.

Board staff will continue to comply with the statutes and will continue to pursue data quality improvement measures for this group of voters. Staff efforts will include:

- The statutorily-required voter record four-year maintenance process will commence 90 days after the November 2, 2010, General Election and will detect and target any of the retroactive HAVA non-matches for voters who have that have not voted in the last four years.
- The duplicate matching process continues to be run and multiple records continue to be merged together. These efforts will detect and target some of the retro HAVA non-matches if they have since re-registered with correct information.
- Processing of registration cancellations will continue whenever voters, including voters subjected to the retroactive HAVA Check initiative, move out of state and re-register in their new state.
- Solicit local election officials' assistance with resolving HAVA Checks of voters who did not respond to the DMV Ping Letter, using the standard HAVA Check procedure in place for new registrations.

3. **7,125** of the 70,065 Non-Match Letters were Responded to, but Voters still have a Non-Match: This category of voters did all that was required and asked of them. They responded to the DMV Ping Letter, verified their information and had their HAVA Check run again, but still resulted in a non-match. These electors represent a segment of voters whose non-match status cannot be easily resolved. These non-matches are for voters whose information simply appears differently in two different government databases. A reasonable question can be asked, "If these voters did what they were asked, what else can they do to verify/confirm their voter registration information?"

Board staff has checked and doubled-checked and cannot find a definitive reason as to why these voter names do not result in a matched HAVA Check. Staff will administratively treat this category of voters as "voter verified" matches and their records will so indicate.

Reasons for Retroactive HAVA Check Non-Matches

Table 8, which shows reasons for the 70,065 Retroactive HAVA Check Non-Matches, is also excerpted from the formal report shared with the Board in March. Of the 70,065 non-matches that still remain, the

majority are due to the name not matching (variations in names on the voter registration record maintained by G.A.B.'s Statewide Voter Registration System, and the Department of Transportation's driver license's database), with the driver license number not matching as the second most common reason.

Table 8
Current Non-Match Reasons

Category	Total	Percent
Current non-matches	70,065	
Name does not match	42,108	60%
Driver license does not match	16,759	24%
SSN non-match	6,810	10%
Date of birth does not match	3,532	5%
Name and date of birth do not match	843	1%

Wis. Stats. § 6.50
6.50 Revision of registration list.

6.50(1)

(1) Within 90 days following each general election, the municipal clerk or board of election commissioners of each municipality shall examine the registration records and identify each elector who has not voted within the previous 4 years if qualified to do so during that entire period and shall mail a notice to the elector in substantially the following form:

"NOTICE OF SUSPENSION OF
REGISTRATION

You are hereby notified that your voter registration will be suspended, according to state law, for failure to vote within the previous 4-year period, unless you apply for continuation of your registration within 30 days. You may continue your registration by signing the statement below and returning it to this office by mail or in person.

APPLICATION FOR CONTINUATION
OF REGISTRATION

I hereby certify that I still reside at the address at which I am registered and apply for continuation of registration.

Signed

Present Address

If you have changed your residence within this municipality or changed your name, please contact this office to complete a change of name or address form.

[Office of clerk or board of election commissioners

Address

Telephone]."

6.50(2)

(2) The municipal clerk or board of election commissioners shall change the registration of all notified electors under sub. (1) who have not applied for continuation of registration within 30 days of the date of mailing of the notice of suspension from eligible to ineligible status.

6.50(3)

(3) Upon receipt of reliable information that a registered elector has changed his or her residence to a location outside of the municipality, the municipal clerk or board of election commissioners shall notify the elector by mailing a notice by 1st class mail to the elector's registration address stating the source of the information. All municipal departments and agencies receiving information that a registered elector has changed his or her residence shall notify the clerk or board of election commissioners. If the elector no longer resides in the municipality or fails to apply for continuation of registration within 30 days of the date the notice is mailed, the clerk or board of election commissioners shall change the elector's registration from eligible to ineligible status. Upon receipt of reliable information that a registered elector has changed his or her residence within the municipality, the municipal clerk or board of election commissioners shall transfer the elector's registration and mail the elector a notice of the transfer under s. 6.40 (2).

This subsection does not restrict the right of an elector to challenge any registration under s. 6.325, 6.48, 6.925, 6.93, or 7.52 (5).

6.50(4)

(4) The municipal clerk or board of election commissioners shall change the registration of deceased electors from eligible to ineligible status by means of checking vital statistics reports. No notice need be sent of registration changes made under this subsection.

6.50(5)

(5) The registration of any elector whose address is listed at a building which has been condemned for human habitation by the municipality under s. 66.0413 (1) (j) shall be investigated by the municipal clerk or board of election commissioners. If the clerk or board of election commissioners can find no reason why the registration of such an elector should not be changed from eligible to ineligible status, the clerk or board of election commissioners shall change the elector's registration status. If the elector has left a forwarding address with the U.S. postal service, a notice of change in status shall be mailed by the clerk or board of election commissioners to the forwarding address.

6.50(6)

(6) The municipal clerk, upon authorization by an elector, shall change the elector's registration from eligible to ineligible status.

6.50(7)

(7) When an elector's registration is changed from eligible to ineligible status, the municipal clerk shall make an entry on the registration list, giving the date of and reason for the change.

6.50(8)

(8) Any municipal governing body may direct the municipal clerk or board of election commissioners to arrange with the U.S. postal service pursuant to applicable federal regulations, to receive change of address information with respect to individuals residing within the municipality for revision of the elector registration list. If required by the U.S. postal service, the governing body may create a registration commission consisting of the municipal clerk or executive director of the board of election commissioners and 2 other electors of the municipality appointed by the clerk or executive director for the purpose of making application for address changes and processing the information received. The municipal clerk or executive director shall act as chairperson of the commission. Any authorization under this subsection shall be for a definite period or until the municipal governing body otherwise determines. The procedure shall apply uniformly to the entire municipality whenever used. The procedure shall provide for receipt of complete change of address information on an automatic basis, or not less often than once every 2 years during the 60 days preceding the close of registration for the September primary. If a municipality adopts the procedure for obtaining address corrections under this subsection, it need not comply with the procedure for mailing address verification cards under subs. (1) and (2).

(10) Any qualified elector whose registration is changed from eligible to ineligible status under this section may reregister as provided under s. 6.28 (1), 6.29 (2), or 6.55 (2).

State of Wisconsin\Government Accountability Board

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Sarah Whitt
SVRS Functional Team Lead

Ann Oberle
SVRS UAT Test Lead

SUBJECT: SVRS Facilitated Mail-In Registrations
A Proposed Initiative for Improving Voter Initiated Mail-In Voter Registration
Re-Authorization to Jointly Study Online Voting with Department of Transportation

Issues

1. Should the Government Accountability Board authorize staff to develop and administer a Statewide Voter Registration System (SVRS) automated, voter initiated mail-in voter registration process?
2. Should the Government Accountability Board authorize staff to continue to study and develop an on-line voter registration proposal in collaboration with the Wisconsin Department of Transportation?

Background

In January 2009, Board staff recommended establishing automated and simplified registration and voting processes as part of the 2009 legislative agenda. The Board approved this initiative, which included establishing an online registration system for voters with a Wisconsin driver's license or identification card. Online voter registration was also incorporated in the five-year Election Administration Plan, adopted by the Board in August 2009, and approved by the Legislature pursuant to §5.05 (10), in October 2009. An online voter registration bill (AB-892) was introduced in the State Assembly in March 2010. It was later rolled into the Voter Protection Act, which was ultimately not acted on.

In accordance with the Board-adopted and Legislatively-approved five-year Wisconsin 2009-2014 Election Administration Plan, Board staff are committed to continuing to develop an online voter registration initiative for approval by the Legislature. However, staff has identified a way to simplify and improve the accuracy of the mail-in voter registration process using SVRS to facilitate voter initiated mail-in registration.

This memorandum spells out the framework and approach for an important initiative. Board staff requests approval to pursue and implement this plan as a service to Wisconsin's residents, our clerks and voters.

Discussion

I. A SVRS Automated, Voter-Initiated Mail-in Registration Process

A. Why Pursue an SVRS Automated Voter-Initiated Mail-in Registration Initiative?

Automating certain SVRS functions for use by the voter is an effective tool in mitigating several problems that currently exist in interpreting and translating voter registration documents. Some of the most glaring and reoccurring challenges include:

- Handwritten Voter Registration Forms, particularly forms submitted by third party voter registration groups, are frequently missing required information, which forces clerks to follow-up with voters to get complete data before they can register the voters. An enhanced voter registration form hosted on SVRS can be programmed to require all information, and provide a "hard stop" if voters skip required fields. Additionally, this initiative will likely decrease reliance on third party voter registration groups resulting in a significant reduction in fraudulent voter registration forms. Currently local election officials spend hours weeding out improperly prepared voter registration forms.
- Handwriting can be difficult to read. Having voters type-in their own information increases the accuracy and quality of the data being entered into the voter registration system.
- During election periods, many local clerks need to hire temporary workers to data enter the large volume of voter registration forms that come in at the last minute before the close of voter registration. Allowing individual voters to "do their own data entry" directly saves clerk time, resources and money.
- Election Day Registration (EDR) is still perceived by many voters as the most convenient way to register or update their registration information. For example, Over the past 30+ years, the percentage of electors registering and voting on Election Day in Presidential Elections has remained consistent around the 15% level. Similar results are experienced for Gubernatorial Elections. In the 2008 Presidential and General Election, 15% of Voters Registered on Election Day (459,459 out of 2,997,089 Total Voters).

These high numbers of voters registering on Election Day creates long lines at the polling place, as well as large volumes of work for clerks after the election. A SVRS-based enhanced form that can be filled out in the comfort of one's home adds a convenience level that is likely to help offset the number of Election Day Registrants.

B. SVRS Automated, Voter Initiated Mail-In Registrations

Due to the failure of the Wisconsin Voter Protection Act, Board staff was not able to move forward with on-line voter registration as was envisioned. An interim solution has been developed by Board staff that can be used to gauge public interest in on-line voter registration, and collect statistics for further analysis that will inform an on-line voter registration proposal that is expected to be presented to the Board sometime during the first quarter in 2011. We expect SVRS Automated, Voter-Initiated Mail-In Voter Registration

Process to work similarly to USPS mailed or electronically received voter registrations as described below. A key aspect of the proposed initiative is that the voter initiates the process rather than relying on outreach programs from third party groups to register voters.

C. USPS Mailed or Electronically Received Voter Registrations Process

Currently, Wisconsin statutes provide for registration by mail. Wis. Stat. §6.30(4). Any eligible voter may register by mail on a form prescribed by the Board. When the clerk receives a voter registration application by mail, the clerk reviews the form for completeness. If the form is sufficient to accomplish registration, the clerk data enters the elector's information into SVRS and does a HAVA Check. A postcard notification is mailed to the voter, and if returned to the clerk as undeliverable or with information of a different address, the voter's record is marked "inactive." If the form is incomplete, the clerk must notify the elector requesting information to make the form sufficient within 5 days of receipt of the registration form. Wis. Stat. §6.32(1) and (2).

Also, under current rules, a voter can PDF the signed form and email it to the clerk, or may send the signed form by facsimile to the clerk's office. The clerk can review the email or faxed form to evaluate the sufficiency of the form for data entry into SVRS, but the registration is not complete until the clerk receives the signed original registration form. Wis. Admin. Code §GAB 6.04.

The plan to automate the mail-in process is a logical extension of what current law authorizes. Automation would streamline the process for the municipal clerk and voter. Because the electronic process requires completing all information before proceeding, the need for clerks to contact voters for missing information is eliminated. Time and money would be saved because voters who use the electronic system could be registered faster and receive information about how to accomplish registration sooner. As previously mentioned, the automated process would reduce long registration lines on Election Day, and reduce the amount of follow-up by clerks who need to verify incomplete paper registration forms.

Current USPS Mailed or Electronically Received Voter Registration Practices	Proposed SVRS Automated, Voter-Initiated Mail-in Registration Practices
Voter fills out a voter registration form by hand and signs the form.	Voter fills out a voter registration form via the SVRS Process and prints the form and signs it.
Voter mails in completed form to the clerk's office.	Voter mails in completed form to the clerk's office.
Once the form is received by the clerk's office, the clerk checks for omissions. If there are no omissions, the clerk enters data from the registration form into SVRS.	The voter is alerted to omissions and complete voter information is populated into SVRS as "Pending." Once a signed copy of the registration is received at the clerk's office, the clerk verifies the information in SVRS without the need for data entry.
Clerk must contact elector to get information if omissions were found.	Clerk does not need to contact the voter as the SVRS Process assures that the form has no omissions.
Clerk runs a HAVA Check on the registration application.	Clerk runs a HAVA Check on the registration application.
Voter Verification Postcard is mailed to voter.	Voter Verification Postcard is mailed to voter.
If postcard is returned to the clerk as undeliverable or with a different address, then the voter record is marked "Inactive."	If postcard returns to the clerk undeliverable, then the record is marked "Inactive." It is anticipated that this will happen infrequently.
Voter can verify registration status on SVRS VPA website.	Voter can verify registration status on SVRS VPA website.

D. The Proposed SVRS Automated, Voter-Initiated Mail-In Voter Registration Process

The intent of this proposal is to introduce a SVRS Automated, Voter-Initiated Mail-In Voter Registration Process statewide. The Government Accountability Board will publish a link on the agency website for voters to complete a fillable voter registration form hosted on SVRS. When voters click on the link, they will be taken to a fillable form that will ask voters questions in order to collect the required voter registration information, complete with instructions. Counties and municipalities may also put a link to the SVRS Automated, Voter-Initiated Mail-In Voter Registration site on their website.

The form will provide basic data validations to ensure that voters are filling-out all required information. This includes ensuring the address is valid based on existing SVRS data. Once the form has been filled-out completely and the voter agrees to the certification statement, the voter will be able to print the form, with instructions to sign, date it, and mail in the form to the appropriate clerk's office. The form must be postmarked no later than 5:00 pm on the 20th day prior to the next election in order to be considered a valid mail-in registration for that election.

The data from the form will be stored in SVRS as a "pending" voter registration application. Once the clerk receives the signed form in the mail, they will simply verify and approve the pending voter application including conducting a HAVA Check, as they would if they had typed in the data themselves from a form completed by hand. The voter can check the SVRS Voter Public Access (VPA) website to verify that their registration has been received and processed. If not, they will be instructed to contact the appropriate clerk to verify the status of their registration application. A diagram that outlines the process is attached.

This process will provide voters a simplified way to fill-out the voter registration form. It also provides immediate feedback if they have not followed instructions or have left out any required information. The SVRS Automated, Voter-Initiated Mail-In Voter Registration Process improves the accuracy of the data being entered since it is being entered by the voter themselves. It will also save clerks the time (and money) of data entry. Voters will be encouraged to use this alternative rather than registering on Election Day, which will save time at polling places, as well as during the post-election process.

E. Technical Considerations

This SVRS Automated, Voter-Initiated Mail-In Voter Registration Process is being proposed as an alternative utilizing existing technology until online voter registration is implemented. In the event online voter registration is not implemented, voters and local election officials will have the benefit of utilizing SVRS to collect more accurate mail-in registration forms.

The SVRS Automated, Voter-Initiated Mail-in Voter Registration process is being developed, tested, and intended to be deployed with minimal effort by December 1, 2010. Many of the processes will be able to be re-used if online voter registration is authorized by the Legislature. This process will be hosted on, and will utilize the existing the agency Voter Public Access (VPA) website.

F. Policy Considerations

There are several policy considerations related to a SVRS Automated, Voter-Initiated Mail-In Voter Registration Process:

1. These registrations will be treated as mail-in registration applications. The SVRS hosted form simply facilitates capturing the required registration data and populating the voter registration form. This process is fully statutorily compliant. No new Legislative authority is necessary.
2. Only voters with a valid Wisconsin driver license or State-issued Identification Card (ID) will be able to participate in this process, similar to how on-line registration is envisioned. This allows for a simpler data validation and approval process. Voters who do not have a valid Wisconsin driver license or state ID will still be able to register via standard means, filling-out a form manually, but not via the SVRS Automated, Voter Initiated Mail-In Voter Registration process.
3. Both new registrations as well as updates to existing registrations (such as name or address changes) will be permitted in the SVRS Automated, Voter-Initiated Mail-In Voter Registration initiative.
4. This initiative will allow Board staff to gather valuable statistics; including how many applications are filled-out on the SVRS hosted form? How many voters print and mail-in the form? How many voters visit the site but do not fill out a new form? These statistics can help gauge the interest in an on-line registration format, as well as assess if having to print and mail a form is a deterrent to voters.
5. This process has already been implemented by a few other states, such as Delaware, and Washington DC.
6. Many third party voter registration websites use similar technology to enable a voter to complete a registration form on line, print and mail the application form to the appropriate election official.
7. The SVRS Automated, Voter-Initiated Mail-in Voter Registration Process will be available to all eligible voters in Wisconsin.

G. Timeline

With Board concurrence, technical staff will complete the planning and development process for launching the SVRS Automated Mail-In Voter Registration Process by December 1, 2010, after the General Election. Board technical staff, working closely with our Department of Administration, Division of Enterprise Technology partners, are moving forward with the conceptualization, preliminary planning and development phases.

Recommendation

Staff recommends that the Board authorize staff to develop and administer a SVRS Automated, Voter Initiated Mail-In Voter Registration Process to be launched for public use by December 1, 2010.

II. On-Line Voter Registration

Board staff has been actively researching on-line voter registration since July 2009. According to a 2009 U. S. Election Assistance Commission report, states received more than 60 million voter registration forms between 2006 and 2008, most of which were on paper¹. In the few states that have implemented on-line voter registration, election officials have praised its popularity with

¹ US Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2007-2008: A Report to the 111th Congress 6 (2009)

voters and the cost savings to the state and local government. Staff research indicates that eight states (Arizona, Colorado, Indiana, Kansas, Louisiana, Oregon, Utah and Washington State) currently have on-line voter registration systems in place.

At least three more states are developing similar systems (California, Nevada, and North Carolina). The State of Delaware operates an on-line voter registration system similar to the SVRS Automated Mail-In Voter Registration Process being proposed by Board staff. Delaware's program provides for voter registration information to be submitted on line, printed, and confirmed by an election official.

An online voter registration bill, AB 892/SB 645, was drafted in consultation with agency staff and introduced in the previous legislative session. The legislation was subsequently rolled into the Wisconsin Voter Protection Act. AB 895/SB 640, but ultimately that bill was not taken-up.

Board staff continues to pursue on-line voter registration. This would allow a voter to fully register, start to finish, on line without the need to mail in a hard-copy form and signature. Wisconsin Statutes do not currently allow for on-line voter registration. Board staff will continue to work with the Department of Transportation to develop joint recommendations for implementation of true on-line voter registration, including proposed statutory changes.

Recommendation

Staff recommends that the Board re-authorize staff to study and develop an on-line voter registration proposal in collaboration with the Wisconsin Department of Transportation and other partners, and prepare a joint report with DOT for consideration by the Board at a meeting in early 2011.

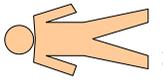
SVRS Automated Voter Initiated Mail-In Registration Process



1

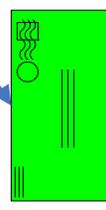


Website Link

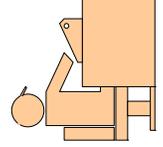


Print Application / Sign

Instructions on:
 Mailing
 Proof of Residence
 VPA, ...



Mail in Application to Clerk



SVRS Pending to Active

8

Like Mail-In Application

Pending to Active Update

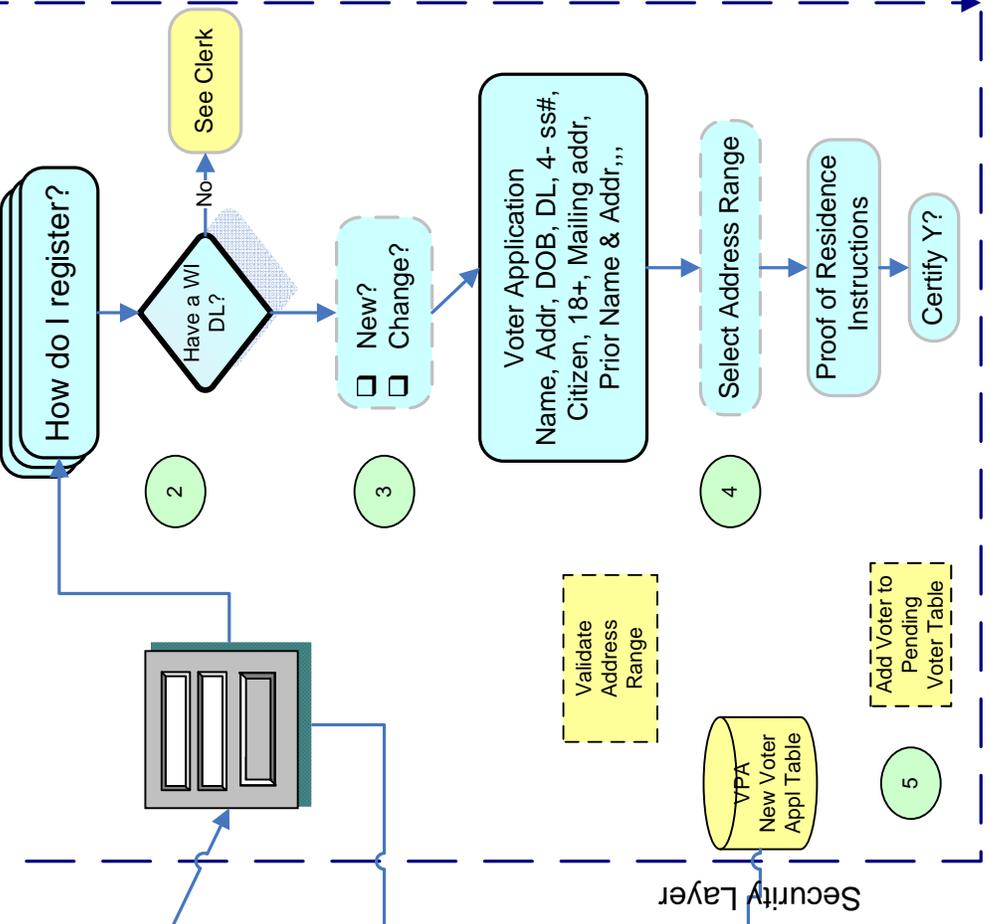
Existing SVRS Applicant Processes
 (Normal HAVA Interfaces,
 HAVA Matching.....)

Nightly Insert New On-line Voters

6

SVRS

On-Line Fillable Voter Registration Form



How is this working?



- Analyze Success
- Web site traffic
- # of new applications
- % of pending to signed application
- Etc...

LEGEND

Color Legend

Process already exists

Process needs to be developed

Number Legend

Number	Action
1	Voter finds out about SVRS Automated Voter Initiated Mail-In Registration Process and follows link.
2	On the website the voter is presented information on the steps required by this new process and basic requirements. Voter is required to have a Wisconsin driver license or state ID to be eligible for this new process.
3	Voter selects if it is a New registration or a Change to an existing registration and is presented with a form requesting information. Basic validation is performed to make sure information is as accurate as possible and that all required fields are filled in.
4	Based upon the address entered, the voter selects the appropriate address range, which verifies residence location based upon SVRS address information. Based upon the address range the appropriate municipality and county are automatically filled in on the form.
5	After the voter is informed of residency requirements and certifies information the system will store the voter application in a temporary “secure” location.
6	At night, the system will update SVRS based upon entries in the “secure” location. The voter registration information will appear in SVRS as a “pending” voter application.
7	The voter, after certifying information entered on the form, will print the application and instructions on where to mail, deadlines for mail-in registration forms, proof of residence requirements, and how to use VPA to check the status of their voter registration application.
8	Clerks will receive the signed voter application, find the voter in the Pending Voter file and process the voter registration through the normal SVRS processing. This process will be the same as the current mail-in application process, except that the clerk will not need to type in the data.

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Sarah Whitt
SVRS Functional Team Lead
Government Accountability Board

SUBJECT: Proposed Initiative for Motor Vehicle-Based Voter Registration
A Joint Collaborative Initiative with the Wisconsin Department of Transportation

Issue

Should the Government Accountability Board study the feasibility and impact of a Motor Vehicle-Based Voter Registration System?

Background

In January of 2009, Board staff proposed several initiatives to automate and simplify the voter registration process, including providing for simultaneous registration of voters upon obtaining a driver license. The Board authorized staff to conduct further study on this initiative as part of the 2009 legislative agenda. Wisconsin's 2009-2014 Election Administration Plan, which was adopted by the Board, approved by the Legislature, and accepted by the US Election Assistance Commission, provides a roadmap for bringing the election process closer to Wisconsin's voters by making voter registration more efficient and effective.

The Wisconsin Voter Protection Act, introduced in the Wisconsin Legislature in March 2010, included provisions that would have established an expanded level of cooperation between the Government Accountability Board and the Wisconsin Department of Transportation (DOT). That bill was overly broad and required data to be transferred from a number of government agencies including the Departments of Health Services, Children and Families, Workforce Development, Revenue, Regulation and Licensing, and Natural Resources, the University of Wisconsin System, and the Technical College System Board, as well as technical colleges within each Technical College District.

The Wisconsin Voter Protection Act would have required the Board to make a determination of voter status if Wisconsin's voter eligibility criteria were met. The Board would have been required to provisionally register these electors and notify them for concurrence. The automatic voter registration provision of the Wisconsin Voter Protection Act was not voted on and as such, that provision failed.

The proposed Motor Vehicle-Based Voter Registration concept that Board staff is proposing would be significantly limited in scope and data transfer would only involve DOT (driver license data), not data from other agencies as specified in the unsuccessful Wisconsin Voter Protection Act. The Board has a long-established working and collaborative relationship with the DOT, dating back to 2005. DOT has been working with Board Staff to conduct voter comparisons (“HAVA Checks” of certain voter registration data with DOT driver license database) since August 2008. The Motor Vehicle-Based Voter Registration initiative would be a logical and natural extension and expansion of existing business practices between the Board and DOT.

Allowing citizens to register to vote when they get a driver license has been required by Federal law in 47 states since 1993 as part of the National Voter Registration Act (NVRA). Wisconsin is exempt from NVRA because of Election Day Registration (EDR), or we would be required to offer this service. Minnesota also has EDR and is therefore exempt from NVRA, yet they offer their citizens the opportunity to register to vote through their motor vehicle agency.

Sharing data with DOT would allow Board staff and local election officials additional tools to verify voter information, and proactively identify voter registration updates. This memorandum summarizes the framework and approach that Board staff would take to continue to collaborate with DOT and other partners to study a limited scope of a motor vehicle based voter registration system, and prepare a joint report for consideration by the Board at a meeting in early 2011. Board staff would also like to include provisions in the upcoming 2011-2013 Biennial Budget Request that would allow DOT to share driver license data more freely with Board staff, and allow Board staff to share voter registration data with other states. Sharing such data would greatly improve SVRS data quality initiatives, as well as simplify and improve the voter registration process for Wisconsin’s eligible voting population.

Motor Vehicle-Based Voter Registration

Board staff would like to move forward in collaboration with DOT to explore a motor vehicle-based voter registration system. The joint team would prepare a report with recommendations for the Board, and the Legislature’s consideration. Some aspects of motor vehicle-based voter registration that would be reviewed include:

1. Updates to Registered Voters

Based on information in Wisconsin’s motor vehicle records, Board staff and local election officials could identify voters who may have moved and updated their driver license but not their voter registration record. Voters could confirm if they would like their voter registration updated as part of the process at DOT, and have their data changed in SVRS without requiring a new voter registration form. This would not only save time for local election officials in data entry, but also reduce the number of election day registrations; thus, freeing up time and resources at the polls on Election Day.

2. Identification of Eligible but Unregistered Voters

Working with DOT, Board staff could also identify Wisconsin voters who may be eligible to vote but have not yet registered. Customers who apply for a Wisconsin driver license or ID card are required to indicate if they are citizens. This information could be used to identify potentially eligible voters. Potential voters as part of the process at DOT could confirm if they would like to be registered to vote based on their motor vehicle record, and have their data added to SVRS, without requiring additional data entry. This would also save clerk time in data entry, and reduce the number of Election Day registrations.

3. Identifying Voters Who Move Out-of-State, and Who Commit Voter Fraud

After passage of the Help America Vote Act (HAVA) of 2002, many states have begun collaborating and sharing data with each other to identify voters who have moved out of state, to detect potential voter fraud, and for other reasons. Wisconsin is collaborating with the State of Minnesota, and is exploring inter-state data sharing agreements with other border states, i.e. Illinois, Iowa and Michigan. State statutes do not currently allow for sharing of protected voter data (such as dates of birth and driver license numbers) with election officials in other states.

DOT has capability to provide signatures, photos and other routine statistical identifying information such as height, weight, hair and eye color, sex and ethnic characteristics. In addition to improving the quality of our voter records, DOT's comprehensive driver license data will also augment staff's capability to identify electors who potentially commit voter fraud. These data are also extremely useful in resolving non-matches from the HAVA Check process. This information would also be used to improve the quality of the voter information in SVRS.

Recommendation

Staff seeks Board's authorization to work with DOT to study the feasibility of a motor vehicle based voter registration concept, limited to DOT driver license data, and identify the most effective ways to accomplish this objective, using existing technologies. A joint G.A.B.-DOT report would be prepared for consideration by the Board at a meeting in early 2011.

Staff also recommends that provisions be added to the Board's 2011-2013 biennial budget request that allow data sharing between the Department of Transportation and the Board, as well as between the Board and other states.

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Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

Prepared and Presented by:
Allison Coakley
Elections Division Training Officer

SUBJECT: **ATTACHMENT 1-A**
G.A.B.'s Training Program Initiatives
An Informational Presentation: No Action Required

Election Administration Training Program Goal:

To ensure that a competent and core set of election administration education, training and assistance constructs are provided to Wisconsin's 1,923 local election officials and their staff and volunteers in order that they may conduct open, fair, and transparent elections with the highest possible integrity and consistency.

1. Introduction: Statement about the importance of training to ensure fair and transparent elections and instill citizen confidence in the election process.
2. Development of G.A.B.'s Election Administration Training Policy: Training Policy developed in consultation and collaboration with clerk input sought via the establishment of an ad-hoc Clerk Training Advisory Committee, through feedback from clerk listening sessions, meetings and other communications forums held in various venues throughout the State.
3. Training Requirements: Summary of training requirements and how staff ensures compliance with clerks and their election officials.
4. Training Objectives: Development of specific objectives for improving G.A.B.'s training programs and policies. The objectives include: Reinstate the Clerk "Train-the-Trainer" Program; Develop education and training materials for local election officials in a variety of formats and platforms; Synchronize Municipal Clerks' appointment terms with terms of Chief Inspectors; Provide new clerks with a formal orientation; and, Develop training for School District Clerks.
5. Looking Forward: Various delivery methods and platforms are being explored to determine the best ones for achieving training objectives more efficiently and more cost-effectively.

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JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Shane W. Falk, Staff Counsel

SUBJECT: Amend December 17, 2009 Approval of ES&S Unity 3.2.0.0 and Components NASED Qualified AutoMARK—Upgrade Firmware and ECOs

Introduction and Recommendations:

The Board's December 17, 2009 approval of the ES&S Unity 3.2.0.0, DS200, M650, and several hardware versions of the AutoMARK prohibited the use of this software and equipment with any other versions of software or equipment. Pursuant to this approval, municipalities wishing to obtain the latest optical scan tabulating technology in the form of the DS200 would be required to also purchase a new AutoMARK to use in conjunction with the DS200. However, a firmware upgrade of NASED qualified AutoMARKs will bring them to a level substantially identical to the EAC certified versions.

Staff recommends that the Board amend the December 17, 2009 Approval of the ES&S Unity 3.2.0.0 and other components to permit the use of NASED qualified AutoMARKs in conjunction with the voting system components approved on December 17, 2009, provided the NASED qualified AutoMARKs are upgraded with the EAC certified AutoMARK firmware v.1.3.2906. Further, staff recommends that this amendment permit the as needed upgrade of NASED qualified AutoMARKs with hardware engineering change orders approved by the Director and General Counsel.

Background:

On November 9, 2009, the Board observed a demonstration and received a recommendation from staff to approve for sale and use the ES&S Unity 3.2.0.0, DS200, M650, and several hardware versions of the AutoMARK. The Board directed staff to conduct further review of the matter and on December 17, 2009, the Board received staff's report, after which the Board approved the ES&S software and voting systems. This approval incorporated a restriction from the EAC certification, which prohibited the use of any components of the ES&S Unity

3.2.0.0, DS200, M650 and several hardware versions of the AutoMARK with any other software or voting systems.

On February 8, 2010 and after further discussion between staff and representatives of ES&S, staff issued a written approval of the ES&S Unity 3.2.0.0, DS200, M650, and several hardware versions of the AutoMARK. The written approval again incorporated the restriction on use from the EAC certification. On March 9, 2010, a representative of ES&S requested clarification of the use restriction. On April 1, 2010 and after additional discussion between staff and representatives of ES&S, staff further clarified the restriction and stated:

The Unity EMS 3.2.0.0 may only program the intElect DS200 precinct optical scan ballot counter, firmware version 1.3.10.0, the M650 central count optical scan ballot counter, firmware version 2.2.2.0 and AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 ((Print Engineering Board (PEB)1.65)), 1.3.1 (PEB 1.70).

This condition came directly from the US-EAC Certificate: ESSUnity3200, which allows only EAC-tested and certified components to be used together. Previous versions that were approved by the former State Elections Board are not to be used with the equipment versions approved by the Government Accountability Board on December 17, 2009, as this would contrary to the US-EAC certificate and G.A.B. approval.

Some voting systems in Wisconsin, or components thereof, are being discontinued and many affected municipalities wish to purchase updated voting systems, such as those offered by ES&S and which were approved by the Board on December 17, 2009. However, for cost reasons a municipality may only desire to purchase a piece of tabulating equipment and if it purchases a DS200, the December 17, 2009 approval prevents the municipality from using its existing AutoMARK in conjunction with the DS200. In practice, if a municipality wishes to purchase DS200s, this restriction requires the municipalities to also purchase new AutoMARKs and possibly new elections management software, all at great expense. The AutoMARK is often the only accessible voting equipment present in many of these municipalities. An AutoMARK is only a ballot marking device and does not tabulate votes.

ES&S has repeatedly requested approval for the use of existing AutoMARKs with the voting systems, or components thereof, that were approved by the Board on December 17, 2009. There are two categories of differences between the AutoMARKs qualified by NASED and those certified by the EAC: 1) firmware and 2) hardware engineering change orders (ECOs.) ES&S has asserted that upgrading the NASED qualified AutoMARKs with the firmware on the EAC certified AutoMARKs will bring those NASED qualified AutoMARKs to a level substantially identical to the EAC certified AutoMARKs. ES&S has asserted that the hardware engineering change orders are not necessary to raise the NASED qualified AutoMARKs to the level of those certified by the EAC.

Staff has verified that the hardware configurations of the NASED qualified AutoMARKs are substantially the same as those of the corresponding EAC certified versions. In addition, staff has verified that the firmware versions of the NASED qualified AutoMARKs are different than the EAC certified firmware v.1.3.2906; however, the firmware v.1.3.2906 was fully tested and certified by the EAC. Finally, staff has implemented the policy adopted by the Board at the March 22-23, 2010 meeting regarding the application and approval of engineering change orders and after significant review of the application and supporting documentation, staff has

verified that the hardware engineering change orders for the NASED qualified AutoMARKs are either *de minimis* or properly tested and do not alter the function of the equipment.

When the EAC was created, it accepted existing voting systems qualified by NASED, including the AutoMARK. The EAC drew a bright line and determined that it would not retest voting systems qualified by NASED and permitted their continued use. The AutoMARKs certified by the EAC and which are subject to this Board's December 17, 2009 approval include firmware v.1.3.2906 and hardware engineering change orders, said engineering change orders having been separately reviewed by staff and approved by the Director and General Counsel for installation and use in NASED qualified AutoMARKs. Furthermore, current EAC certified voting systems that are subject to upgrades or engineering change orders may only be subjected to a truncated EAC review. If a Voting Systems Testing Laboratory (VSTL) accredited by the EAC determines that an engineering change order is *de minimis*, the EAC simply acknowledges that VSTL determination and approves their installation and use without further testing. If something is more than *de minimis*, the EAC requires appropriate testing by a VSTL and approval of the EAC before installation or use. The process conducted by staff with respect to the approval of the AutoMARK engineering change orders is very similar to the EAC review.

Finally, for municipalities that are under a 1 year post purchase warranty or maintenance service contract, ES&S has agreed to provide the firmware upgrade as no cost.

Analysis and Authority for Recommended Action:

Sections GAB 7.01(1)(f) and 7.03, Wis Adm. Code, grant discretion to the Board as to whether any voting systems modifications require additional approval of the entire voting system. A proper exercise of this discretion entails entire voting system review and approval, only if the modifications individually, or in the aggregate, are substantial in nature. Section GAB 7.03(5), Wis. Adm. Code, provides the Board discretion to exempt any electronic voting system from strict compliance with Chapter GAB 7, Wis. Adm. Code, upon good cause shown. A vendor presenting modifications to a voting system satisfies this good cause standard, if the voting system was previously approved by NASED or the U.S. EAC and the State Elections Board or Government Accountability Board, the modifications are not substantial (qualify as *de minimis*), and the modifications will not receive EAC review and certification for installation in a particular version of a voting system or component thereof.

Proposed Motion:

MOTION: Amend the December 17, 2009 approval of the ES&S 3.2.0.0 and related components to permit the use of NASED qualified AutoMARKs in conjunction with the voting system components approved on December 17, 2009, provided the NASED qualified AutoMARKs are upgraded with the EAC certified AutoMARK firmware v.1.3.2906. Further, staff recommends that this amendment permit an as needed upgrade of NASED qualified AutoMARKs with hardware engineering change orders approved by the Director and General Counsel.

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KEVIN J. KENNEDY
Director and General Counsel

DATE: For the August 30, 2010 Meeting

TO: Government Accountability Board Members

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Proposed 2011 Meeting Dates

The attached schedule lists, in bold type, proposed meeting dates for the Government Accountability Board in 2011. The proposed meeting dates are presented to enable Board Members to coordinate the Board meetings with Members' 2011 travel and work plans.

I have set out a list of proposed meeting dates beginning in January, 2011. There are 8 suggested meeting events including one teleconference meeting in January and one two-day meeting in March. I have placed them in the context of other events on the agency calendar. I defaulted to Mondays because of past Board Member preferences. However, Monday meetings present preparation challenges for staff. Staff preference would be for a Tuesday or Wednesday meeting date in most cases. Note the proposed January meeting is scheduled for a Thursday to accommodate the ballot access filing and challenge deadlines.

I suggest Board Members consider meeting for two days in March based on the anticipated workload.

In some cases, depending on the number and/or complexity of the issues, the Board may consider holding short teleconference calls between in-person meetings. Also, the Board may wish to consider hold some of its 2011 meetings in venues other than Madison.

Proposed Motion: The Government Accountability Board adopt the proposed 2011 meeting schedule (as modified by Board discussion.)

Government Accountability Board Proposed 2011 Meeting Dates

January

Tuesday, January 4, 2011 – Nomination Paper Filing Deadline for Spring Election
Friday, January 7, 2011 – Deadline for Filing Statements of Economic Interests and Ballot Access Challenges for Spring Elections

Thursday, January 13, 2011 - Proposed Government Accountability Board Teleconference Meeting

Monday, January 31, 2011 - Deadline for Filing Semi-Annual Continuing Campaign Finance Reports
Monday, January 31, 2011 - Deadline for Filing Semi-Annual Lobby Reports

February

Monday, February 7, 2011 - Deadline for Filing Pre-Primary Campaign Finance Reports
Tuesday, February 15, 2011 – Spring Primary Election

No Meeting Proposed

March

Monday, March 21 and Tuesday, March 22, 2011 - Proposed Government Accountability Board Meeting

Monday, March 28, 2011 - Deadline for Filing Pre-Election Campaign Finance Reports

April

Tuesday, April 5, 2011 –Spring Election
Friday, April 22, 2011 – G.A.B. Offices Closed – Budget Related Furlough

No Meeting Proposed

May

Monday, May 2, 2011 – Deadline for Filing Statements of Economic Interests
Friday, May 7, 2010 - G.A.B. Offices Closed – Budget Related Furlough

Monday, May 16, 2011 - Proposed Government Accountability Board Meeting

Monday, May 16, 2011 – Deadline for Certifying Spring Election Results

Friday, May 27, 2011 – G.A.B. Offices Closed – Budget Related Furlough

June

Friday, June 24 2011 – G.A.B. Offices Closed – Budget Related Furlough

No Meeting Proposed

July

Wednesday, July 20, 2011 - Deadline for Filing Semi-Annual Continuing Campaign Finance Reports

Monday, July 25, 2011 – Proposed Government Accountability Board Meeting

August

No Meeting Proposed

September

Monday, September 12, 2011 – Proposed Government Accountability Board Meeting

October

No Meeting Proposed

November

Monday, November 7, 2011 – Proposed Government Accountability Board Meeting

December

Thursday, December 1, 2011 –First Day to Circulate Nomination Papers for Fall Elections

Monday, December 12, 2011 Proposed Government Accountability Board Meeting

Seven (7) Proposed Meetings – 1 2-Day Meeting, 1 Teleconference Meeting

Thursday, January 13, 2011 (Teleconference)

Monday, March 21 and Tuesday, March 22, 2011

Monday, May 16, 2011

Monday, July 25, 2011

Monday, September 12, 2011

Monday, November 7, 2011

Monday, December 12, 2011

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Update

Election Administration Update

Introduction

Since the Government Accountability Board's July 21-22, 2010, meeting, the Elections Division has focused on the following tasks:

1. Ballot Review

County clerks have submitted proofs of the ballots for the September 14, 2010, Partisan Primary for review and approval by Elections Division staff. All counties but one obtained approval of their ballot format. State statute requires ballots to be printed and available for absentee voting no later than August 15.

2. September 14, 2010, Partisan Primary Election Pronunciation Guide

In addition to ballot preparation and programming of optical scan readers, accessible voting equipment must be programmed to present the ballot audibly to a hearing-impaired voter. Programmers require a Pronunciation Guide to ensure that candidate names are presented correctly. Staff prepared a phonetic guide to 380 candidate names

3. Review of ES&S ECO (Engineering Change Order) Application

With the Board's approval allowing voting equipment manufacturers to submit applications for modification to approved voting systems, Election Systems & Software has submitted an application for Board staff's review and determination. To ensure the system is substantially identical to the one previously approved, Wyle Labs and SysTest have completed testing and created reports that Board staff are currently reviewing. These two organizations are certified by

the U. S. Election Assistance Commission as approved Voting System Test Laboratories (VSTLs).

4. Wisconsin Municipal Clerks Association Presentations

Staff conducted several workshops at the Wisconsin Municipal Clerks Association's (WMCA) 30th Anniversary Conference on August 19, 2010, in Green Bay. In addition to an overview of on-going Elections Division initiatives, staff covered a variety of topics, including barriers to voting for electors with disabilities, under the broad umbrellas of Registration and Other Election Day Issues, Post Election Activities and the Statewide Voter Registration System (SVRS).

5. Finalizing Online Polling Place Accessibility Survey System

The G.A.B. staff has partnered with the Department of Administration, Division of Enterprise Technology, to create an online application that allows municipal clerks to submit their polling place accessibility survey electronically. The system will be capable of producing reports, identifying existing barriers and potential accessibility concerns, and provide for geographical mapping for voters searching for their polling place location

6. Revision of Manuals

Staff finalized revisions to the Election Day Manual and the Counting Votes Manual. The process of updating materials related to military and overseas voting to incorporate provisions of the Military and Overseas Voter Empowerment (MOVE) Act continues.

7. Canvass Process

The migration of the canvass process to a web-based, online platform is nearly complete and will be in place for the September 14 Partisan Primary Canvass. Beginning Monday, August 6, 2010, the G.A.B. Canvass Development Team began training county clerks on the file transfer function of the new G.A.B. Canvass Reporting System. This first phase of training has gone smoothly and the participating county clerks in Dane, Walworth, Washington, Waukesha, Brown and Winnebago Counties have been able to provide valuable feedback to the G.A.B. Canvass Team about improvements that will make the system even more efficient and effective. Additional training for county clerks is planned throughout the month of August up through the first full week of September. The G.A.B. Canvass Reporting System is included in the Presentation on "Elections Division Migration of Manual Practices to Online Platforms," a separate meeting agenda item.

8. Inter-State Voter Registration Data Sharing

(A Collaborative Initiative to Detect Possible Border Election Fraud)

Board staff has continued working with local election officials and the Minnesota Secretary of State to compare and verify voter data in order to determine whether any individuals voted in both Wisconsin and Minnesota during the 2008 General Election.

Staff from both states have gathered and analyzed documentation from local officials and have made a preliminary review of all potential matching records. Additional documentation is being obtained to further validate corroborating information. As of this report, 35 cases of alleged double voting have been forwarded to the appropriate Wisconsin district attorney for prosecution, in coordination with the Wisconsin Department of Justice, and appropriate county attorney in Minnesota.

9. Ensuring Election Integrity in Wisconsin

In the Elections Division Update for the Board's July 21-22, 2010, meeting, staff summarized a strategy for assessing and measuring the degree to which voter fraud exists in Wisconsin. One of the methods that was included in the staff's approach was to develop and post a new voter integrity section on the agency new website.

Update: Board staff is developing a new election integrity section on the agency website to collect voter comments and complaints, including allegations of election fraud. Instructions will direct members of the public where to report observations of voter irregularities. Staff will monitor complaints and comments received from the website, and will review and make referrals to local District Attorneys whenever appropriate. This voter integrity section will complement the Board's existing toll-free voter helpline, 1-866-VOTE-WIS. It is intended that the new election integrity section will be available for public access and use in time for the September 14, 2010, Partisan Primary.

Staff is also moving ahead with working with professors from the UW-Madison Political Science Department and the La Follette School of Public Affairs for collaborating on developing an assessment tool for measuring the degree to which voter fraud exists in Wisconsin. A preliminary concept has been drafted. Further development, refinements and discussions will continue. The intent is to circulate a fully developed proposal to various entities for funding consideration. The Board will continue to be kept updated as the initiative proceeds.

10. MOVE Act: Status of Wisconsin's Waiver Request

Wisconsin's MOVE Act Waiver Request was submitted to the U. S. Department of Defense and its Federal Voting Assistance Program (FVAP) staff on Monday, August 2. On Wednesday, August 4, Board staff participated in a teleconference call with representatives from the U. S. Departments of Defense and Justice, and FVAP during which time Wisconsin's Waiver Request was discussed in detail. Additional information was requested by the Federal representatives.

On August 5, additional information including the State Write-in Absentee Ballot (SWAB), Wisconsin's Fall Primary and General Elections Write-in Ballots for Military and Overseas Electors, and additional statistics on the 2008 Presidential and General regular absentee voting, overseas military absentee voting and overseas electors' absentee voting was forwarded to the U. S. Department of Defense and its Federal Voting Assistance Program. Board staff were informed that a decision would be forthcoming by August 30, 2010.

11. Training

A "Presentation on Elections Division Training Initiatives" is scheduled as a separate item on the agenda. Please refer to the Attachment 1, Training Summary, and Attachment 1-A, an outline of the training initiatives presentation.

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

During the Board's July 21-22 meeting, a report titled, "An Interim Report: Extending the Government Accountability Board's Operating Hours for the 2010 Spring Election Cycle" was presented to the Board. Since 2008, before, during and immediately after each election, staff have been offering extending services and technical support to our valued clerk customers and to the public, and we will continue to do so for the upcoming September 14, 2010, Partisan Primary Election.

Staff's extended operating hours will commence on Wednesday, September 8, 2010 and conclude on Wednesday, September 15, 2010. The schedule of staff's extended operating hours for the September 14, 2010, Partisan Primary Election that was shared with clerks is included as Attachment 2.

Other Noteworthy Initiatives:

1. Voter Data Interface

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

Clerks process HAVA Checks and confirm matches on a continuous basis during the course of their daily election administration tasks. This process has been followed since the Interfaces became functional in SVRS on August 6, 2008. Since the Board's last meeting on July 21, 2010, clerks processed approximately 1,877 HAVA Checks with DOT/SSA on voter applications in SVRS.

2. Retroactive HAVA Checks Status

A Final Report on the Retroactive HAVA Check Project was presented to the Board at the March 23, 2010 meeting. Small numbers of voters continue to respond to Retroactive HAVA Check DMV Ping letters and update their voter information. Staff is pursuing the most effective and legal way to process voters who did not respond to the initial DMV Ping letters mailing. Staff's plan of action will be discussed as a separate agenda item, "HAVA Check – Disposition of Returned or Non-Responsive Mailings" during the August 30 Board meeting.

3. Voter Registration Statistics

As of Tuesday, August 17, 2010, there were a total of 4,510,795 voter records stored in SVRS. Of this number, 3,412,243 were active voters; 866,059 were inactive; and 232,493 were cancelled voters.

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

The number of records in SVRS has decreased slightly since the last report due to the work of clerk users and Board staff in merging duplicate voter records as part of regular list maintenance. 8,819 merges have been completed in SVRS between July 21, 2010 and August 17, 2010.

4. Initiatives for Automating and Simplifying Voter Registration Processes

In accordance with the Board-adopted and Legislatively-approved five-year 2009-2014 Election Administration Plan, Board staff have been reviewing various methods and strategies to automate and simplify the voter registration process that will improve the accuracy of the mail-in voter registration process by using SVRS to facilitate voter initiated mail-in registration. As summarized in the briefing memorandum, this automatic system will provide an efficient and effective service to Wisconsin's residents, our clerks and voters. It will result in a significant reduction in fraudulent voter registration forms, it will also eliminate the need for third-party voter registration groups, and it will save clerks time and money.

Staff is recommending Board’s approval to move ahead with the following three initiatives to accomplish the objective of automating and simplifying the voter registration process:

- SVRS Facilitated Mail-in Voter Registration
- Online Voter Registration
- Motor Vehicle-based Voter Registration

These initiatives will be discussed in detailed under Agenda Item I, “Proposed Initiatives for Automating and Simplifying Voter Registration Processes.”

5. G.A.B. Help Desk

The G.A.B. Help Desk is supporting over 1,700 active SVRS users. The Help Desk staff has assisted with processing nomination papers, data requests and testing SVRS improvements. Help Desk staff is continuing to improve and maintain the two training environments that are being utilized in the field.

The majority of calls during July 2010 were from candidates filing nomination papers regarding ballot access and campaigns with CFIS questions. During August 2010, SVRS users and clerks requested assistance with running reports and setting-up the September 14 Partisan Primary in SVRS, WEDCS set-up (our voter participation data-keeping system), issuing state write-in ballots, and configuring new computers to run SVRS.

G.A.B. Help Desk Call Volume	
July 2010	1,967
August 2010 (as of August 17, 2010)	435
Total Calls for Period	2,402

To alleviate distractions from the Reception Desk during the nomination paper filing period, calls from the Front Desk’s main number were transferred to the Help Desk. A breakdown of July calls to illustrate the variety of calls is as follows:

G.A.B. Help Desk Call Types		
Nomination Paper and Candidate Questions	770	39%
Campaign Finance System Questions	613	31%
SVRS & Technical Questions	326	17%
Other Elections Division	147	7%
Other Ethics Division	111	6%

6. Voter/Felon Comparison Audit

No new information since the July 21-22, 2010, Board meeting.

7. SVRS Core Activities

A. Software Upgrade(s)

The new version of SVRS, version 7.1, was successfully tested and installed into SVRS for use by clerk users on July 25, 2010. This version of SVRS includes updates to the Absentee functionality to comply with the Federal MOVE Act, as well as to streamline and simplify the absentee process at the request of clerks.

SVRS Version 7.1 Patch 1 was installed on August 8, 2010. This patch fixed some minor bugs that were found with version 7.1, not discovered in testing, and included some additional updates to absentee reports and mailing labels.

B. System Outages

There have been no unscheduled service outages to G.A.B. technical systems since the last Board meeting.

C. Data Requests

The Board 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.

Due to the upcoming fall election events, Board staff received many data requests during July and August (through August 17, 2010). The following statistics demonstrate the activity in this area:

- Forty-five (45) inquiries were received requesting information on purchasing electronic voter lists from the SVRS system. This is compared to 55 for the months of April, May and June 2010 combined.
- Nineteen (19) electronic voter lists were purchased.
- No paper voter lists were purchased.
- \$30,145 was received for the 19 electronic voter lists requested.

30-Day Forecast

Election Readiness – Staff will continue to provide education, training and technical support to our 1,851 Municipal and 72 County Clerk partners for the 2010 September 14 Partisan Primary, and the 2010 November 2 General Election.

As we have been doing at least since 2008, before, during and immediately after each election, once again we will offer extended services and technical support to our valued clerk customers and to the public, via extended operating hours commencing on Wednesday, September 8, 2010 and concluding on Wednesday, September 15.

Action Items

None.

ATTACHMENT #1

GAB Election Division's Training Initiatives
7/23/2010 – 8/29/2010

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
SVRS "Initial" Application and Election Management	Instruction in core SVRS functions – how to navigate the system, how to add voters, how to set up elections and print poll books.	16 hours	New users of the SVRS application software.	7 training classes held in Wausau, Chippewa Falls, Madison, Tomah, Cleveland, Waukesha and Grand Chute.	80
SVRS "Advanced" Election Management	Instruction for those who have taken "initial" SVRS training and need refresher training or want to work with more advanced features of SVRS.	4 types of classes: Election Management; Absentee Process; HAVA Interfaces; Reports, Labels & Mailings; 4 hours each	Experienced users of the SVRS application software.	27 classes held in locations listed above.	300
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years.	3 hours	All Municipal clerks are required to take the training; other staff may attend.	Training conducted in Barron, Waukesha, Green Bay and Wausau.	40
Chief Inspector	Instruction for new Chief Inspectors before they can serve as an election official for a municipality during an election.	3 hours	Election workers for a municipality.	Training conducted in 28 locations across the state.	600

ATTACHMENT #1

GAB Election Division's Training Initiatives
7/23/2010 – 8/29/2010

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.	Ongoing, self-directed training is available online.
Special Registration Deputy	2005 Wisconsin Act 451 allows a qualified elector of Wisconsin to be appointed as a Special Registration Deputy (SRD) for the purpose of registering electors of any municipality in Wisconsin during periods of open voter registration.	2 hours	Qualified electors in Wisconsin.	6 classes held in Madison (3), Superior, Wausau and Milwaukee.	50
WBETS	Web Based Election Training System. Still under development. Reference materials were made available to the clerks in February; voter registration training made available to clerks 3/24/2008.	Varies	County and municipal clerks and their staff.	Phase 1 of eLearning training plan close to completion; Phase 2 under discussion.	Site is available for clerks to train temp workers in data entry; relies are also able to access the site upon request.

ATTACHMENT #1

GAB Election Division's Training Initiatives
7/23/2010 – 8/29/2010

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
HAVA Interfaces	<p>Instruction in the user of the interface functionality in SVRS to check death records, felon records, DOT records and duplicate records against voter records as part of HAVA compliance requirements.</p>	2 hours	All clerks (staff as determined by clerk).	Pilot of web-based training presented to the Standards Committee on May 14, 2008. Lessons available online June 2, 2008.	Eventually 2000+
Other initiatives:	<ul style="list-style-type: none"> • Board staff trained 28 clerk-trainers during the July 2010 training sessions. • Board staff working on migration of several training programs to online and DVD formats. • Board staff presented election, SVRS and training updates to municipal clerks at the WMCA convention in Green Bay. 				

State of Wisconsin \ Government Accountability Board

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

DATE: August 17, 2010

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

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

SUBJECT: ATTACHMENT 2
September 14, 2010 Partisan Primary G.A.B.'s Extended Operating Hours

In response to our online survey on which G.A.B. extended operating hours before, during and after elections would best meet your needs, I am pleased to announce our extended hours of operation, outside of the G.A.B.'s normal hours of 7:45 a.m. to 4:30 p.m., for the upcoming September 14, 2010 Partisan Primary.

The G.A.B.'s hours of operation for the September 14, 2010 Partisan Primary are as follows:

Extended Operating Hours During the Week of September 5 - 11, 2010

- Wednesday, September 8, 2010: 6:30 a.m. to 6:00 p.m.
- Thursday, September 9, 2010: 6:30 a.m. to 6:00 p.m.
- Friday, September 10, 2010: 6:30 a.m. to 6:00 p.m.
- Saturday, September 11, 2010: 9:00 a.m. to 12 Noon

Extended Operating Hours During the Week of September 12 - 18, 2010

- Monday, September 13, 2010: 6:30 a.m. to 6:00 p.m.
- **Tuesday, September 14, 2010: 6:30 a.m. to 9:00 p.m.**
- Wednesday, September 15, 2010: 4:30 p.m. to 6:00 p.m.

You may contact our Help Desk at (608) 261-2028, or GABHelpDesk@wi.gov during our hours of operation. We are happy to provide these extra hours in case additional assistance is needed to ensure a successful election. If needed, I may be contacted at (608) 267-0715, or Nat.Robinson@wi.gov. Thank you.

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

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director & General Counsel

MEMORANDUM

DATE: August 30, 2010 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Program

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

2010 July Continuing Campaign Finance Reports

Staff has continued to work on processing and auditing the July Continuing 2010 campaign finance reports filed by the **1,376** candidates, political parties, legislative campaign committees, PACs, sponsoring organizations, and conduits. Reports were due on July 20th, 2010. As of 8:00 a.m. on August 23, 2010 only **16** reports have not been received. Staff is continuing to follow up with late filers to obtain and process their campaign finance reports.

2010 Pre-Primary Campaign Finance Reports

On August 16, 2010 staff sent notices to 1,021 committees informing them of who is required to file the Pre-Primary finance report; these reports are due by September 14, 2010. The report covers all campaign finance activity from July 1, 2010 through August 30, 2010. All candidates running in the fall 2010 election are required to file the Pre-Primary report, unless they claim the exemption from filing finance reports. All non-candidate committees registered with the Board making contributions or expenditures on behalf of candidates running in the fall 2010 election are also required to file the Pre-Primary report.

Wisconsin Election Campaign Fund (WECF) Summary

On August 13, 2010 the Department of Revenue certified a total of \$166,344 as the amount designated by taxpayers during 2009 for the Wisconsin Election Campaign Fund. This amount is approximately \$14,972 less than the previous year. This amount represents the \$1 that Wisconsin taxpayers can choose to contribute to the fund by selecting the check off on their 2009 income tax form. The grants replace the special interest

(PAC) money that a candidate may accept. 88 candidates registered for the fall 2010 election have applied for the WECF grant.

Campaign Finance Information System Update

Staff continues to work with PCC Technology and the Department of Administration – Division of Enterprise Technology to improve the performance of the Campaign Finance Information System. A code release was successfully implemented in July and August that implemented system modifications to allow organizations making independent expenditures the ability to register and report the necessary campaign finance information using CFIS. Registration and reporting functionality is also available in CFIS for Supreme Court candidates seeking public financing through the Impartial Justice Act.

Staff sent out a notice to all CFIS system users after the July Continuing reporting period asking them to complete an online survey that will provide the G.A.B. information on how to further improve CFIS in the future for its users. As of Monday, August 23, 264 people had responded to the survey. This is 19% of those committees filing campaign finance reports during the July Continuing reporting period. A summary of the results is included as Attachment 1 to this report.

Lobbying Update

Tracey Porter, Ethics and Accountability Specialist
Tommy Winkler, Assistant Division Administrator

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, 2010. The SLAE report was due on or before August 2nd, 2010. 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 2nd, 2010. Both reports are filed electronically. The Government Accountability Board has received all of the 1,643 lobbyist time reports from 749 lobbyists, and all 770 SLAE reports from those registered principal organizations required to file.

Included in the Table 1 below is a comparison of the hours lobbied, dollars spent, organizations registered, and lobbyists licensed during the first three reporting periods of the 2009 – 2010 and 2007 – 2008 legislative sessions. A more detailed analysis of the total hours and dollars spent lobbying during each reporting period, the most lobbied bills, and the organizations that spend the most time and most money lobbying for the 2009-2010 legislative session is included as Attachment 2 to this report.

Lobbying Registration and Reporting Information

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

TABLE 1

2009-2010 Legislative Session: Lobbying by the Numbers (Comparison to 2007-2008 Legislative Session through 3 reporting periods)			
	<u>2009-2010</u>	<u>2007-2008</u>	<u>Difference</u>
Hours Lobbied	~ 410,600	~ 393,200	17,400
Dollars Spent	~ \$53,960,000	~ \$50,166,000	\$3,794,000
Number of Organizations Registered	782	784	-2
Number of Lobbyists Licensed to Lobby	812	845	-33

TABLE 2

2009-2010 Legislative Session: Lobbying Registration by the Numbers (Data Current as of August 19, 2010)			
	Number	Cost	Revenue Generated
Organizations Registered	783	\$375	\$293,625
Lobbyists Licenses Issued (Single)	669	\$250	\$167,250
Lobbyists Licenses Issued (Multiple)	140	\$400	\$56,000
Lobbyists Authorizations Issued	1750	\$125	\$218,750

New Lobbying Website Project Update

Work continues by the Department of Administration's IT team on the development of a new lobbying website and online reporting application to be ready for the 2011-2012 legislative session. The system registration and reporting capability is currently being developed and the application is scheduled to be deployed to servers for unit testing to begin. Staff will be working with members of the lobbying community by demonstrating portions of the website and application and then collecting comments on how to improve the application's functionality and user interface. This approach allows staff to utilize feedback from system users and incorporate it into the final product.

Financial Disclosure Update

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

Annual Filing - Statements of Economic Interests

As of 4:30 p.m. on Monday, August 23, 2010, 99.99% of those state public officials required to file a Statement of Economic Interests with the Government Accountability Board for 2010 have done so. Those officials who have yet to file a Statement are:

Terrence M Greenleaf
 William J Holly

Department of Regulation and Licensing
 Prison Industries Board

Marvin E. Robinson, Jr. Department of Regulation and Licensing

Staff has attempted to contact the remaining officials yet to file via the contact information we were able to obtain and received a response from Mr. Holly on May 13 and May 18. He informed staff on both occasions that he was going to file but disputed the requirement making him do so. He has not filed and has not responded to staff attempts to obtain Mr. Holly's 2010 statement. Staff will continue to try and contact Mr. Holly to acquire his statement.

Staff has spoken to personnel from the Department of Regulation and Licensing regarding both Mr. Greenleaf and Mr. Robinson. Staff was informed by DRL that Mr. Greenleaf is very ill and confirmed that he did not attend any meetings as a state official in 2010. He has resigned from his position and DRL sent an e-mail on June 3, 2010 requesting a waiver of the filing requirement for Mr. Greenleaf. G.A.B. staff and the DRL staff are unable to contact Mr. Robinson. Mr. Robinson left his position on January 15, 2010. Staff recommends waiving the filing requirement for both of these individuals due to these mitigating circumstances.

Fall Candidates Statements of Economic Interests

Any candidate running for state public office is required to complete and file a 2010 Statement of Economic Interests with the G.A.B. In order to obtain ballot status, the candidate must have filed this state with the Board by 4:30 p.m. on Friday, July 16, 2010. **338** candidates filed statements and have obtained ballot status for the fall 2010 election. Several requests to view candidates' statements have been made over the previous few weeks and staff has scanned and generated a .PDF copy of every fall candidate's statement to efficiently process these requests. Staff then notifies as soon as possible those candidates whose statement was examined per Chapter 19.48 (8), *Wisconsin Statutes*.

6 Month Legislative Liaison Reports

Government Accountability Board staff worked to follow up and process legislative liaison reports that were sent to **104** state agencies and boards required to file such a report with the G.A.B. under Chapter 13, *Wisconsin Statutes*. As of August 19, **103** statements have been filed and processed by staff. These reports cover activity from January 1 through June 30, 2010 and were due on or before August 2, 2010. All state agencies are required to file a liaison report that indicates those agency officials who make lobbying communications with state officials, the percentage of their overall work time spent making such communications, and the official's annual salary.

State of Wisconsin Investment Board Quarterly Transaction Reports

Staff also received and processed **43** quarterly financial disclosure statements from State Investment Board members that were due on or before August 2, 2010. These statements are then sent to the Legislative Audit Bureau for their review and analysis.

Attachment 1

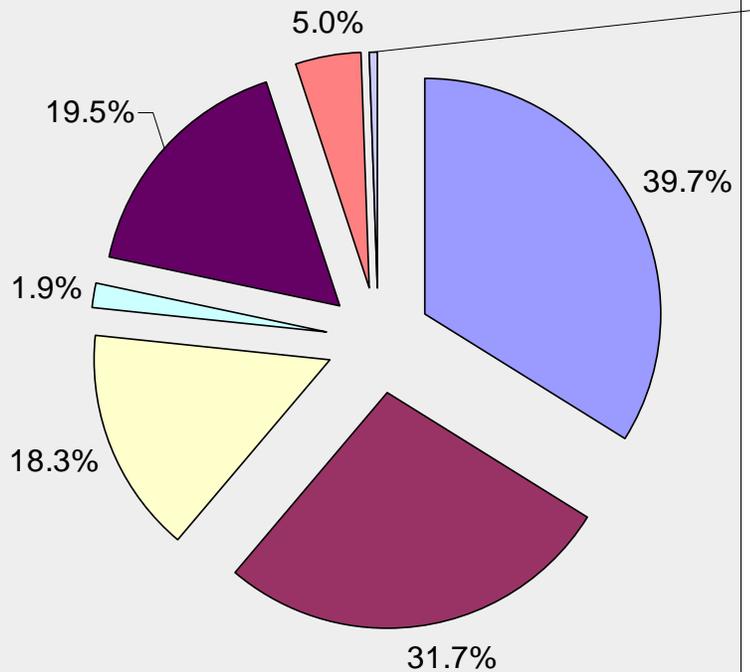


CAMPAIGN FINANCE INFORMATION SYSTEM

Survey Results
August 23, 2010



Q.1 What is/are your committee type(s)?

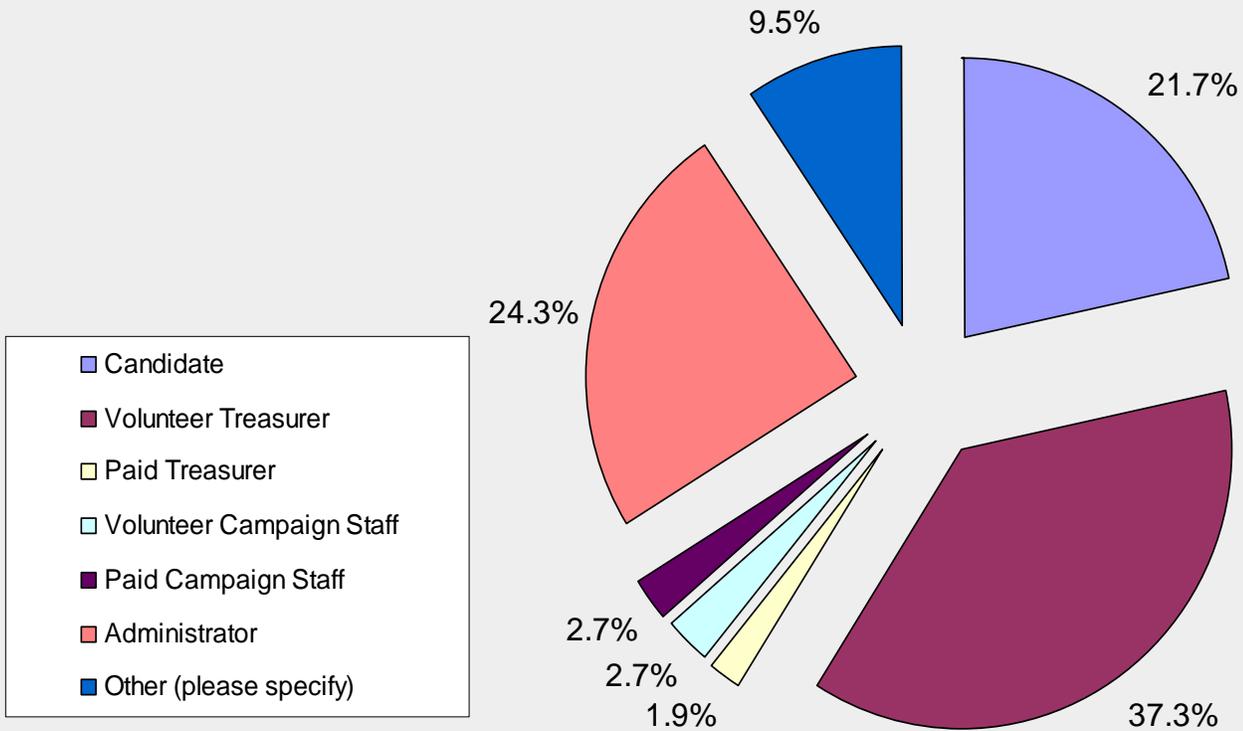


- Candidate Committee Candidate Committee
- Political Action Committee (PAC) Political Action Committee (PAC)
- Party Party
- Legislative Campaign Committee Legislative Campaign Committee
- Conduit Committee Conduit Committee
- Sponsoring Organization Sponsoring Organization
- Referendum Committee Referendum Committee
- Other (please specify) Other (please specify)

What is/are your committee type(s)?

Answer Options	Response Percent	Response Count
Candidate Committee	39.7%	104
Political Action Committee (PAC)	31.7%	83
Party	18.3%	48
Legislative Campaign Committee	1.9%	5
Conduit Committee	19.5%	51
Sponsoring Organization	5.0%	13
Referendum Committee	0.0%	0
Other (please specify)	0.8%	2
<i>answered question</i>		262
<i>skipped question</i>		2

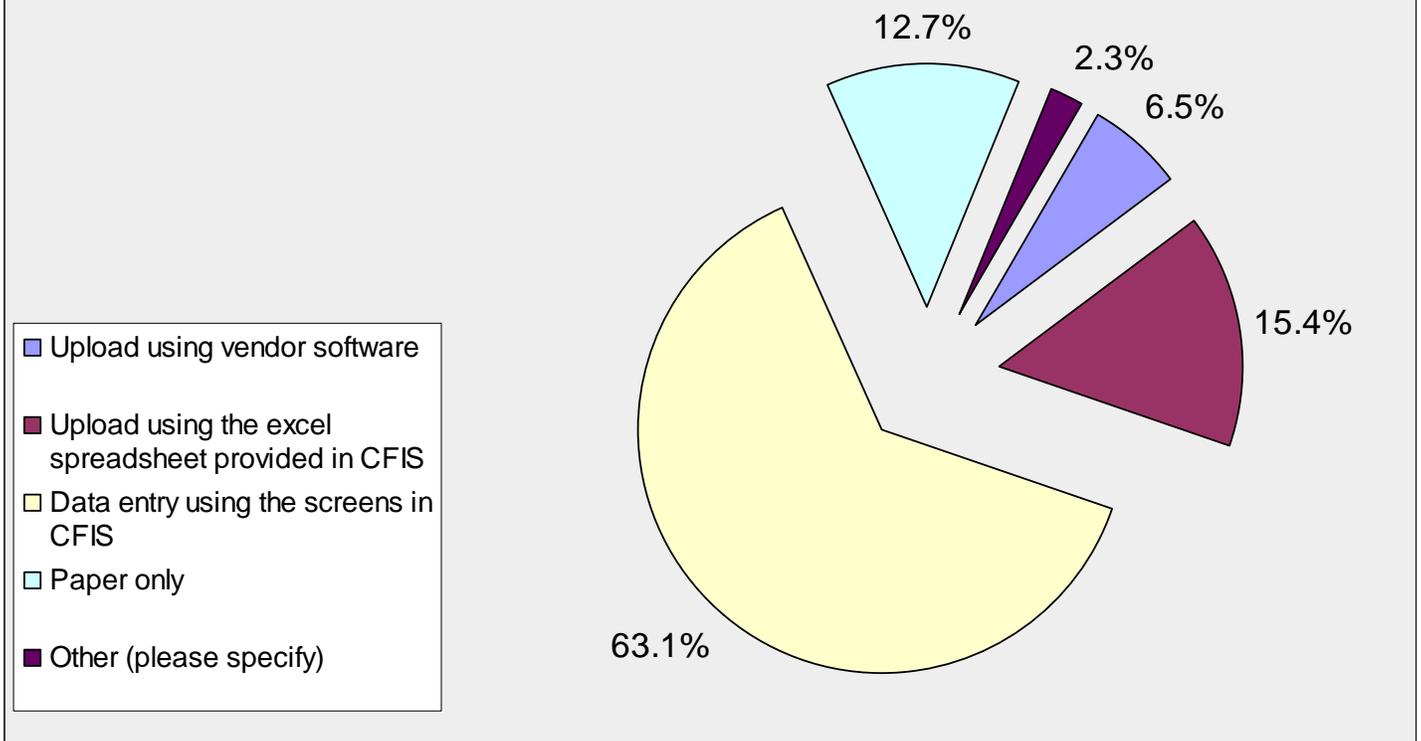
Q.2 What is your position/role with the committee?



What is your position/role with the committee?

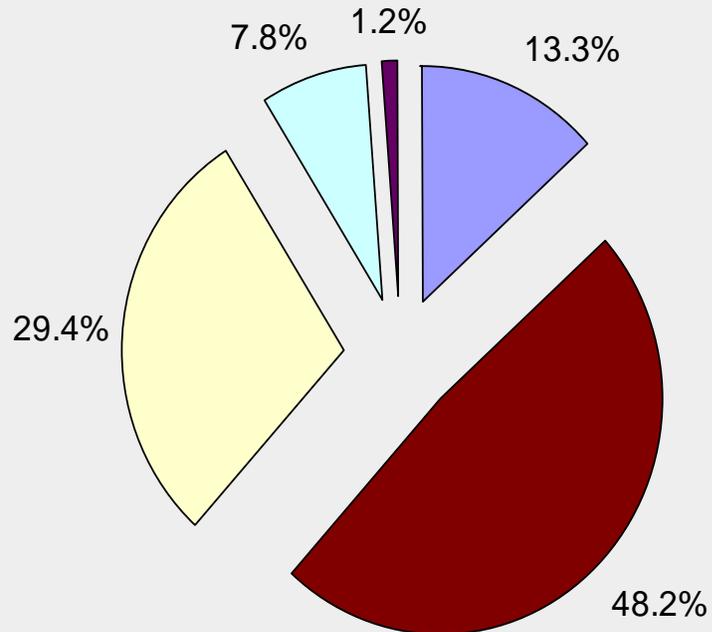
Answer Options	Response Percent	Response Count
Candidate	21.7%	57
Volunteer Treasurer	37.3%	98
Paid Treasurer	1.9%	5
Volunteer Campaign Staff	2.7%	7
Paid Campaign Staff	2.7%	7
Administrator	24.3%	64
Other (please specify)	9.5%	25
<i>answered question</i>		263
<i>skipped question</i>		1

Q.3 What method do you use to file your campaign finance report?



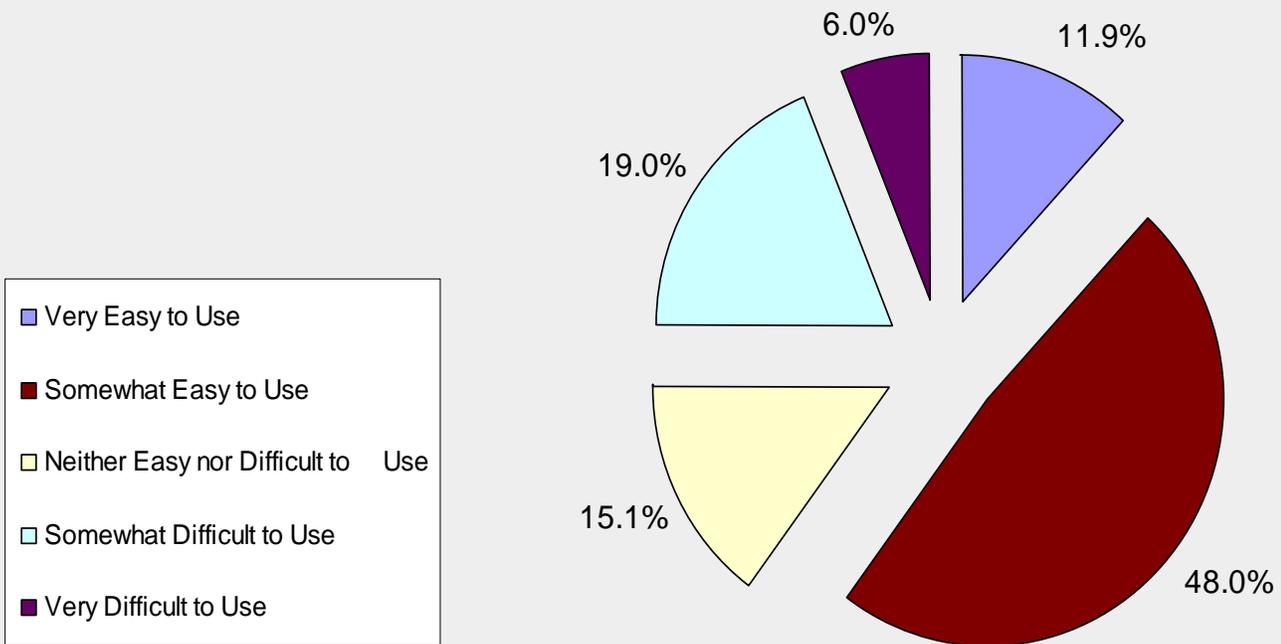
What method do you use to file your campaign finance report?		
Answer Options	Response Percent	Response Count
Upload using vendor software	6.5%	17
Upload using the excel spreadsheet provided in CFIS	15.4%	40
Data entry using the screens in CFIS	63.1%	164
Paper only	12.7%	33
Other (please specify)	2.3%	6
<i>answered question</i>		260
<i>skipped question</i>		4

Q.4 Overall, how do you rate the performance of the CFIS application?



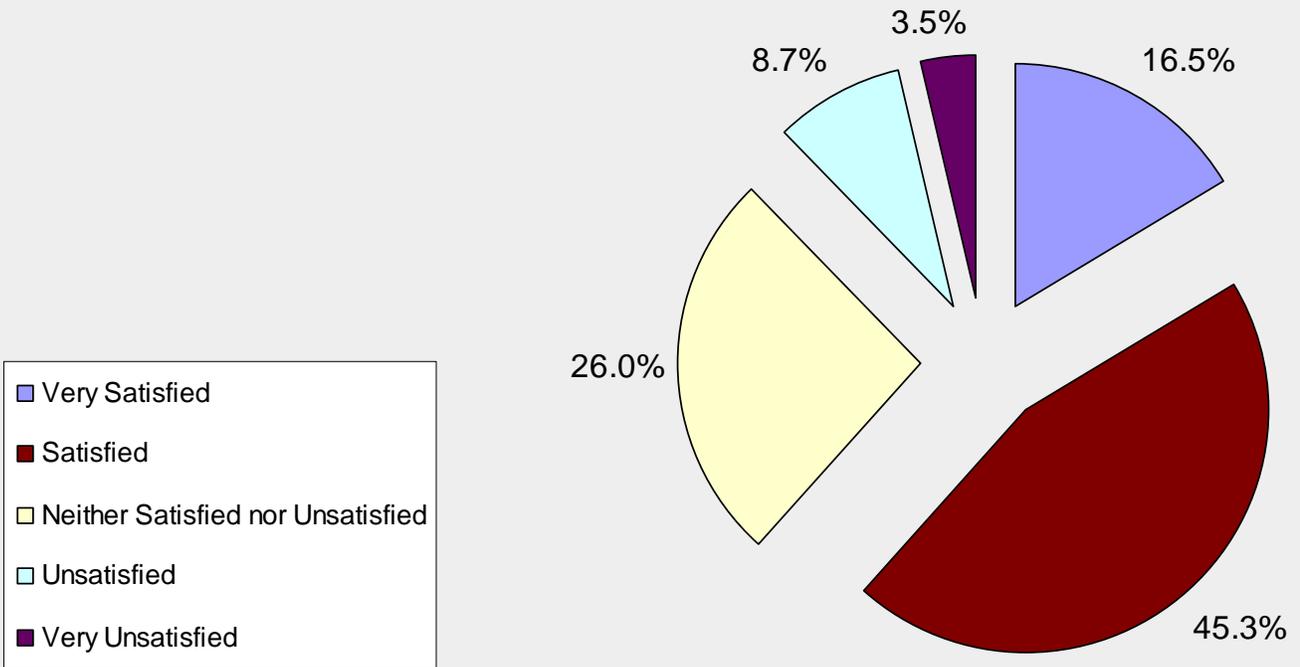
Overall, how do you rate the performance of the CFIS application?		
Answer Options	Response Percent	Response Count
Excellent	13.3%	34
Good	48.2%	123
Adequate	29.4%	75
Poor	7.8%	20
Unacceptable	1.2%	3
<i>answered question</i>		255
<i>skipped question</i>		9

Q5. The CFIS application is...



The CFIS application is...		
Answer Options	Response Percent	Response Count
Very Easy to Use	11.9%	30
Somewhat Easy to Use	48.0%	121
Neither Easy nor Difficult to Use	15.1%	38
Somewhat Difficult to Use	19.0%	48
Very Difficult to Use	6.0%	15
<i>answered question</i>		252
<i>skipped question</i>		12

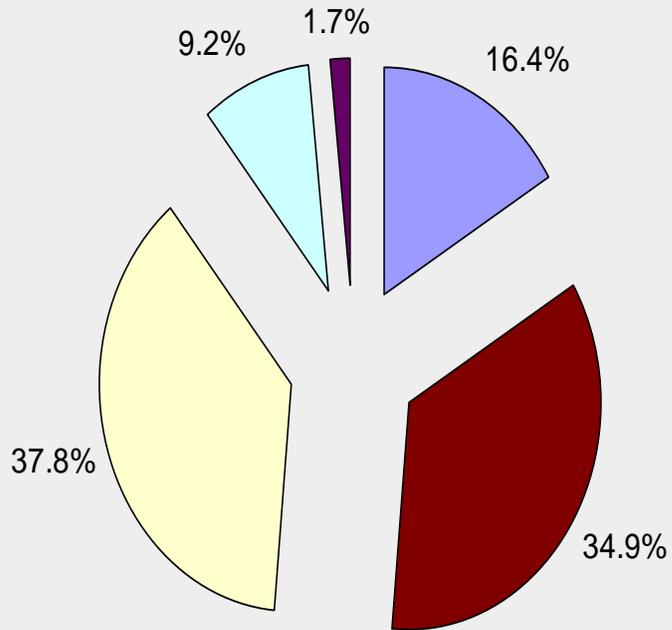
Q.6 Rate your overall satisfaction with the CFIS application.



Rate your overall satisfaction with the CFIS application.

Answer Options	Response Percent	Response Count
Very Satisfied	16.5%	42
Satisfied	45.3%	115
Neither Satisfied nor Unsatisfied	26.0%	66
Unsatisfied	8.7%	22
Very Unsatisfied	3.5%	9
<i>answered question</i>		254
<i>skipped question</i>		10

Q.7 Compared to previous years, has your experience filing campaign finance reports using CFIS been...

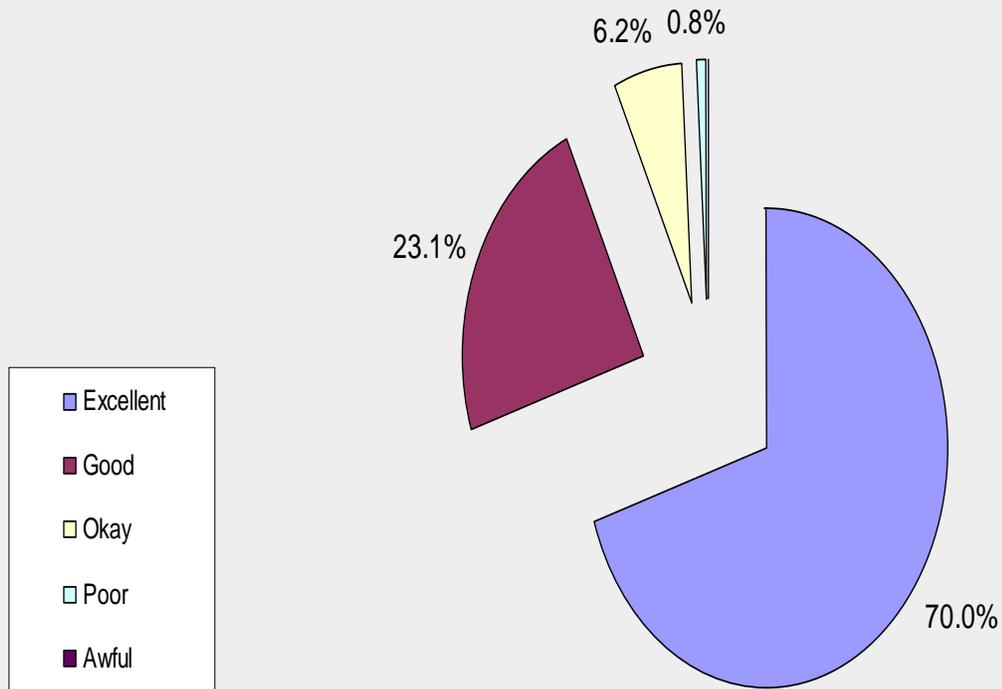


- Much Better
- Better
- About the Same
- Worse
- Much Worse

Compared to previous years, has your experience filing campaign finance reports using CFIS been...

Answer Options	Response Percent	Response Count
Much Better	16.4%	39
Better	34.9%	83
About the Same	37.8%	90
Worse	9.2%	22
Much Worse	1.7%	4
<i>answered question</i>		238
<i>skipped question</i>		26

Q.8 The service received from G.A.B. campaign finance staff has been...



The service received from G.A.B. campaign finance staff has been...

Answer Options	Response Percent	Response Count
Excellent	70.0%	182
Good	23.1%	60
Okay	6.2%	16
Poor	0.8%	2
Awful	0.0%	0
<i>answered question</i>		260
<i>skipped question</i>		4

Campaign Finance Information System Performance Survey - July Reporting Period

9. Describe any problems you have experienced when using CFIS.		Response Count
		125
	<i>answered question</i>	125
	<i>skipped question</i>	139

Response Text		
1	Can't use CFIS yet to upload reports due to system issues; System OK to use for getting GAB IDs and doing EB-12 report	Aug 9, 2010 8:13 PM
2	double-uploads of data, data not being uploaded correctly,	Aug 9, 2010 8:14 PM
3	most of the on-line fill-ins do not apply to our particular political action committee	Aug 9, 2010 8:15 PM
4	I am only the administrator, and not always aware if a candidate will be in a primary, etc. so I have had problems determining which report to select when submitting the contribution.	Aug 9, 2010 8:15 PM
5	none	Aug 9, 2010 8:18 PM
6	I had to go back in to ammend my report. When I did this it wouldn't allow me to change the ending balance.	Aug 9, 2010 8:19 PM
7	It's hard to navigate, not at all user friendly, next to impossible to figure out where to go to get committee id numbers, just an all-around difficult site.	Aug 9, 2010 8:22 PM
8	when to use add button, figuring out flags... however: Richard and Tracy have been fabulous!!!!!!!!!!!!!!	Aug 9, 2010 8:24 PM
9	Attempted to upload data using template provided, but data were corrupted; ended up e-mailing a spreadsheet to staff	Aug 9, 2010 8:25 PM
10	None in particular	Aug 9, 2010 8:25 PM
11	slow	Aug 9, 2010 8:25 PM
12	Please stop changing my Password!!!!	Aug 9, 2010 8:25 PM
13	It takes awhile to understand the system and then it's easier to use.	Aug 9, 2010 8:29 PM
14	Too many options when choosing a candidate from drop down (multiple of each candidate) should only be one per office,	Aug 9, 2010 8:30 PM
15	Your staff has been better than excellent. I've received great support from Tracey & the rest of your staff each time I have a question.	Aug 9, 2010 8:32 PM
16	Can't seem to upload anything. Have to still send in paper reports which G.A.B, then uploads for me.	Aug 9, 2010 8:32 PM
17	The CFIS system lost some of the conduit contributions I entered in the system. I called the GAB and they fixed the problem within a few days.	Aug 9, 2010 8:38 PM
18	The only problem I run into is infrequent use. Sometimes it takes me longer to remember what to do than to do it.	Aug 9, 2010 8:39 PM
19	No problems of late.	Aug 9, 2010 8:41 PM
20	Still sending hard copies - redundant	Aug 9, 2010 8:43 PM
21	The STAFF are outstanding.	Aug 9, 2010 8:44 PM

Response Text		
22	see #10	Aug 9, 2010 8:46 PM
23	Was unable to enter a conduit donation--but that was due to an error by the conduit caused by two campaigns with the same name.	Aug 9, 2010 8:48 PM
24	I'm constantly getting errors with east coast zip codes that start with "0." They always seem to cause errors. I also don't like that the CFIS doesn't recognize the hyphen with 5 + 4 zip codes. I seem to have to go in and remove the hyphen and the last 4 digits. A real inconvenience.	Aug 9, 2010 8:52 PM
25	As a conduit the screens for reporting expenses etc for the reports aren't as applicable as they probably are for a candidate.	Aug 9, 2010 8:58 PM
26	First time user, need to work with it for a while!	Aug 9, 2010 9:01 PM
27	Populating fields becomes very confusing and often what looks right when entered shows up wrong when the report is generated.	Aug 9, 2010 9:09 PM
28	we use the excel spreadsheet to upload. we frequently have problems with the zip code formatting, even when we follow directions exactly. we often have to upload the spreadsheet multiple times before all of the data will be accepted. there seems to be a problem with zip codes starting with zero as well as zip codes that are 9 digits when they are in the same column as 5 digit zip codes. the same formatting does not seem to apply to all of them. in addition, sometimes the zip codes for employer/occupation information drops off as well.	Aug 9, 2010 9:20 PM
29	The website is generally not very easy to navigate or intuitive.	Aug 9, 2010 9:22 PM
30	I've lost some expenses that I listed as being entered on my manual notes for those expenses, so, I had to resubmit the entries again. I'll chalk it off to user error, unless you've had anyone else mention it.	Aug 9, 2010 9:30 PM
31	Outstanding loan balances are sometimes inaccurate.	Aug 9, 2010 9:37 PM
32	Entering interest earned on our bank savings account	Aug 9, 2010 9:39 PM
33	Mostly operator error and learn curve.	Aug 9, 2010 9:48 PM
34	None really.	Aug 9, 2010 10:13 PM
35	It was easier to upload a spreadsheet before CFIS. I'm not sure any of the independent organizations who monitor campaign finance (such as WDC) think the data provided by the CFIS system is any better than before. Plus, there's annoying picky things. Like why doesn't it prefill the "beginning cash balance" with that stated on the last report? Aren't computer-based systems supposed to be helpful with precisely this sort of thing?	Aug 9, 2010 10:13 PM
36	None - it works well!	Aug 9, 2010 10:38 PM
37	Difficult to navigate, doesn't show candidate loans from prior periods	Aug 9, 2010 10:43 PM
38	Does not work well on dial up. User interface is not easy to use. The entire CFIS system seems to exist under the mistaken belief that candidates WANT to keep track of all of their donors in the GAB's system. We want to keep our lists externally (either in excel or in a 3rd party vendor) and then upload the minimally required information during finacne report time. It is like you guys haven't ever actually worked on a campaign before and understand how protective people are of their own lists, or how having a complicated system that requires training to get up-to-speed on can be intimidating to new candidates or treasurers.	Aug 9, 2010 10:46 PM
39	Limited campaign expense options.	Aug 9, 2010 10:47 PM
40	System asks for enter and later submit. Can't this be combined?	Aug 9, 2010 10:47 PM
41	None per se	Aug 9, 2010 11:02 PM
42	While I was happy to be able to file online, the system was very difficult to use.	Aug 9, 2010 11:37 PM
43	Not at all intuitive or clear how to do even simple tasks, such as filing a report of "No Report".	Aug 9, 2010 11:56 PM

Response Text		
44	would be happy to come in and discuss. There are several items that work VERY well. But on balance, it is cumbersome for higher-volume organizations.	Aug 10, 2010 12:14 AM
45	I always have to call or get some extra help, forgetting some of the steps. some of the screen that should be very useful don't open so the can be seen.	Aug 10, 2010 12:40 AM
46	It just took a while to figure it all out. We are not 100% sure that we got it all right.	Aug 10, 2010 1:09 AM
47	Double entry from entering a conduit disbursement and then generating a transmittal letter and then filing to state; would be easier to do both at once instead of two steps	Aug 10, 2010 1:32 AM
48	<p>Column on the left of screen is partially blocked (the writing on the right).</p> <p>We are a very small PAC, and the learning curve for using the electronic reporting system is steep each year.</p> <p>We were using the old Excel spreadsheets, now have to use the new. This caused a lot of grief.</p> <p>We got an error when we uploaded, but the system didn't tell us what was wrong.</p> <p>The codes in the spreadsheet are a bit of a challenge to use.</p> <p>The process of uploading then the routine for accepting is neither intuitive nor spelled out clearly.</p> <p>When we did the report this last July, the cover balance sheet showed outstanding bills to pay. This was a carryover from a previous report -- those bills were long ago paid.</p>	Aug 10, 2010 1:33 AM
49	We have to call to correct loan amount every submission.	Aug 10, 2010 1:43 AM
50	Accessing the spreadsheet	Aug 10, 2010 2:06 AM
51	It is not clear when filing reports-the starting point. For example-When doing July 2010- does the report start from Jan 1, 2010 or does it start from the Feb 2010 bank balance????	Aug 10, 2010 2:10 AM
52	There is no problem if I read closely and am not trying to rush the process!	Aug 10, 2010 2:18 AM
53	Electronic filikng system is not user friendly	Aug 10, 2010 2:25 AM
54	The software does not keep track of past loans to the committee.	Aug 10, 2010 2:56 AM
55	I am still learning the system so I believe most of my problem will be with unfamiliarity. Initially, I wish it was more user-friendly...	Aug 10, 2010 3:19 AM
56	Not allowing edits, had to cut and paste into a field to get it to change.	Aug 10, 2010 3:29 AM
57	Slow, cumbersome data entry system, not able to enter a begininning balance and compute an ending balance like the old spreadsheet.	Aug 10, 2010 3:51 AM
58	YTD Contributions does not populate System slow at times	Aug 10, 2010 4:03 AM
59	I wish CFIS still kept files of the contributors on their data base when I typed in the name, everything came up filed in. A few people who belong to two or more conduits or PAC screw it up for the vast majority.	Aug 10, 2010 5:01 AM
60	It is often difficult to find the numbers assigned to contributions from PACs. It would be nice to have access to a list of PACs and their numbers.	Aug 10, 2010 8:17 AM
61	I've used it twice and both times I wasn't sure I understood what to do so I talked with someone and they helped me figure it out.	Aug 10, 2010 11:26 AM
62	I would like to see a better guide for using the system. There isn't much detail in the online guide.	Aug 10, 2010 12:38 PM
63	uncertainty whether a transaction had been saved unless reviewing report of all transactions	Aug 10, 2010 12:40 PM

Response Text		
64	The only problem lies in the fact that the system is not used on a daily basis and the user has to refresh her memory when reporting is due. It is not the system, but the user.	Aug 10, 2010 12:46 PM
65	I'm using a satellite connection (in a rural community) and the response time is quite slow at times. Response time is MUCH improved since CFIS first came online, however.	Aug 10, 2010 12:48 PM
66	I have had trouble remembering how to file the no activity report.	Aug 10, 2010 12:48 PM
67	I would like to use the online filing system but had very little help getting set up and needed help on how to make changes when necessary but little or no help was available	Aug 10, 2010 12:50 PM
68	I have not been trained on the use of this system and I don't use it. I have asked a dozen time to have a class on the use of this system and so far it has not happened. I use the paper method and that works for me.	Aug 10, 2010 1:10 PM
69	Although I find the software somewhat confusing and hard to navigate, the Staff has always been very helpful	Aug 10, 2010 1:27 PM
70	It doesn't work well on a Mac, which is what I have.	Aug 10, 2010 1:38 PM
71	None	Aug 10, 2010 1:40 PM
72	I'm not able to accurately document a conduit release date when that date is in a prior reporting period, even though the actual check wasn't processed until after that date. Ex. Dr. authorized on 6/28/10, however, candidate's check isn't prepared and processed until 7/05/10, once the rest of the Drs. authorizations were collected. Check will be on next reporting cycle, however, the system won't allow the 6/28/10 date, since it's in a closed period.	Aug 10, 2010 1:44 PM
73	None	Aug 10, 2010 2:20 PM
74	I have not used CFIS, as I am a new administrator.	Aug 10, 2010 2:33 PM
75	problems resulting from what our vendor software produces and what CFIS requires, i.e., returned contributions need to be deleted from the spreadsheet I pull from our vendor software prior to uploading because GAB does not require them to be reported.	Aug 10, 2010 2:39 PM
76	It was a bit challenging to make the corrections stick, our responses were often rejected and we would have to start over with our edits. The service overall with the staff at GAB has been excellent, very helpful and responsive and certainly dedicated and patient. Our overall experience was extremely positive. We are very grateful to all.	Aug 10, 2010 2:57 PM
77	When entering conduit contributions one registrant usually pops up in the drop down menu, but when filing the transaction several do. If you forget to enter the number when you enter the transaction it's sometimes hard to find what you previously entered. This is annoying.	Aug 10, 2010 3:00 PM
78	Learning the system has been by trial and error; categories are not defined. Response time is better. I have to enter data at the library because my home computer is an Apple MacBook which is incompatible with the cfis system.	Aug 10, 2010 3:03 PM
79	Overall, it's not bad, but for a smaller conduit committee that only uses it once or twice per election cycle, it's not very intuitive.	Aug 10, 2010 3:08 PM
80	too large a menu of items, which can be confusing when trying to find the right category that's needed to complete the report. Also, trusting the system to come out right in the end. In the past, when you used the system you'd find out down the road that the information you gave was CHANGED!	Aug 10, 2010 3:17 PM
81	Getting the system to accept the report. Confusion as to which login was needed.	Aug 10, 2010 3:42 PM

Response Text		
82	Entering dates of donations/receipts and expenditures - does not allow date if before registration date; Entered expenditures using the add button and had to reenter all of them because it entered them under the same vendor as opposed to next entry item. I just wasn't familiar with the system but it also seemed the correct next step.	Aug 10, 2010 3:51 PM
83	Don't use and don't know answers to many questions above.	Aug 10, 2010 4:05 PM
84	none	Aug 10, 2010 4:09 PM
85	I don't like it that the cover page information, including running totals doesn't come up until you are ready to upload the information. I like to be able to double check totals on receipts and expenses as I go. Also I didn't realize that "registrant" was PAC money so I had to go back and reenter those (I started out with business)	Aug 10, 2010 4:21 PM
86	It's confusing to find the screens needed to enter information. I can never remember the "names" of the forms I need to file a report.	Aug 10, 2010 5:04 PM
87	I have had no problems.	Aug 10, 2010 5:07 PM
88	System does not provide adequate confirmations of entered data - should be a more detailed form fill system.	Aug 10, 2010 5:37 PM
89	in my experience all the data has to be entered new each time. There is no recall.	Aug 10, 2010 5:46 PM
90	There do not seem to always be appropriate choices to describe some transactions. In particular, dues share transmittals between county and state party organizations.	Aug 10, 2010 6:51 PM
91	When I entered in-kind donations I entered them as expenses first and when I entered them as receipts it gave me the option of setting up the expense...had I know that this would happen I would have saved myself a lot of time by entering the receipts first. I fear that I may have missed some people who donated more than once and ended up donating, in total, enough so that I needed to enter additional information (i.e. two \$50 donations from the same person). I wish the software would have caught those.	Aug 10, 2010 7:47 PM
92	a conduit contribution to a candidate that I did a transmittal letter for did not appear on my report. after a call to GAB, they corrected it.	Aug 10, 2010 8:31 PM
93	At this time, it is difficult to remember specific problems. Tracey is wonderful at helping as each situation comes up.	Aug 11, 2010 12:42 AM
94	It is not user friendly. Prefer using the Excel spreadsheet and emailing it to GAB.	Aug 11, 2010 2:52 AM
95	What a stupid idea the CFIS is. Why should I have to make duplicate entries for all receipts and expenditures when I already have to do it for taxes and accounting purposes.	Aug 11, 2010 3:36 AM
96	Year to date totals are not automatic.	Aug 11, 2010 1:57 PM
97	Not user friendly, I always need to call for some assistance. However, when I call, your office is extremely helpful and nice.	Aug 11, 2010 2:20 PM
98	I find the data entry is slow and very cumbersome. Input should be all on one sheet not multiple sheets. The instructions are vague and getting from one screen to another is difficult. This seems to be symptomatic of any State of WI system as I have the same concerns with the sales tax reporting system and online DNR permit requests. I use Quickbooks in my daily work and while it too has some faults, it is a breeze compared to this.	Aug 11, 2010 3:59 PM
99	I always worry it isn't going to work. I plug in the numbers following my template and just hope as alot of the language is greek to me. conduits etc.	Aug 11, 2010 4:47 PM
100	Losing data that was entered;sluggishness of the program; remembering how to input some of the items - using notes has been helpful	Aug 11, 2010 5:00 PM
101	None, If I have a question, I call the staff, and they are very helpful.	Aug 11, 2010 5:07 PM
102	Wished there was more help when I used the "help" button.	Aug 11, 2010 6:14 PM
103	understand how to get to the right places and how to save and go back to a section and to find certain categories	Aug 11, 2010 11:11 PM

Response Text		
104	confusing at times, over time I have learned, problem is only completing on average 2 times a year, easy to 'forget' how to do, once on again gets easier to understand.	Aug 12, 2010 12:09 AM
105	It is very difficult to find the pathway to submit the report. To the best of my recollection you have to do something (usually takes a while to remember or figure out what) to get a link to evidence itself before the report can be submitted. The section where you input account data does not "do the math" since the change over and it doesn't allow any mechanism for "checking the math" before you click that final button.	Aug 12, 2010 3:56 AM
106	In 2008, I had a problem accessing what I needed to, but staff sent me an email which took care of the problem. I've had no trouble since	Aug 12, 2010 9:59 AM
107	In the early years there was an issue with the "balance" section, but that has been resolved.	Aug 12, 2010 12:23 PM
108	to difficult to determine what screen to use	Aug 12, 2010 1:16 PM
109	I stillhave problems with registrants. They often have more than one number and address for the same campaign committee and I never know if I am using the correct one.	Aug 12, 2010 3:00 PM
110	Some of the processes are unclear	Aug 12, 2010 4:11 PM
111	Trouble with password Trouble with understanding where to put numbers. Not always sure when things are due. always been jule 1st not 15th I am new so out of the loop	Aug 12, 2010 6:39 PM
112	Not sure it is a problem, but I don't know how donaters who give more than once are tallied. The old system did it automatically, but very slowly. It doesn't look like the updated system does this and am not sure how this will look going forward.	Aug 12, 2010 11:57 PM
113	Unsure on which election cycle to select. Unable to log off. Unable to update our address.	Aug 13, 2010 7:03 PM
114	Attempt to force everyone to use online input by single cell data entry.	Aug 14, 2010 12:00 PM
115	The system is unable to generate large reports for review until they are submitted, which creates serious difficulties in checking the report over for compliance and accuracy before filing. The entries in CFIS should be exportable in the same format that they are uploaded, or at least provide the same information. For example. without this function, it is ridiculously burdensome to have to manually click through each entry flagged for compliance to find out what the issue is. The export function is also the only way that those of us with large reports (that can't be generated prior to filing) can get an idea of what we are about to transmit, and the information provided in these exports is heavily truncated. The system is slow. If you don't import zip codes as "text" they don't record correctly. I strongly dislike importing conduit contributions using that cumbersome code that you can only use once and sometimes doesn't work at all. If it weren't for the assistance of the GAB staff (Richard, Tracy, et. al.) the system would be completely unusable.	Aug 14, 2010 2:08 PM
116	Previously I used XCEL spreadsheet, but had difficulty up loading it so afraid to use it as I might have to re enter everything at last minute.	Aug 14, 2010 5:29 PM

Campaign Finance Information System Performance Survey - July Reporting Period

10. Provide any suggestions for improvements the G.A.B. can make to CFIS	
	Response Count
	120
<i>answered question</i>	120
<i>skipped question</i>	144

Response Text		
1	Perhaps the GAB might consider holding a seminar on PACs/conduits like they do for lobby reporting requirements.	Aug 9, 2010 8:12 PM
2	Should be able to enter the begining cash balance and preview the EB-2 before submission. Otherwise works great	Aug 9, 2010 8:13 PM
3	Will let you know once I use system to do EB10 reports	Aug 9, 2010 8:13 PM
4	The users manual is not comprehensive. I have always had to call for further explanation or help.	Aug 9, 2010 8:14 PM
5	have the exact form that was previously mailed enabled to input data. The data input on the new system is cumbersome	Aug 9, 2010 8:15 PM
6	none	Aug 9, 2010 8:18 PM
7	get the ammendment bug worked out	Aug 9, 2010 8:19 PM
8	Allowing committees w/ no money movement to file via simple card is hand and ideally, retained.	Aug 9, 2010 8:20 PM
9	Trash it and start over.	Aug 9, 2010 8:22 PM
10	I didn't fill out #7 because this is the first time our committee used G.A.B.	Aug 9, 2010 8:23 PM
11	Improve the upload system - current delays and errors make it unusable	Aug 9, 2010 8:25 PM
12	Just keep up the good work	Aug 9, 2010 8:25 PM
13	remember the contributors like before. it's a hassle to go back and figure out the YTD contribution amount	Aug 9, 2010 8:25 PM
14	The system is fine now that I understand how to use it. It would be nice to have a ready-resource to answer questions when I'm stuck instead of having to contact GAB audtiors.	Aug 9, 2010 8:25 PM
15	I like talking to Richard.	Aug 9, 2010 8:26 PM
16	Auto fill information on givers or candidates where possible.	Aug 9, 2010 8:30 PM
17	Hard to improve perfection, please keep up the great customer service attitude.	Aug 9, 2010 8:32 PM
18	Make uploading easier and perhaps eliminate duplication .. Doesn't make a whole lot of sense to have to submit both paper and electronic files.	Aug 9, 2010 8:32 PM

Response Text		
19	<p>There are a couple of things that make electronic filing more laborious in Wisconsin.</p> <p>First, if an individual has \$10 payroll deductions and a committee wants to refund a total of \$200, they have to enter an individual refund for each receipt instead of entering 1 \$200 refund for all of the receipts.</p> <p>Second, submitting a conduit report is painful in that you have to submit each contribution one at a time.</p> <p>Any fixes to these two things would be appreciated.</p>	Aug 9, 2010 8:41 PM
20	I just don't think the system is very intuitive. It seems to take extra steps to simply report income and expenses and the steps don't seem to be obvious.	Aug 9, 2010 8:46 PM
21	I believe those small tweaks I've written about will really help streamline the process.	Aug 9, 2010 8:52 PM
22	The authorized date is not always the date a check is issued - this appears to be an assumption by the system which is not accurate.	Aug 9, 2010 8:58 PM
23	To soon to suggest changes; thanks for the help when I needed it.	Aug 9, 2010 9:01 PM
24	The system should automatically pick up the beginning balance for the next cycle and the system should automatically do year to date totals.	Aug 9, 2010 9:04 PM
25	Someway, somehow, make it faster and easier to use.	Aug 9, 2010 9:09 PM
26	Keep running total for contributions	Aug 9, 2010 9:16 PM
27	<p>1) fix the formatting so that zip code fields work</p> <p>2) we generate transmittal letters, and we have to check boxes to do it, but there is no "select all" function. this results in having to individually click boxes and it takes a very long time</p>	Aug 9, 2010 9:20 PM
28	It just needs to be more user friendly, and I'm not sure there's anywhere to go that walks through step by step instructions on how to perform some of the simpler tasks I hate to bother GAB staff with.	Aug 9, 2010 9:22 PM
29	In the past when I entered a contributor, if they had contributed before, their name would pop up saving me from typing in their address again. Lately your system does not do that.	Aug 9, 2010 9:39 PM
30	Individual data base for each candidate which saves contributor info (address & employment) along with year to date contribution amounts	Aug 9, 2010 9:47 PM
31	Limit the amount rich candidates can contribute to prevent them from buying an election.	Aug 9, 2010 9:48 PM
32	<p>In the contribution spreadsheet there is not a column for spouses. I have added that column for the Pre-Primary report.</p> <p>May I also suggest that the conduit code be linked to key words that would automatically insert the conduit number from the CFIS conduit list? Example: If I enter the word "Realtor" in the conduit ID column, the list of possible ID codes would pop up, beginning with the entry of the letter "R." As more information is entered, the menu of choices is narrowed until we are able to find the conduit that corresponds with the contribution. We click on the right choice, and their number is automatically entered.</p>	Aug 9, 2010 9:59 PM
33	A pull down list of expenditure categories would be helpful on the CFIS excel spreadsheet	Aug 9, 2010 10:07 PM
34	Get the most recent version of Excel so that our group can email you a copy (as well as send one in the mail). That would be most helpful!	Aug 9, 2010 10:13 PM
35	Periodic training. Extended office hours in the days before reports are due. That's my main beef with the staff. They are really good at what they do, but they should be all hands on deck with extended hours right before reporting periods. Couldn't they be given comp time to use at a later date? This would be revenue neutral, but I suppose there's union issues with this. sigh.	Aug 9, 2010 10:13 PM

Response Text		
36	There are duplicate candidates in there with different numbers. Which is the correct one to use for each and then remember when doing the search for the transmittal letter.	Aug 9, 2010 10:14 PM
37	Be able to quickly populate names from previous years. They should come up as soon as you start to type the name.	Aug 9, 2010 10:17 PM
38	The GAB staff is very pleasant to work with and responsive!	Aug 9, 2010 10:38 PM
39	Go back to the Excel spreadsheet	Aug 9, 2010 10:43 PM
40	Your GAB staff, especially Richard have been incredibly helpful. REDUCE the amount of information you are trying to collect to the bare minimum. All the drop down boxes and extra fields that aren't required by law for finance reports simply slow down data entry, increase the odds of errors, and make the entire process more confusing to new candidates.	Aug 9, 2010 10:46 PM
41	Bring back the dropdown choices for contributors.	Aug 9, 2010 10:47 PM
42	Seems to work fine.	Aug 9, 2010 10:47 PM
43	I work a lot with QuickBooks which is super easy to use, has a lot of cross-checking across accounts and lists, provides automatic fill-in's, etc.,etc. Maybe you should have used it as a model (maybe even approaching Intuit to modify a version for GAB) instead of building a system that is only adequate from scratch??	Aug 9, 2010 11:02 PM
44	continue to allow for paper filing only	Aug 9, 2010 11:06 PM
45	Having to enter names and addresses of doners every time. Having to keep track of donations and entering a total each time instead of the CFIS form having a unning total.	Aug 9, 2010 11:22 PM
46	I never did this so I don't know what to say thank you	Aug 9, 2010 11:26 PM
47	1. Prior balances should automatically appear on the cover sheet. You should be able to edit the cover sheet for accuracy/correct errors. 2. There should be a way that once you enter a name and address it is there for repeated use and not have to be entered each time. 3. Just feel that the whole program, which clearly cost way too much money, is not at all user friendly.	Aug 9, 2010 11:28 PM
48	As a first time filer, some form of direction box or dialog or link would have been very helpful.	Aug 9, 2010 11:37 PM
49	Consider the 90% rule -- if 90% of the campaigns need to file something simple, then make it as easy as possible to do that. Then work on the other 10%.	Aug 9, 2010 11:56 PM
50	would be happy to discuss in person.	Aug 10, 2010 12:14 AM
51	Please hold on to Richard if it weren't for him I don't know what I would do. I think the GAB ought to come out and work with one of use total freaked out users and watch us sweat through the system. Then I could offer all my suggestions!! Nothing like the high anxiety of getting that thing done!	Aug 10, 2010 12:40 AM
52	You have been great whenever I have called with questions. Thank you and please keep it up.	Aug 10, 2010 1:09 AM
53	See #9.	Aug 10, 2010 1:33 AM
54	Make the spreadsheet easier to access.	Aug 10, 2010 2:06 AM
55	Stop making us send in a paper report along with the electronic report.	Aug 10, 2010 2:10 AM
56	None. Efficient and personnel polite/knowledgable.	Aug 10, 2010 2:18 AM
57	Improve your online services, make them uuser friendly, put in accumulators.	Aug 10, 2010 2:25 AM
58	It would be nice to have an on-line printed instruction manual in PDF that users could download.	Aug 10, 2010 2:39 AM
59	Repair the software to keep track of loans.	Aug 10, 2010 2:56 AM
60	One area would be for the system to default the previous cash balance at end of report into the new report as cash balance at beginning of report and then calculate the cash balance at end of report based on all of our data entries.	Aug 10, 2010 3:19 AM

Response Text		
61	Simplify the spreadsheet to make it even easier to use.	Aug 10, 2010 3:29 AM
62	Richard was a lot of help, I appreciated the staff support with my questions on the report itself. The database CFIS is fine.	Aug 10, 2010 3:29 AM
63	See above.	Aug 10, 2010 3:51 AM
64	My Treasurer is more intimaae with the system.	Aug 10, 2010 4:03 AM
65	An easier way to recall contributor data rather than type it in each time. Very time consuming.	Aug 10, 2010 5:01 AM
66	Can't think of any.	Aug 10, 2010 12:46 PM
67	I really like that you can look up past information from all filings at once without being logged into CFIS. It would be nice to be able to do those kind of searches while logged into CFIS especially since the system doesn't do lookups anymore to display the running total of YTD contributions for contributors.	Aug 10, 2010 12:48 PM
68	sometimes takes awhile before getting a call back. But I do always get a call back.....waiting when you have a question or problem is frustrating.	Aug 10, 2010 12:48 PM
69	Less is more...dont send pages and pages of information that never gets to the point. send information that will help people step by step on how to use the online system with possibly a number to a help desk for related questions.	Aug 10, 2010 12:50 PM
70	I would really like to know how to use the CFIS system, but the one I have works great so I will continue to use that one.	Aug 10, 2010 1:10 PM
71	Make the menus better. There ought to be one that says, "File the report now."	Aug 10, 2010 1:38 PM
72	None	Aug 10, 2010 1:40 PM
73	When it comes to prepping the Rev or Exp load files for contributions and distributions, it would be helpful if we could have the respectful names along with their proper ID numbers. It would help is proofing the file to make sure it's completely accurate. The concept of decoding the IDs just slows this down.	Aug 10, 2010 1:44 PM
74	None	Aug 10, 2010 2:20 PM
75	Is there really a reason to file a hard copy once we have submitted an electronic version? Seems like a waste of time and paper and defeats the purpose of filing electronically.	Aug 10, 2010 2:43 PM
76	Make the computer program a bit more user friendly.	Aug 10, 2010 2:57 PM
77	The fact the system does not save contributor information and keep track of year-to-date totals is really frustrating. When the system did this I saw it as a really useful tool. Now that it doesn't do that, it's just like filling out a blank form every time. There's not much advantage to the system if you have to re-enter contributors every time and keep track of the year-to-date totals yourself. I'd really like to see this changed back to the way it was originally.	Aug 10, 2010 3:00 PM
78	Better, clearer definition of categories on the cfis menu system . Compatibility with Apple products.	Aug 10, 2010 3:03 PM
79	Number one: It would be wonderful if we didn't have to re-input everyone's address, employer info - every time that person contributes.	Aug 10, 2010 3:08 PM
80	simplify and paraphrase! you need to establish trust and confidence to the user! Personally, I'd rather use the system, If of course; these things I mentioned were taken seriously.	Aug 10, 2010 3:17 PM
81	Our conduit distributes most of our dollars to local candidates. For local candidates, CFIS needs to be updated to print the contributor's work information on the transmittal letter so I don't have to provide handwritten information to that effect. Especially after the system requires me to enter it (but doesn't display it).	Aug 10, 2010 3:28 PM
82	Candidate and treasurer should automatically have full edit permissions. Staff was EXTREMELY knowledgeable, friendly, accessible and helpful.	Aug 10, 2010 3:42 PM
83	Is the list of number codes for tye of itemized expenditure back into effect?	Aug 10, 2010 4:05 PM
84	I dont have any at this time.	Aug 10, 2010 4:09 PM

Response Text		
85	You could add " PAC" behind the word registrant. If we could access the cover page from the menu I could check my totals as I enter receipts and expenses. Give Richard a raise - he's the best!	Aug 10, 2010 4:21 PM
86	I wish all the US States would pattern their filings after the FEC's filing - you have a summary page and you click on the line where you need to enter information. For example, contribution received, contributions made for Federal candidates, and then Local candidates, contributions returned to the PAC, operating expenditures, etc. Then I know for certain that I'm entering the money correctly.	Aug 10, 2010 5:04 PM
87	I am a first-time candidate with no previous experience with CFIS, so I can't offer any legitimate suggestions for improvement. Overall, I am very satisfied with the CFIS system.	Aug 10, 2010 5:07 PM
88	When entering a receipt, it should recognize a previous vendor so that you know to edit/add another expense as opposed to re-entering.	Aug 10, 2010 6:24 PM
89	Some of the data entry could be more intuitive to aid situations for volunteer workers who don't access the system frequently enough to maintain high proficiency with it.	Aug 10, 2010 6:51 PM
90	Based on my problems listed above, I would suggest that the system asked you to enter the other side of in-kind donation whether you were in the receipts or expenses part of the software. Also, maybe an auto-fill would be helpful in the name and maybe address field to help alert you when person has already been entered into the system (and therefore may have multiple donations equaling an amount that requires additional data). I hope this is helpful.	Aug 10, 2010 7:47 PM
91	when entering contributions to candidates, only one record comes up but when trying to bring up on the pending screen, the candidate has many records.	Aug 10, 2010 8:31 PM
92	"Campaign Finance Bookkeeping Manual" is totally disorganized. It should go thru the process of using cfis STEP BY STEP. Why does it explain how to EDIT data before how to ENTER it? And, and index wouldn't hurt.	Aug 10, 2010 8:41 PM
93	Have a simpler procedure for electronic filing for "no activity during report period"	Aug 10, 2010 9:00 PM
94	Stop using codes for disbursements and just specify the disbursement. It is difficult to categorize some expenses into a specific code.	Aug 11, 2010 12:42 AM
95	Forget the whole program, it is a waste of time to thing that \$20 is going to buy a vote.	Aug 11, 2010 3:36 AM
96	Automate year to date totals.	Aug 11, 2010 1:57 PM
97	ability to have beginning cash balance show on summary sheet before the actual reports are filed.	Aug 11, 2010 2:02 PM
98	Make better use of drop down menus. I was looking for a prior report that I had filed and it took me at least 15 minutes to find it. A candidate should be able to view prior reports as a drop down list - just click on the one you want instead of having to guess which year, which period, whatever. When filling in a number of items that are requested, simply tabbing from one to the next should not prompt the system to regenerate between boxes. This takes too much time. Why does a paper copy need to be sent, if you file online? If you would issue a confirmation number and instruct the person to print the report for their records, that should be sufficient. What is the point of filing online if you still have to mail it in? Get into the computer age. If you need a "signature" that can be accomplished online too. The sales tax reporting system does it that way. Make it easier to correct or amend prior reports. I have some that need to be done and will have to drive up to the GAB to do so. Thankfully I only have to drive from the east side of Madison. I would have a real beef if I had to make a special trip from Superior or Ashland.	Aug 11, 2010 3:59 PM
99	Conduit -- would like the population feature back - or at least the company populated easier	Aug 11, 2010 4:10 PM
100	If we are doing the electronic why send a paper copy. Makes no sense to me... If thats the case lets just go back to the paper system.	Aug 11, 2010 4:47 PM

Response Text		
101	Keep the system, it is very easy to use if you read the manual.	Aug 11, 2010 5:07 PM
102	appreciated the fact that they held classes around the state to help anyone who needed it and that we can ask questions, helps a ton,	Aug 12, 2010 12:09 AM
103	1. Install a BIG, easy to see, easy to find SUBMIT REPORT button. Why do you have to hide it??? 2. Fix the section where account info is added so that it automatically adds and subtracts numbers so you know if you made a mistake. 3. Fix the final step to include one more step that allows a review before the report gets swallowed up into the system.	Aug 12, 2010 3:56 AM
104	None at this time	Aug 12, 2010 12:23 PM
105	you need to simplify the process. to many variables	Aug 12, 2010 1:16 PM
106	Delete any old or outdated campaign numbers	Aug 12, 2010 3:00 PM
107	No time right now, later after the Primary	Aug 12, 2010 4:11 PM
108	Your staff is wonderful and greatly helps Wisconsin politics. Thanks.	Aug 12, 2010 8:14 PM
109	Having to re enter individual addresses each time is very time consuming. I wish we could go back to the original design with address pop ups.	Aug 13, 2010 2:02 PM
110	Continue to work through bugs and eventually it will be a great system.	Aug 13, 2010 7:03 PM
111	Link to search for GAB Nos for transfer In/Outs	Aug 14, 2010 12:00 PM
112	The system doesn't aggregate contributions from the same contributor. PLEASE consider checking out how FECfile, the FEC filing software handles this function and implementing something similar. Please find a way that large committees can see their reports before filing them to state. Otherwise we are just filing blindly. Please add employer/occupation information and conduit ID numbers to the Transmittal Letters generated by CFIS.	Aug 14, 2010 2:08 PM
113	Go back to automatic figuring of contributions to date.	Aug 14, 2010 5:29 PM
114	It seems to me that you changed the way the system works due to performance issues in retrieving contributor information from the database. What you have created now is multiple records with the same contributor information--I don't see that that benefits the sytem from your standpoint either. As a former Oracle DBA and application designer, I would recommend that the contributor information be associated with a particular logon so that only that information relevant to that logon is retrieved in a drop down rather than go through the entire list of contributors. It would make the performance acceptable and reduce the data entry time, and eliminate duplicate contributor entries (though not entirely we know).	Aug 15, 2010 12:54 PM
115	I'll try to keep track of specific suggestions during the upcoming period.	Aug 16, 2010 12:38 PM
116	Use the form as a format and all we have to do is fill in the information where it belongs	Aug 16, 2010 2:22 PM
117	I appreciate the system adjustment for those of us still using dail up.	Aug 17, 2010 12:23 AM
118	Create an easier way to create the conduit letters.	Aug 18, 2010 3:44 PM
119	Keep Tracey happy! She always answers promptly and always has an encouraging word. Love working with her!	Aug 18, 2010 10:00 PM
120	it should keep its own running totals of contributions and maintain address/employment information on repeat donors for the cycle. I hate to think how many hours are wasted re-entering all of this information	Aug 22, 2010 2:30 PM

Response Text		
117	<p>I don't like having to re-enter all the same information on donors who contribute multiple times--name, address, occupation. It wasn't apparent that there was an "auto dup" key to recall what was on the previous record. I liked the way it was the last time I filed where I called up the person from a list or added them to the list.</p> <p>The only reason that I rated the system poor is due to the change in the way contributor information works. I thought you guys were on the right track when I filed in January and looked forward to a fix for the performance issue when using the contributor dropdown list. But you guys eliminated a good thing rather than creatively fix the performance issue which was fixable.</p>	Aug 15, 2010 12:54 PM
118	<p>The platform continues to be unwieldy to operate; for example, you often have to completely start over instead of just going "back" to a previous screen when editing records. It's also inconsistent about whether a comment is going to print on your finance report, and it's difficult to search for things (e.g., conduits) because the search field only recognizes EXACT terms in the conduit name, rather than key words. (for example, you might search "school administrators" and get no results because CFIS only recognizes "SAADirect").</p>	Aug 16, 2010 12:38 PM
119	<p>Moving between pages and losing entered information. Not sure if I am entering information correctly</p>	Aug 16, 2010 2:22 PM
120	<p>Navigation is confusing. Even after submitting several reports, I am still not fully comfortable with CFIS.</p>	Aug 16, 2010 6:23 PM
121	<p>It was easier to use when the addresses were automatically uploaded when you typed in the name of an individual or organization.</p>	Aug 17, 2010 12:12 AM
122	<p>Conduit reporting is very cumbersome and time consuming.</p>	Aug 18, 2010 3:44 PM
123	<p>The scroll down boxes when selecting candidates to enter into conduit pick their own selections as you try to scroll on the arrow keys and after you enter and go to file to the state screen the entries are not always the same.</p>	Aug 20, 2010 7:04 PM
124	<p>No explanations when you role you mouse over a certain button or feature. Explanations would be good to have on every item that could be confusing.</p>	Aug 21, 2010 5:56 PM
125	<p>have troubles with pulling up donors who have donated multiple time and running totals</p>	Aug 22, 2010 2:22 PM

Attachment 2



2009-2010 STATEMENT OF LOBBYING ACTIVITIES AND EXPENDITURES SUMMARY REPORT

August 23, 2010



Total Lobbying Expenditures
2009-2010 Legislative Session
through June 30, 2010

- Total Lobbying Expenditures: page 1
- Total Time Spent Lobbying from July through December 2009: page 2
- Biggest Spenders (by dollars): page 3
- Biggest Spenders (by hours): page 6
- Most Lobbied Bills: page 8
- Most Lobbied Budget Bill Subjects: page 11
- Topics, Minor Effort and No Lobbying Communication: page 13

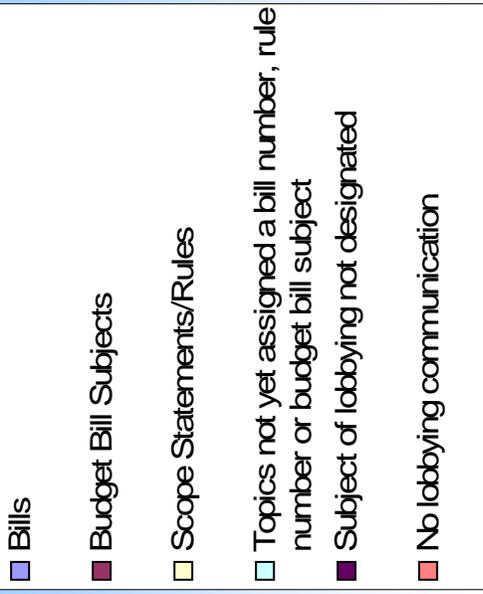
This report provides a measure of the lobbying activity directed toward specific proposals that were before Wisconsin's legislature during the 2009-2010 legislative session. Each of the 782 organizations that employed lobbyists in Wisconsin during the 2009-2010 legislative session has reported to the Government Accountability Board the number of hours and dollars it spent on lobbying-related efforts. Each also provided the Government Accountability Board with its estimate of the portion of its lobbying efforts associated with specific proposals.

The number of hours of lobbying-related activity reported for each proposal is derived from each lobbying organization's estimate of the hours it devoted to lobbying on that proposal during each 6 month reporting period within the 2009-2010 legislative session. True totals may be slightly greater for some proposals because an organization did not have to report time it devoted to a proposal if the time amounted to less than 10% of its total lobbying effort.

Due to the rounding of percentages and the formulas used to generate this report, all totals are accurate within a margin of +/- 1.

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
TOTALS:					
hours	160,008	116,884	133,691	0	410,584
dollars	\$20,778,925	\$15,427,012	\$17,754,183	\$0	\$53,960,119
CONTRACT LOBBYISTS AND THEIR RESEARCH STAFF:					
hours	56,157	39,828	46,933	0	142,918
dollars	\$8,489,337	\$8,073,090	\$8,443,232	\$0	\$25,005,658
IN-HOUSE LOBBYISTS AND THEIR RESEARCH STAFF:					
hours	103,851	77,056	86,759	0	267,665
dollars	\$8,702,775	\$6,308,734	\$7,295,076	\$0	\$22,306,585
ALL OTHER LOBBYING EXPENSES:					
dollars	\$3,586,813	\$1,045,187	\$2,015,875	\$0	\$6,647,875

**2009-2010 Legislative Session Focus on Lobbying Interests
January 2009 - June 2010**



**2009 - 2010 Legislative Session Lobbying
Effort in Hours by Subject Area**

Lobbying Subject	Hours	Percentage
Bills	142,166	34.63%
Budget Bill Subjects	66,831	16.28%
Scope Statements/Rules	6,492	1.58%
Topics not assigned a bill number, rule number or budget bill subject	98,259	23.93%
Subject of lobbying not designated	77,325	18.83%
No Lobbying Communication	19,511	4.75%
	410,584	100.00%

The 15 organizations who spent the greatest number of DOLLARS lobbying

Wisconsin Education Association Council

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	4,303	2,935	3,223	0	10,462
dollars	\$1,007,329	\$503,943	\$632,316	\$0	\$2,143,588

Forest County Potawatomi Community

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	773	719	702	0	2,194
dollars	\$366,984	\$389,528	\$1,160,380	\$0	\$1,916,892

Wisconsin Insurance Alliance

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	863	564	506	0	1,933
dollars	\$598,727	\$178,703	\$180,372	\$0	\$957,802

Altria Client Services Inc

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	973	348	272	0	1,593
dollars	\$627,501	\$128,232	\$84,472	\$0	\$840,206

Wisconsin Hospital Association Inc (WHA)

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,690	2,436	1,612	0	6,738
dollars	\$314,705	\$290,328	\$214,638	\$0	\$819,671

Wisconsin Medical Society

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,635	1,666	2,446	0	5,747
dollars	\$164,062	\$222,232	\$311,002	\$0	\$697,296

Wisconsin Manufacturers & Commerce

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,770	2,197	2,019	0	6,986
dollars	\$322,927	\$185,096	\$172,032	\$0	\$680,055

Wisconsin Petroleum Marketers & Convenience Store Association

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,157	222	557	0	1,936
dollars	\$525,339	\$35,205	\$65,403	\$0	\$625,946

Wisconsin Energy Corporation

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	975	572	929	0	2,477
dollars	\$195,753	\$191,469	\$185,344	\$0	\$572,567

Wisconsin Independent Businesses Inc

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	4,592	3,347	3,033	0	10,972
dollars	\$285,110	\$173,305	\$103,060	\$0	\$561,474

Wisconsin Counties Association

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,159	1,544	2,271	0	5,975
dollars	\$186,707	\$159,576	\$211,738	\$0	\$558,020

Wisconsin Farm Bureau Federation

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,219	937	1,063	0	3,218
dollars	\$183,751	\$188,936	\$160,355	\$0	\$533,042

RAI Services Company (formerly Reynolds American Inc.)

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	166	20	0	0	186
dollars	\$357,866	\$108,387	\$60,252	\$0	\$526,505

Wisconsin Bankers Association

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,993	1,520	1,495	0	5,009
dollars	\$205,630	\$153,408	\$149,859	\$0	\$508,897

Wisconsin Realtors Association

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,826	1,179	1,161	0	4,166
dollars	\$166,598	\$129,797	\$148,896	\$0	\$445,291

The 12 organizations who spent the greatest number of HOURS lobbying

Wisconsin Independent Businesses Inc

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	4,592	3,347	3,033	0	10,972
dollars	\$285,110	\$173,305	\$103,060	\$0	\$561,474

Wisconsin Education Association Council

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	4,303	2,935	3,223	0	10,462
dollars	\$1,007,329	\$503,943	\$632,316	\$0	\$2,143,588

Wisconsin Property Taxpayers Inc

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,705	3,063	3,765	0	9,533
dollars	\$106,615	\$121,344	\$147,629	\$0	\$375,589

Wisconsin League of Conservation Voters (WLCV)

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	3,989	2,271	1,861	0	8,120
dollars	\$124,663	\$69,506	\$82,475	\$0	\$276,644

Wisconsin Manufacturers & Commerce

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,770	2,197	2,019	0	6,986
dollars	\$322,927	\$185,096	\$172,032	\$0	\$680,055

Wisconsin Hospital Association Inc (WHA)

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,690	2,436	1,612	0	6,738
dollars	\$314,705	\$290,328	\$214,638	\$0	\$819,671

Wisconsin Counties Association

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,159	1,544	2,271	0	5,975
dollars	\$186,707	\$159,576	\$211,738	\$0	\$558,020

State Bar of Wisconsin

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,200	1,768	1,854	0	5,822
dollars	\$140,760	\$95,395	\$113,158	\$0	\$349,313

AFSCME Council 11

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,234	1,692	1,878	0	5,804
dollars	\$158,493	\$120,577	\$156,809	\$0	\$435,879

Wisconsin Medical Society

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,635	1,666	2,446	0	5,747
dollars	\$164,062	\$222,232	\$311,002	\$0	\$697,296

City of Milwaukee

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	2,557	1,543	1,161	0	5,261
dollars	\$166,478	\$92,927	\$72,816	\$0	\$332,222

Clean Wisconsin Inc

	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
hours	1,083	1,787	2,391	0	5,260
dollars	\$53,954	\$75,360	\$113,815	\$0	\$243,129

The 10 most lobbied bills

Assembly Bill 649 2009 Regular Session

goals for reductions in greenhouse gas emissions, for construction of zero net energy buildings and for energy conservation; information, analyses, reports, education and training concerning greenhouse gas emissions and climate change; territories, and renewable resource programs; renewable energy requirements of electric utilities and retail cooperatives; requiring electric utilities to purchase renewable energy from certain renewable facilities in their service territories; authority of the Public Service Commission over nuclear power plants; motor vehicle emission limitations; a low carbon standard for transportation fuels; the brownfield site assessment grant program, the main street program, the brownfields grant program, the forward innovation fund, grants to local governments for planning activities, the transportation facilities economic assistance and development program, a model parking ordinance, surface transportation planning by the Department of Transportation and metropolitan planning organizations to reduce greenhouse gas emissions; environmental evaluations for transportation projects; idling limits for certain vehicles; energy conservation codes for public buildings, places of employment, one- and two-family dwellings, and agricultural facilities; design standards for state buildings; energy efficiency standards for certain consumer audio and video devices, boiler inspection requirements; greenhouse gas emissions and energy use by certain state agencies and state assistance to school districts in achieving energy efficiencies; creating an exception to local levy limits for amounts spent on energy efficiency measures; creating an energy crop reserve program; identification of private forest land, promoting sequestration of carbon in forests, qualifying practices and cost-share requirements under the forest grant program established by the Department of Natural Resources; air pollution permits for certain stationary sources reducing greenhouse gas emissions; allocating a portion of existing tax-exempt industrial development revenue bonding to clean energy manufacturing facilities and renewable power generating facilities; requiring a report on certain programs to limit greenhouse gas emissions; granting rule-making authority; and providing a penalty. (FE)

January-June 2009 July-December 2009

hours 0 348

January-June 2010

8,012

July-December 2010

0

Session-to-date

8,360

Senate Bill 450 2009 Regular Session

goals for reductions in greenhouse gas emissions, for construction of zero net energy buildings and for energy conservation; information, analyses, reports, education, and training concerning greenhouse gas emissions and climate change; energy efficiency and renewable resource programs; renewable energy requirements of electric utilities and retail cooperatives; requiring electric utilities to purchase renewable energy from certain renewable facilities in their service territories; authority of the Public Service Commission over nuclear power plants; motor vehicle emission limitations; a low carbon standard for transportation fuels; the brownfield site assessment grant program, the main street program, the brownfields grant program, the forward innovation fund, grants to local governments for planning activities, the transportation facilities economic assistance and development program, a model parking ordinance, surface transportation planning by the Department of Transportation and metropolitan planning organizations to reduce greenhouse gas emissions; environmental evaluations for transportation projects; idling limits for certain vehicles; energy conservation codes for public buildings, places of employment, one- and two-family dwellings, and agricultural facilities; design standards for state buildings; energy efficiency standards for certain consumer audio and video devices, boiler inspection requirements; greenhouse gas emissions and energy use by certain state agencies and state assistance to school districts in achieving energy efficiencies; creating an exception to local levy limits for amounts spent on energy efficiency measures; creating an energy crop reserve program; identification of private forest land, promoting sequestration of carbon in forests, qualifying practices and cost-share requirements under the forest grant program established by the Department of Natural Resources; air pollution permits for certain stationary sources reducing greenhouse gas emissions; allocating a portion of existing tax-exempt industrial development revenue bonding to clean energy manufacturing facilities and renewable power generating facilities; requiring a report on certain programs to limit greenhouse gas emissions; granting rule-making authority; and providing a penalty. (FE)

January-June 2009 July-December 2009

hours 0 265

January-June 2010

6,312

July-December 2010

0

Session-to-date

6,577

Assembly Bill 138 2009 Regular Session

the appointment and term of service of the secretary of natural resources and vacancies on the Natural Resources Board.

July-December 2009

hours 1,078 1,845

January-June 2010

1,088

July-December 2010

0

Session-to-date

4,011

Senate Bill 405 2009 Regular Session

the powers and duties of the board of school directors and the superintendent of schools in a first class city school district, awarding a grant to a nonprofit corporation, requiring a referendum, and granting rule-making authority. (FE)

July-December 2009

hours 0 987

January-June 2010

970

July-December 2010

0

Session-to-date

1,956

Assembly Joint Resolution 24 2009 Regular Session

providing property tax relief from school district property taxes to persons who have their principal dwelling in this state (first consideration).

July-December 2009

hours 406 766

January-June 2010

753

July-December 2010

0

Session-to-date

1,925

Assembly Bill 75 2009 Regular Session

state finances and appropriations, constituting the executive budget act of the 2009 legislature.

July-December 2009

hours 1,923 0

January-June 2010

0

July-December 2010

0

Session-to-date

1,923

Senate Joint Resolution 7 2009 Regular Session

providing property tax relief from school district property taxes to persons who have their principal dwelling in this state (first consideration).

January-June 2009 July-December 2009

406

766

January-June 2010

565

July-December 2010

0

Session-to-date

1,736

hours

Assembly Joint Resolution 8 2009 Regular Session

taxation of principal homesteads of individuals (first consideration).

July-December 2009

459

January-June 2010

941

July-December 2010

0

Session-to-date

1,401

hours

Senate Bill 437 2009 Regular Session

authorizing the state superintendent of public instruction to direct a school district to implement a new curriculum or instructional design, make personnel changes, or adopt accountability measures, and requiring the exercise of rule-making authority. (FE)

January-June 2009 July-December 2009

48

January-June 2010

1,334

July-December 2010

0

Session-to-date

1,382

hours

Senate Bill 530 2009 Regular Session

regulating consumer small loans, limiting the areas in which a payday lender may operate, granting rule-making authority, and providing a penalty. (FE)

January-December 2009

0

January-June 2010

1,285

July-December 2010

0

Session-to-date

1,285

hours

Senate Bill 469 2009 Regular Session

authority of the Public Service Commission over certain telecommunications utilities, telecommunications access charges, universal service fund contributions based on interconnected voice over Internet protocol service, tandem switching provider electronic call records, granting rule-making authority, and making an appropriation. (FE)

January-June 2009 July-December 2009

0

January-June 2010

1,268

July-December 2010

0

Session-to-date

1,268

hours

Assembly Bill 314 2009 Regular Session

pesticide use by railroads, granting rule-making authority, and making an appropriation. (FE)

January-December 2009

614

January-June 2010

592

July-December 2010

0

Session-to-date

1,253

hours

Assembly Bill 696 2009 Regular Session

authority of the Public Service Commission over certain telecommunications utilities, telecommunications access charges, universal service fund contributions based on interconnected voice over Internet protocol service, tandem switching provider electronic call records, granting rule-making authority, and making an appropriation. (FE)

January-December 2009

0

January-June 2010

1,241

July-December 2010

0

Session-to-date

1,241

hours

Senate Bill 181 2009 Regular Session

prohibiting smoking in indoor areas, in sports arenas, in public conveyances, and at certain outdoor locations and providing a penalty. (FE)

January-December 2009

1,191

January-June 2010

0

July-December 2010

0

Session-to-date

1,191

hours

Assembly Bill 844 2009 Regular Session

groundwater management, water conservation, and granting rule-making authority. (FE)

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

Assembly Bill 723 2009 Regular Session

the southeastern regional transit authority, the creation of interim regional transit authorities in southeast Wisconsin, requiring the exercise of rule-making authority, and making an appropriation. (FE)

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

Assembly Bill 256 2009 Regular Session

regulation of wind energy systems and granting rule-making authority. (FE)

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

Senate Bill 185 2009 Regular Session

regulation of wind energy systems and granting rule-making authority. (FE)

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

Assembly Bill 482 2009 Regular Session

the minimum sale price of prescription drugs. (FE)

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

Senate Bill 587 2009 Regular Session

commercial real estate liens and recording a correction instrument and a lis pendens

January-June 2009 July-December 2009

hours

January-June 2010

July-December 2010

Session-to-date

The 12 most lobbied budget bill subjects

Health and Family Services: Medical Assistance

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	4,806	969	475	0	6,250

Insurance

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	4,480	1,205	25	0	5,710

Transportation: Transportation Finance

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	4,327	45	28	0	4,399

General Fund Taxes

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	3,435	249	8	0	3,692

General Provisions

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	2,982	9	1	0	2,991

Workforce Development: Departmentwide

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	2,099	170	6	0	2,276

Public Instruction: Revenue Limits

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	2,169	6	1	0	2,176

Employment Relations Commission

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	2,019	0	0	0	2,019

Shared Revenue and Property Tax Relief: Property Taxation

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	1,948	48	19	0	2,016

Health and Family Services: Health

hours	January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
	1,548	212	104	0	1,864

Health and Family Services: Family Care and Other Community-

hours	January-June 2009 768	July-December 2009 306	January-June 2010 617	July-December 2010 0	Session-to-date 1,691
hours	January-June 2009 1,515	July-December 2009 29	January-June 2010 2	July-December 2010 0	Session-to-date 1,546

Children and Families

TOPICS OF LOBBYING COMMUNICATION (not assigned a bill or clearinghouse rule number)

January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
42,249	38,509	17,501	0	98,259
hours				

MINOR LOBBYING EFFORT (effort that accounted for less than 10% of an organization's total lobbying time)

January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
24,876	26,409	26,040	0	77,325
hours				

NO LOBBYING COMMUNICATION

January-June 2009	July-December 2009	January-June 2010	July-December 2010	Session-to-date
6,743	6,104	6,663	0	19,511
hours				

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 30, 2010, Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been working with outside auditors on the agency's federal compliance audit, developing the Contract Sunshine program, beginning the budget reconciliation and development process, recruiting staff, communicating with agency customers, and making presentations.

Noteworthy Activities

1. Federal Performance Audit

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

On April 22, 2010 an exit conference was held with the Clifton Gunderson audit team, US EAC-Office of Inspector General staff, and G.A.B. staff to discuss preliminary findings. The audit team identified five areas of concern, which included: property management; program income; interest earnings shortfall; personnel costs; and, financial accounting and reporting.

During the initial exit conference with Clifton Gunderson and the US-EAC Inspector General, the auditors questioned all personnel costs under HAVA due to a lack of documentation and incorrect time recording procedures. The G.A.B. staff is confident that a majority of personnel costs are certified and can produce adequate supporting documentation including calendar notations, agendas for meetings, travel documentation, or ultimately a sworn affidavit by employee supervisors if necessary to corroborate our claims. After the US-EAC Inspector General further reviewed the work performed by the Clifton Gunderson auditors, they decided to perform its own audit on the State of Wisconsin HAVA funds.

Mr. Arnie Garza, Assistant Inspector General for Audits, traveled to Wisconsin from July 7, 2010 to July 15, 2010 and August 2, 2010 to August, 13, 2010 to perform his audit field work. He has reviewed the work done by Clifton Gunderson and began an in depth analysis of the agency's personnel costs. At this time, Mr. Garza intends on returning to the G.A. B. office in mid September to complete his audit field work. After the field work is complete, the US-EAC Inspector General and the G.A.B. will meet during an exit conference to discuss the preliminary findings that will eventually be proposed to the US-EAC.

2. Contract Sunshine Program Update

Since the last Board meeting, we have taken several concrete steps to facilitate better agency compliance with Contract Sunshine reporting requirements.

We are happy to report that all agencies that are required to report to Contract Sunshine have an agency contact responsible for certifying that the agency is in compliance. Government Accountability Board staff reached out to agencies to ensure that every agency had one of these contacts and made phone calls as needed. Having an agency contact named for each agency is a major step forward toward our goal of total compliance, as every state agency now has a single point of contact to which all Contract Sunshine-related questions can be directed. These agency contacts also allow us to distribute a schedule of training open to all agencies about Contract Sunshine reporting, making sure that every agency fully understands the requirements of the law. Seven training sessions were held in the month of July, and beginning in August will continue twice a month through the rest of the year. Other training initiatives are being pursued in addition to these regularly scheduled trainings. G.A.B. staff have offered to meet with agencies with a particularly high volume of reportable data not only for training, but to help advise agencies how best to shape their procurement, fiscal and administrative procedures to comply with Contract Sunshine. We have also arranged for two remote training sessions to be held for agency staff located outside of the Madison area, to further enhance compliance.

On July 27, 2010, staff met with the Legislative Audit Bureau (LAB) to discuss the audit they will be conducting regarding Contract Sunshine. We have responded to the LAB's initial request for information by providing them with the history of Contract Sunshine and all financial documents that relate to the administration of the program. The LAB has also asked for information about other states' implementation of a fiscal transparency law and about how Wisconsin state agencies view our website.

James Malone and Shane Falk are working diligently on the drafting an administrative rule to provide better guidance to agencies on Contract Sunshine.

Finally, Government Accountability Board staff continues to work with our vendor, Sundial Software, to plan improvements to the Contract Sunshine website. A meeting between the vendor and G.A.B. staff took place on August 12, during which time we discussed several enhancement options to the website.

3. 2011-13 Biennial Budget Request

On July 7, 2010, staff received Major Budget Policies and Budget instructions for preparing its 2011-2013 biennial budget request. Most agencies are required to hold their overall fiscal year GPR budgets to fiscal year 2009-11 levels. The GPR base budget for 2011 is \$2,437,600. In addition to zero growth for the 2011-2013 biennium agencies need to plan for operations reductions similar to the amounts required in the 2009-2011 biennium. G.A.B. was required to lapse \$33,600 in each year of the 2009-2011 biennium.

The budget submission is due to the State Budget Office and the Legislative Fiscal Bureau on September 15, 2010. The Board will meet via teleconference on Monday, September 13, 2010 to review the final proposed budget.

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

The agency Management Team is continuing to work with Oskar Anderson, the state's chief information technology officer, and his staff to address technical service support issues and explore means of managing our information technology (IT) application development and support. We are very close to completing the Memorandum of Agreement (MOA) to memorialize the terms of the new services. The Department of Administration has implemented new rates for IT services which increase agency IT costs by more than 50% this new fiscal year. The proposed approach may be a means to lower these increased costs if implemented.

5. Staffing

We are currently recruiting for a vacant Elections Specialist Project position. This position will develop standards, procedures and protocol to educate, train and provide technical support to local election officials in order to assist them to comply with Federal Law (the Help America Vote Act of 2002; Section 504 of the Rehabilitation Act; the Federal Motor Voter Act; and State of Wisconsin laws and policies of the G.A.B. regarding accessibility).

Currently, we are also seeking approval from the Centralized Position Review Committee to fill two Office Operations Associate positions to support the Elections Division Administrator and the HAVA program staff..

6. Communications Report

Since the July 21-22, 2010, Board meeting, the Public Information Officer has responded to numerous media inquiries and planned communications strategy in furtherance of the Board's mission.

The PIO has spent a significant amount of time responding to media and public inquiries regarding rule GAB 1.28. We continue to receive positive feedback about the new website, and the PIO has been working on further enhancements to the site, including the addition of video tutorials and signup forms to track viewing of training materials. We are also developing a section of the website for members of the public to comment on their experiences at polling places, as well as to file complaints about election officials and suspected instances of election fraud.

The PIO also worked on a variety of other projects including: organizing a presentation to a group of visitors from East Africa, responding to numerous media requests for information regarding the upcoming Fall Election, serving on the Online Voter Registration Team, responding to concerns from Legislators on a variety of topics, and communicating with our clerk partners.

7. Meetings and Presentations

During the time since the last Board meeting, Director Kennedy has been participating in a series of meetings with staff on several projects. These include a status review of our on-line election training program for local election officials (WBETS), the development of a proposed Memorandum of Agreement for the acquisition of information technology services from the Department of Administration's Division of Enterprise Technology, the development of the

new lobby administration application, changes to our Contract Sunshine program to make other agencies more accountable, and the development of our new election canvass program.

The Director also participated in a series of final interviews for vacant Elections Division staff positions along with Elections Division Administrator Nat Robinson. He was also part of the agency team that met with representatives of the Federal Voting Assistance Program in the Department of Defense and the U.S. Department of Justice to review Wisconsin's waiver request for the November 2, 2010 election.

On July 27, 2010, Director Kennedy and Elections Division Administrator Nat Robinson participated in a recorded discussion on building the ballot in Wisconsin for Wisconsin Eye. The program is featured on the G.A.B. website home page. The program can be accessed at: http://www.wiseye.org/wisEye_programming/campaign10/ARCHIVES-CPN10_GOV.html#3789.

On July 29-30, 2010, a team representing Wisconsin participated in a PEW Center meeting to discuss the States' implementation of voter registration modernization. The meeting was held in Stateline, Nevada. In addition to the Director, Sarah Whitt of our office, Herb Thompson from the Department of Administration's Division of Enterprise Technology and Kathy Nickolaus, the Waukesha County Clerk participated in the program. The program brought together state election policy and information and technology staff along with local election officials from several states: Alaska, Arizona, Colorado, Delaware, Montana, Nevada, Oregon, Utah, Virginia, Washington and Wisconsin. Participation in this process has enabled staff to learn about the latest technology innovations in voter registration, enhanced data matching capabilities and practices from other states.

He also participated in a series of meetings with representatives of the Wisconsin Department of Justice on litigation issues related to the legal actions to which the agency is a party.

On August 12, 2010, the agency hosted a delegation of public officials from Africa. Participants came from Kenya, Tanzania and Uganda and were part of an East Africa program on Anti-Corruption, Transparency and Good Governance. Jon Becker and Mike Haas presented information on the role of the Government Accountability Board in administering elections, ethics and ensuring compliance through enforcement actions. The Democracy and Governance Training Program of the Les Aspin Institute at Marquette University coordinated the meeting with the agency.

The Director and Elections Specialist David Buerger attended the Annual Conference of the Election Center, August 17-20, 2010. David was recognized as a Certified Elections and Registration Administrator (CERA). The certification requires completing a core series of 12 courses in election and voter registration administration, along with meeting certain separate professional achievements. David is one of 600 election officials to receive this national certification, including nine from Wisconsin. The agency and David's Elections Division colleagues are very proud of his accomplishment.

Looking Ahead

The staff will develop a response to findings identified in the federal audit of HAVA funds, implement legislative initiatives enacted into law affecting the agency, carry out a number of organization functions related to ongoing investigations, promulgate administrative rules, revise informational manuals, prepare

for the September primary, and roll out the revised agency web site. Significant work will be done to prepare the 2011-2013 biennial budget request as well as to develop legislative initiatives for the 2011 session.

Action Items

None