

Meeting of the Board

Wednesday, August 27 and Thursday, August 28, 2008

9:30 A.M.

Agenda
Open Session

Risser Justice Center, Room 150

120 Martin Luther King Jr. Boulevard

Madison, Wisconsin

Wednesday, August 27, 2008**Page
#****9:30 A.M.****A. Call to order.****B. Director's report of appropriate notice of meeting.****C. Approval of minutes of previous meeting.**

See accompanying minutes

1**D. Public comment.***Break***E. Proposed Administrative Rules Relating to Voter Registration.****11****F. Republican Party Request to Review Proposed HAVA Check Procedures.****35****G. Proposed Emergency Administrative Rules Relating to Election Observers****40****H. Review of select former Elections Board operating procedures, opinions and/or rules related to:****69**

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

I. Review of select former Ethics Board opinions and/or guidelines related to:**97**

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

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.

J. Director's Report

Elections Division Report – election administration and SVRS

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

Office of General Counsel Report – general administration and orders

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|--------------------------------|---|
| 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], |

**Thursday, August 28, 2008
9:00 A.M.**

Return to Open Session

L. Public Comment

M. Review of former Elections Board administrative rule related to scope of regulation GAB 1.28. Note this includes the regulation of political communications described as "issue ads."

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

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD

Room 150, Risser Justice Building
120 Martin Luther King, Jr. Boulevard.
Madison, Wisconsin
July 15 and 16, 2008
9:30 a.m.

DRAFT

Not yet approved
by the Board

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Amended staff advice to state senate candidate regarding give-aways to voters	2
B. Reaffirmed two former Elections Board opinions regarding counting votes and election costs.	3
C. Reaffirmed three elections manuals, and instructed staff to consider future changes for those manuals.	3
D. Reaffirmed 1997 Wis Eth Bd 18 with a further restriction from the Board, and 2006 Wis Eth Bd 6.	3
E. Withdrew a tabled motion to approve a proposed emergency administrative rule permitting certain voters to cast a provisional ballot.	5
F. Approved two staff recommendations to grant, and deny, ballot access to various candidates for the fall ballot.	5
G. Failed to pass a motion granting ballot status to Assembly Candidate John Kimmel.	8

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

Staff present: Kevin Kennedy, Jonathan Becker, Nat Robinson, Sharrie Hauge, Nathan Judnic and Tommy Winkler

A. Call to order.

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

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

The G.A.B. Director informed the Board that a proper notice of meeting was given for the two-day Board meeting. He further indicated the agenda for Wednesday was primarily ballot access issues.

C. Selection of Officers

The Director asked the Chairman to draw by lot the name of a Board member to serve as Secretary. Judge Brennan was chosen as Secretary for the Government Accountability Board.

D. Approval of Minutes of Previous Meeting.

MOTION: Approve the minutes of the June 9, 2008 Government Accountability Board meeting. Moved by Nichol, seconded by Brennan. Motion carried.

E. Public Comment

1. **Brian Kind**, Republican Party of Wisconsin, appeared to comment about public inspection of new voter registrations.
2. **Dan Fields** appeared to request a reversal of G.A.B. staff advice given to Chad Fradette, a 20th State Senate candidate, regarding his giving money to residents in the district related to gas purchases.

MOTION: Instruct to staff to amend advice given to candidate Chad Fradette, requestor of the advice, to inform him that the conduct discussed is improper and may be prosecuted by the District Attorney. Moved by Myse, seconded by Eich. Motion carried.

3. **Paul Malischke**, appeared to comment on Item H on the Board's agenda, the proposed emergency administrative rule relating to provisional ballots, which begins on page 39 of the G.A.B. meeting materials for July 15 and 16, 2008 meeting.
4. **Robert Marchant**, Wisconsin Senate Chief Clerk, appeared to comment on issues related to former Ethics Board opinions and guidelines that arise in the context of Senate operations.
5. **Mike Wittenwyler**, Association of Wisconsin Lobbyists, appeared to comment on a memorandum from Jonathan Becker to Mr. Wittenwyler regarding items of value given to officials, and on the Board's review of previous opinions and guidelines.

Hearing no objections, the Chairman called a lunch break at 11:32 a.m. and reconvened the meeting at 12:05 p.m.

F. Review of select former Elections Board operating procedures, opinions and/or rules related to:

- 1) **Counting Votes**

2) Election Costs

MOTION: Reaffirm two former Elections Board opinions set out on pages 7-8 of the G.A.B. meeting materials. Moved by Myse, seconded by Eich. Motion carried.

3) Election Administration Manuals

MOTION: Reaffirm three elections manuals and instruct staff to consider future additions or changes to pre-election testing and post-election canvassing to be covered in the manuals. Moved by Myse, seconded by Nichol. Motion carried.

G. Review of select former Ethics Board opinions and/or guidelines related to:

- 1) Opinions & guidelines related to campaign activities and contributions (from last meeting)
- 2) Opinions related to soliciting and accepting items and services of substantial value
- 3) Opinions related to improper use of state resources
- 4) Post employment restrictions
- 5) Opinions related to Statements of Economic Interests
- 6) Guidelines related to: office management issues, special considerations for judges and district attorneys, changing jobs and leaving state service, statements of economic interests, general principles and other matters)

The Board came to a consensus that it should receive a list of suggested statutory changes from staff that it can recommend to the Legislature.

MOTION: Modify 1997 Wis Eth Bd18 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.
Moved by Myse, seconded by Eich. Motion carried.

MOTION: Reaffirm 2004 Wis Eth Bd 6, as explained in a memorandum to the Board dated June 18, 2008. Moved by Myse, seconded by Nichol. Motion carried.

MOTION: Adopt staff recommendation for the remaining opinions from the June 9, 2008 G.A.B. meeting. Moved by Nichol, seconded by Eich. Motion carried.

By consensus, the Board decided to postpone action on the opinions presented at the July 15, 2008 Board meeting to the August 28, 2008 Board meeting.

H. Proposed Emergency Administrative Rule Related to Permitting Certain Voters to Cast a Provisional Ballot

(Presented by Nathan Judnic)

MOTION: Approve the proposed emergency administrative rule. Motion by Nichol, second by Manian. After discussion, by consensus the Board tabled the motion and

deferred action until the following day, and asked staff to bring the rule back with proposed amendments.

Hearing no objections, the Chairman called a break at 3:00 p.m. and reconvened the meeting at 3:15 p.m.

I. Director's Report

Elections Division Update – Election administration and SVRS
(Presented by Nat Robinson)

The report was presented for informational purposes only, the Board took no action.

Ethics and Accountability Division Update – Campaign finance, state official financial disclosure, lobbying registration and reporting, contract sunshine.
(Report presented by Jonathan Becker)

The report was presented for informational purposes only; the Board took no action.

Agency Administration and Legal Issues – General administration and orders.
(Report presented by Kevin Kennedy and Sharrie Hauge)

The report was presented for informational purposes only; the Board took no action.

J. Proposed 2009 Meeting Dates

The Board discussed and approved by consensus a draft 2009 meeting calendar

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

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

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

Motion carried. The Board convened in closed session beginning at 4:25 p.m.

Summary of Significant Actions Taken in Closed Session

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

The meeting adjourned at 5:44 p.m. until the next day.

Wednesday, July 16, 2008

Return to Open Session

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

Absent: Judge Gordon Myse

Staff Present: Kevin Kennedy, Nat Robinson, Sharrie Hauge, Kyle Brown, David Buerger, George Dunst, , Nate Judnic, Diane Lowe, and Tommy Winkler.

L. Call to Order

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

M. Elections Division Staff Report on Ballot Access Issues for the Fall Election

Prior to the ballot access discussion, Kevin Kennedy, Nat Robinson and Nate Judnic proposed an alternative course to the Board for handling the proposed emergency administrative rule related to permitting certain voters to cast a provisional ballot, discussed the previous day. Staff recommended that action on the proposed rule be postponed until after the November 4, 2008, election. By consensus of the Board, staff is directed turn on the data interface functionality as soon as DOA finishes work on it and report back to the Board about the performance of the "HAVA Check" function during the fall.

MOTION: Withdraw tabled motion to approve staff recommendation for approval of proposed rule. Moved by Nichol, seconded by Eich. Motion carried.

Nat Robinson and Diane Lowe presented a memo on ballot access issues. Staff asked the Board to certify for ballot access those candidates identified as having ballot access status and not to certify those candidates identified as not meeting the requirements for ballot access. (*Memo distributed to Board members at the meeting.*)

MOTION: To approve the list of certified candidates for ballot access status presented by staff. Moved by Nichol, seconded by Eich. Motion carried.

MOTION: To approve a partial list of candidates staff recommends be denied ballot access (Jake Wesenberg, Amy Rapoport, and Andrew McKenzie), on page 3 of the ballot access memo presented to the Board. Moved by Eich, seconded by Brennan. Motion carried.

MOTION: Place candidate Justin Krueger on ballot. Moved by Eich, seconded by Manian. Motion carried.

N. Nomination Paper Challenges
(presented by George Dunst)

- **Fred Risser challenge to the nomination papers of Dennis Denure**

MOTION: Adopt staff recommendation to deny ballot access to Mr. DeNure. Moved by Eich, seconded by Nichol. Motion carried.

- **Jason Fields challenge to the nomination papers of Deion Price**

Attorney Michael Maistelman representing Jason Fields, and Jason Fields, appeared to ask the Board to adopt the staff recommendation.

MOTION: Adopt staff recommendation to deny ballot access to Mr. Price. Moved by Nichol, seconded by Manian. Motion carried.

- **Katie Saarinen challenge to the nomination papers of Nicholas Cosey**

Attorney Michael Maistelman representing Spencer Coggs, and Katie Saarinen of the Democratic Party of Wisconsin, appeared to ask the Board to adopt the staff recommendation.

MOTION: Adopt staff recommendation to deny ballot access to Mr. Cosey. Moved by Eich, seconded by Brennan. Motion carried.

- **Unknown Complainant challenge to the nomination papers of Spencer Coggs**

Attorney Michael Maistelman representing Spencer Coggs, and Spencer Coggs, appeared to ask the Board to rule the complaint frivolous.

MOTION: Adopt staff recommendation to disregard the complaint and place Spencer Coggs' name on ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Laura Manriquez challenge to the nomination papers of Pedro Colon**

Attorney Narciso Aleman representing Laura Manriquez, and Ms. Manriquez, appeared to ask the Board to reject the staff recommendation to place Pedro Colon's name on the ballot.

Attorney David Halbrooks representing Pedro Colon, and Pedro. Colon, appeared to ask the Board to affirm the staff recommendation to place Pedro Colon's name on the ballot.

MOTION: Deny challenge and confirm ballot access for Pedro Colon. Moved by Eich, seconded by Manian. Motion carried.

- **Laura Manriquez challenge to the nomination papers of Jose Guzman**

After discussion with the Board, G.A.B. Attorney George Dunst recommended the complaint be dismissed.

MOTION: Adopt staff recommendation to dismiss the complaint and place Jose Guzman on ballot. Moved by Eich, seconded by Nichol. Motion carried.

The Chairman called a 10 minute recess.

- **Mark Jefferson challenge to the nomination papers of Scott Matthew**

Staff informed the Board that the complaint was withdrawn and recommended Mr. Matthew be placed on the ballot.

MOTION: Place Mr. Matthew on the ballot. Moved by Nichol, seconded by Eich. Motion carried.

- **John Fox challenge to the nomination papers of Jeffery Mursau**

MOTION: Adopt staff recommendation to place Mr. Mursau on ballot. Moved by Nichol, seconded by Manian. Motion carried.

- **Mark Jefferson challenge to the nomination papers of Aaron Onsrud**

Attorney Juston Johnson, representing the Republican Party of Wisconsin, appeared to ask the Board to deny ballot access to Mr. Onsrud.

Aaron Onsrud appeared to ask the Board to dismiss the challenge and place him on the ballot.

MOTION: Dismiss the challenge and place Mr. Onsrud on the ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Christopher Sodergren-Barr challenge to the nomination papers of Mike Hebert**

Christopher Sodergren-Barr appeared to ask the Board to accept the complaint and deny Mr. Hebert ballot access due to the heading on his nomination papers.

Bill Hebert appeared to ask the Board to dismiss the complaint and allow Mike Hebert to appear on the ballot.

MOTION: To dismiss the complaint and allow Mike Hebert to appear on the ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Corrine Wiesmuller challenge to the nomination papers of Brad Sponholz**

Corrine Wiesmuller appeared to ask the Board to affirm the complaint and deny Mr. Sponholz ballot access.

Brad Sponholz appeared to ask the Board to affirm the staff recommendation to place him on the ballot.

MOTION: To adopt staff recommendation to place Mr. Sponholz on the ballot. Moved by Nichol, seconded by Eich. Motion carried.

- **Judy Reas challenge to the nomination papers of J. Suzanne Murphy**

Jim Smith, representing Judy Reas, appeared to ask the Board to affirm the challenge and deny Ms. Murphy ballot access.

MOTION: To dismiss the complaint and place Ms. Murphy on the ballot. Moved by Eich, seconded by Brennan. Motion carried.

Brian Kind, Republican Party of Wisconsin, appeared to ask the Board to reconsider its decision to table until after the 2008 fall election the emergency administrative rule related to requiring certain voters to cast a provisional ballot.

- **John Kimmel**

The Board reviewed the nomination papers John Kimmel submitted to the G.A.B. Staff presented a statement submitted by Kimmel saying he filed a complete and accurate nomination form, despite omitting the election date.

MOTION: Grant Mr. Kimmel ballot access because the heading of his nomination papers substantially complied with Section 8.15 (5)(a), Wis. Stats. Moved by Eich, seconded by Nichol.

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

Motion failed, 3-2. (*Actions of the Board require an affirmative vote of at least 4 members. §5.05 (1e), Wis. Stats.*)

O. Certification of Candidates for Fall Election

This item previously dealt with by the Board under section M.

P. Staff Memo, Davis v. FEC

The report was presented for informational purposes only; the Board took no action.

The Board decided by consensus to conduct a two-day meeting on August 27 and 28, 2008.

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

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

Motion carried, 5-0.

The Board went into closed session at 1:06 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: No items considered.
- B. Investigations: Four items considered; three items closed.

MOTION: Adjourn the meeting.

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

The meeting was adjourned at 2:15 p.m.

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Wednesday, August 27, 2008, and 9:00 a.m Thursday, August 28, 2008 in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Boulevard, Madison, Wisconsin.

July 15 and 16, 2008 Government Accountability Board meeting minutes prepared by:

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

Kyle R. Richmond, Public Information Officer

July 15 and 16, 2008 Government Accountability Board meeting minutes certified by:

Judge Michael Brennan, Board Secretary

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For August 27-28, 2008 Meeting

TO: Members, Government Accountability Board

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

Prepared and Presented by: Nathan Judnic
Elections Specialist

SUBJECT: Proposed Administrative Rules Relating to Voter Registration, Chapter GAB 3

The Legislative Audit Bureau (LAB) conducted statewide audits in September 2005 entitled "Voter Registration" and in November 2007 entitled "Compliance with Election Laws." Both audit reports recommended that the Board take steps to promulgate administrative rules in several key areas of election administration.

Taking into account the recommendations put forth in the LAB audit reports, GAB staff drafted rules designed to update and supplement Chapter GAB 3 of the Administrative Code in the following major areas:

- Election officials' voter registration responsibilities;
- Voter verification postcards; and
- Statewide Voter Registration System (SVRS) data entry standards.

The proposed rules were presented to the Government Accountability Board for introductory purposes during its May 5, 2008 meeting. Board members were informed that staff would convene an ad-hoc group of county and municipal clerks to advise on the proposed rules and provide recommendations to Kevin J. Kennedy.

An ad-hoc committee consisting of the Executive Director of the Milwaukee City Board of Election Commissioners, 4 county clerks and 5 municipal clerks representing SVRS providers, self-providers and reliers of various jurisdiction sizes and geographical locations was convened to take on this task. A listing of the ad-hoc committee is attached to this memorandum. The ad-hoc committee met on 5 separate occasions: June 18, July 2, July 10, July 22 and August 4. Comments and suggestions on the proposed rules were received from many municipal and county clerks, other GAB staff members and the general public. Each and every comment was

thoroughly reviewed and ample consideration was given to suggested changes. A summary of the comments received is attached.

The ad-hoc committee met for its final time on August 4, 2008, and the members agreed upon a version of the administrative rules that are workable for election officials across the State of Wisconsin. The committee's advice on the rules, along with a letter recommending presentation of the rules to the GAB, was forwarded to Kevin J. Kennedy. A copy of the proposed rules is attached to this memorandum

The ad-hoc committee did an exceptional job and recommended substantive changes, including alterations in order to render the rules more readable, usable and understandable. The GAB staff would like to publicly acknowledge and thank the committee for its hard work and dedication.

Action Requested:

The GAB pass a motion authorizing the Director and General Counsel to proceed with promulgation of the proposed additions to Chapter GAB 3, Wisconsin Administrative Code as set forth in the attached document.

Attachments

- Proposed administrative rules supplementing Chapter GAB 3
- Listing of the Chapter GAB 3 ad-hoc committee members
- Summary of comments received from clerks, GAB staff and the general public
- Current Chapter GAB 3, Wisconsin Administrative Code

Proposed Administrative Rules for Chapter GAB 3
Voter Registration
Recommended for Board Adoption

GAB 3.01 Voter Registration

In this chapter:

- (5c) “Complete match” means a voter’s name, date of birth, DOT-issued driver’s license number or DOT-issued identification card number or last 4 digits of Social Security number completely matches records maintained by the DOT or SSA.
- (5g) “Deceased matching” means the process by which a municipal clerk uses information provided by the DHS to determine if any deceased voters are registered in his or her municipality.
- (5l) “DHS” means the Wisconsin Department of Health and Family Services, Vital Records Office.
- (5p) “DMV ping notification letter” is the letter sent to voters following a HAVA check if a complete match of voter information does not occur.
- (5t) “DOC” means the Wisconsin Department of Corrections.
- (5x) “DOT” means the Wisconsin Department of Transportation.
- (6e) “HAVA” means the Help America Vote Act of 2002.
- (6m) “HAVA check” means the process by which a self-provider or provider submits a voter’s information through the SVRS to be matched against the DOT or the SSA records to validate the information provided by the voter.
- (6s) “HAVA check listing” means any SVRS generated report that displays the match results between a voter’s full name, date of birth, DOT-issued driver’s license number or DOT-issued identification card number or last 4 digits of Social Security number and records maintained by the DOT or the SSA.
- (7g) “Ineligible voter list” means a list based on information provided by the DOC containing all felons on probation, parole or extended supervision.
- (7r) “Ineligible voter matching” means the process by which a municipal clerk uses ineligible voter information provided by the DOC to determine if any ineligible voters are registered in his or her municipality.
- (14m) “Separation date” is the date on which an individual appearing on the ineligible voter list has his or her civil rights restored.
- (15m) “SSA” means the Social Security Administration.

[Section 3.01(16) is amended to read as follows:]

- (16) “Statewide Voter Registration System” (SVRS) is the election administration software application provided by the board to enable local election officials to register voters, track absentee voting and administer elections.
- (16e) “SVRS Data Standardization” is a document prepared by the board and provided to SVRS users outlining data standardization procedures and SVRS data entry guidelines.
- (16m) “SVRS user” means any individual trained and authorized by the board to access the SVRS.
- (16s) “Voter match report” means the SVRS generated report used by a municipal clerk to view potential deceased, ineligible and duplicate voter matches in a municipality.

GAB 3.25 Voter Registration Duties

- (1) (a) The municipal clerk shall supervise elections and voter registration in the clerk’s municipality, by enforcing all applicable statutes and administrative rules that govern voter registration in Wisconsin.
 - (b) The municipal clerk shall ensure the official registration list maintained by the SVRS for the clerk’s municipality is an accurate reflection of the registered voters in the municipality.
 - (c) A self-provider shall complete all required election administration and registration tasks within the SVRS as prescribed by the board.
 - (d) A provider shall complete all required election administration and registration tasks within the SVRS as prescribed by the board and provide required election administration reports to comply with subsection (b).
 - (e) A relier shall assist the provider by providing required information about voter registration application forms in accordance with the terms of any memorandum of understanding in place between the provider and relier.
- (2) HAVA Check. Reliers, self-providers and providers shall perform the following duties necessary to properly conduct HAVA checks:
 - (a) Self-providers and providers shall use the SVRS to initiate and complete a HAVA check upon entry of every voter registration application form.
 - (b) Self-providers and reliers shall use the HAVA check listing to compare information provided by an applicant on the voter registration application form with information maintained by the DOT or the SSA.
 - (c) Self-providers and reliers shall resolve all voter match results that are not a complete match provided by the voter in accordance with instructions provided by the board. If not able to resolve the issue due to a typographical error, the self-provider or relier shall contact voters using the DMV ping notification letter.

- (3) Late Registration. (a) After close of registration the municipal clerk shall allow a voter to register in the municipal clerk's office if the voter provides proof of residence and meets all other eligibility requirements.
- (b) If the municipal clerk registers a voter in the municipal clerk's office after the close of registration, the municipal clerk shall issue a serially numbered certificate of registration to the voter that contains his or her name and address. The municipal clerk shall issue the original certificate to the voter and maintain a copy of the original in the municipal clerk's office. The municipal clerk shall inform the voter to present the certificate to the election inspectors on election day.
- (c) If a municipal clerk receives a voter registration application form by mail that was postmarked after the close of registration for the current election, the municipal clerk shall treat the registration as invalid for the election and immediately notify the voter of his or her other registration options.
- (d) When the board receives voter registration application forms by mail, board staff will immediately forward the applications to the appropriate self-provider or provider. Instructions for handling these forms will be included.
- (4) Election Day. (a) The municipal clerk shall provide election inspectors with the ineligible voter list and instruction sheet on how to use the list when registering voters on election day.
- (b) The municipal clerk shall take all steps necessary to ensure that the poll lists generated from the SVRS contain all properly registered voters in the municipality, and that the voter information contained on the poll list is true and correct.
- (c) The municipal clerk shall train the election inspectors and special registration deputies on what constitutes a valid and complete voter registration application form. The election inspectors and special registration deputies are accountable for voter registration application forms that are submitted on election day which are incomplete, illegible, or otherwise unable to be entered into the SVRS.
- (5) Post-Election. (a) The SVRS user shall record voter participation into the SVRS from the poll list.
- (b) The SVRS user shall record the voter's polling location, and whether they voted at the polls or by absentee ballot in SVRS.
- (c) The SVRS user shall enter election day voter registration application forms into the SVRS.

GAB 3.27 Voter Information Updates and Revisions

- (1) It is the municipal clerk's duty to ensure the information contained within the official registration list maintained in the SVRS for the municipal clerk's municipality is an accurate reflection of the registered voters in the municipality.

- (2) (a) Whenever a municipal clerk receives an update to a voter's record, the self-provider or provider shall promptly update the voter's record within the SVRS and may note the reason for the update in the status comment field.

(b) If a voter provides an update or revision to his or her voter record on election day, the self-provider or provider shall change the voter's record in the SVRS within 30 days of the election and may note the reason for the update in the status comment field.
- (3) The board's staff may add voter registration application forms or update voter information in the SVRS based on information they receive. The board's staff may change a voter's status from eligible to ineligible based on information received. In the event changes are made by the board's staff, notice of the changes shall be promptly sent to the affected provider or self-provider by letter or electronic transmission.
- (4) A new voter registration application form must be completed for a legal name and/or address change. The municipal clerk or provider may obtain other updated information from a voter through a telephone conversation provided the municipal clerk is assured they are speaking to the voter that is requesting their record be updated. The provider or self-provider shall update the voter's information in SVRS as soon as practicable; the status comment field may be used to note the circumstances in which the update was made.
- (5) The municipal clerk may attach a notation to the voter registration application form to reflect the updates made to the voter's record.

GAB 3.28 SVRS Data Entry

- (1) SVRS users are responsible for the data entry of voter registration application forms and other information used to manage and administer elections at the state, county and municipal levels including accuracy of data entered.
- (2) A municipality may enter into a memorandum of understanding or contract with a county, other municipality or third party approved by the GAB director to provide SVRS data entry and other related services.
- (3) SVRS users shall comply with all data entry guidelines published in the "SVRS Data Standardization" document. This document is available electronically on the board's website and in hard-copy by request to the board.

GAB 3.29 Data Quality

- (1) Data Quality Assurance Check. The provider, self-provider and relier shall ensure accurate data entry. A quality assurance check procedure shall be formulated and kept on file by the provider or self-provider and be subject to audit by the GAB staff. An audit may be conducted randomly, or by special request to the GAB staff.
- (2) To prevent duplicate registration records, SVRS users shall view all matches and link to an existing voter record when necessary.
- (3) SVRS users shall take precautions to prevent invalid birthdates.

- (4) The board shall periodically conduct statewide duplicate voter registration and invalid birth date audits and inform providers, self-providers and reliers of the results. Procedures for correcting duplicate voter registrations and invalid birthdates are available electronically on the board's website, through the board's web-based election training system, and in hard-copy by request to the board.
- (5) Address Validation. Providers, self-providers and reliers are responsible for maintaining valid residential addresses for voting purposes in the SVRS. SVRS users shall validate the address provided on the voter registration application form against the residential addresses contained in the SVRS. Procedures for maintaining valid addresses in SVRS are available electronically on the board's website, through the board's web-based election training system, and in hard-copy by request to the board.

GAB 3.30 Address Verification Postcards

- (1) A first-class postcard shall be sent to electors who have completed a voter registration application form on election day, submitted a form by mail or through a special registration deputy. The postcards shall be generated and sent to electors by the board no later than 10 days following entry of information into the SVRS.
- (2) Treatment of Returned Postcards. (a) If a postcard is returned to the municipal clerk by the United States Postal Service (USPS) because the address contained on the postcard was undeliverable, the municipal clerk shall compare the information on the returned card to the voter registration application form to ensure data entry accuracy. Where applicable, the provider or self-provider shall update the voter information contained in the SVRS. The reason for the change may be noted in the status comment field.

(b) Immediately following the change to the voter's address information in the SVRS, the provider or self-provider shall notify the board of the change. The board will re-send a postcard with the updated voter address information no later than 10 days following notification from the provider or self-provider.
- (3) (a) If the address contained on the returned postcard, and the address provided on the original voter registration application match, and no other irregularities may have contributed to the card being returned as undeliverable are present, the self-provider or provider shall change the voter's status in the SVRS from active to inactive and note the reason for the change in the status comment field.

(b) The returned postcard shall be retained in the municipal clerk's office for a minimum of four years from the date the voter's status was changed from active to inactive.

(c) If a postcard sent to an election day registrant under 6.55(3), Wis. Stats. is returned as undeliverable, the municipal clerk shall mail the elector a notice of the change in status, and provide the name of the elector to the board and the district attorney.
- (4) Post-Election Review. The GAB staff may conduct a post-election review of the address verification postcard process to ensure compliance. Corrective action may be taken by the board when deemed necessary.

GAB 3.31 Transferring Registration

- (1) If an elector changes his or her name and/or address, the individual shall be required to complete a new voter registration application form and provide his or her previous name and/or address prior to being permitted to vote.
- (2) Door-to-Door and Mail Registration Canvass. (a) To assist in maintaining accurate voter information on the official registration list, and to promote new voter registration among non-registered residents, the municipal clerk may conduct door-to-door and mail registration canvasses within their municipality.

(b) If a municipal clerk conducts either a door-to-door or mail registration canvass, it must encompass the entire municipality, and must be completed in a uniform manner.

GAB 3.32 Ineligible Voter Matching

- (1) General. (a) The provider or self-provider shall use the ineligible voter matching process in SVRS to comply with the Help America Vote Act of 2002.

(b) Procedures for initiating and determining ineligible voter matching are contained in the materials SVRS users receive during training courses. The procedures are also available electronically on the board's website, through the board's web-based election training system, and in hard-copy by request to the board. The provider or self-provider shall initiate the ineligible voter matching process on a timely basis.

(c) A provider shall send the voter match report to their reliers on a timely basis.

(d) The municipal clerk shall use the information generated by the ineligible voter matching process to compare voter information against information provided by the DOC and determine if a match exists between voters registered in the municipality.

(e) The relier shall return to his or her provider the voter match report containing an indication of whether or not a match exists for every voter that appears on the report.
- (2) If the municipal clerk determines there is a match between a currently registered voter and the results of the ineligible voter matching, the self-provider or provider shall inactivate the voter's record and generate the WI felon notification ineligible letter and may note the reason in the status comment field.

GAB 3.33 Ineligible Voter List

- (1) General. The municipal clerk shall use the ineligible voter list when conducting registration list maintenance, registering voters in person during late registration in the municipal clerk's office, and during the absentee ballot process.
- (2) During Late Registration. If an individual appears at the office of the municipal clerk during the late registration period and wishes to register to vote, the municipal clerk shall compare the individual's name and date of birth against the ineligible voter list.

- (3) If the individual's full name and date of birth are identical to an entry on the ineligible voter list, and the individual's separation date is after election day, the municipal clerk shall notify the individual that they are ineligible to vote.
- (4) During the absentee ballot process.
 - (a) Before an absentee ballot is processed the municipal clerk shall compare the full name and date of birth of the person requesting the ballot with the ineligible voter list to determine if the applicant is eligible to vote in the election for which the ballot is requested.
 - (b) If the individual's full name and date of birth are identical to an entry on the ineligible voter list and the individual's separation date is after election day, the ballot shall be held in the municipal clerk's office, marked as "ineligible to vote per DOC", and preserved with all other election materials. The provider or self-provider shall mark the voter's record as inactive.
 - (c) The municipal clerk shall send the voter notice of the status change using the WI felon notification ineligible letter generated by the SVRS.
 - (d) The municipal clerk shall notify the district attorney of any ineligible voter that submits an absentee ballot.

GAB 3.34 Deceased Matching

- (1) General.
 - (a) The provider or self-provider shall use the deceased matching process in SVRS to comply with the Help America Vote Act of 2002.
 - (b) Procedures for initiating and determining deceased matching are contained in the materials SVRS users receive during training courses. The procedures are also available electronically on the board's website, through the board's web-based election training system, and in hard-copy by request to the board. The provider or self-provider shall initiate the deceased matching process on a timely basis.
 - (c) A provider shall send the voter match report to their reliers on a timely basis.
 - (d) The municipal clerk shall use the information generated by the deceased matching process to compare voter information against information provided by the DHS and determine if a match exists between voters registered in the municipality.
 - (e) The relier shall return to his or her provider the voter match report containing an indication of whether or not a match exists for every voter that appears on the report.
- (2)
 - (a) If the municipal clerk determines there is a match between a currently registered voter and the results of the deceased matching, the self-provider or provider shall inactivate the voter's record.
 - (b) The provider, self-provider and relier shall take appropriate measures to ensure the information provided by the DHS is kept confidential and secure at all times.

GAB 3.35 Provisional Ballots and the SVRS

- (1) (a) Following each election, the municipal clerk shall review election records to determine if any provisional ballots were issued on election day per s. 6.97, Stats.

(b) Within 10 days following an election, the provider or self-provider shall enter into the SVRS the full name, address of the voter, provisional ballot number, the date of the election in which the ballot was issued, and an indication as to whether the provisional ballot was counted or not counted.
- (2) (a) The provisional ballot information entered into the SVRS shall be displayed on a public access website maintained by the board.

(b) A voter issued a provisional ballot on election day may access the website to check the status of his or her provisional ballot.

(c) Municipalities may post similar information about provisional ballots; however this procedure shall not be in lieu of entry of provisional ballot information into the SVRS.

GAB 3.36 Post-Election Voter Participation Audits

- (1) Single Vote Audit. (a) After each election, the municipal clerk shall perform an audit to ensure that no person has voted more than once in his or her municipality. Reliers may compare information contained in pollbooks, inspector statements or any other information compiled on election day to complete this task. Providers and self-providers may also use the automated functions of the SVRS to complete this task.

(b) If a municipal clerk has reason to believe a person has voted more than once in an election, the district attorney shall be notified. The municipal clerk shall monitor the results of any investigation to maintain accurate voter registration data in his or her municipality.
- (2) Ineligible Voter Audit. (a) The board shall conduct an audit after every election to identify potential instances of voting by individuals that appear on the ineligible voter list.

(b) The board shall verify the initial findings of the audit with the DOC to ensure the individual was in fact ineligible on the date of the election.

(c) After the board receives confirmation of the matches from DOC, the board shall send the potential matches to the municipal clerk with instructions to verify that the ineligible individual voted in the election.

(d) The municipal clerk shall contact the board within 10 days with any corrections to the list of potential matches.

(e) After 10 days, the board shall send the final list of potential matches to the appropriate district attorney(s).

(f) If requested by the board, the municipal clerk shall provide copies of relevant election materials including poll lists, voter registration application forms and election inspector statements to the board and the appropriate district attorney(s).

GAB 3.37 Revision of Registration List

- (1) The municipal clerk shall within 90 days following each general election, examine voter registration and voter participation records to identify each qualified elector who has not voted within the previous four years. Providers shall initiate the process and provide the necessary report to reliers.
- (2) (a) Providers and self-providers shall generate a letter from the SVRS notifying the voter that his or her registration will be suspended for failure to vote in the previous four years. The letter shall also notify the voter that they may apply for continuation of their registration by notifying the municipal clerk.

(b) If the municipal clerk does not receive a request for continuation of registration within 30 days of mailing the suspension letter, the self-provider or provider shall inactivate the voter's record in the SVRS.

GAB 3.40 Registration in Office of the County Clerk

- (1) Any qualified elector may register at the office of the county clerk for the county in which the person's residence is located.
- (2) Prior to close of registration. The county clerk shall allow a voter to register in his or her office before the close of registration regardless of the municipality in which the voter resides within the county. If the county clerk is the provider, they shall enter the voter registration application form into SVRS and forward the original to the relier. The voter registration application forms shall be sent to self-providers immediately upon receipt by the county clerk for entry into the SVRS.
- (3) After close of registration. (a) The county clerk shall allow a voter to register in his or her office after the close of registration if the municipality in which the voter is registering is a relier of the county. The county clerk shall require proof of residence and enter the voter registration application form into the SVRS immediately after receipt, and forward the voter registration application form to the relier municipality immediately after the form is entered.

(b) If the county clerk registers a voter in his or her office after the close of registration, they shall issue a serially numbered certificate of registration to the voter that contains his or her full name and address. The county clerk shall place a letter "c" before the serial number issued on the certificate to indicate the voter registered at the county clerk's office after the close of registration. The county clerk shall inform the voter to present the certificate to the election workers on election day. The county clerk shall forward a copy of the certificate of registration to the relier municipal clerk with the voter registration application form.

(c) The county clerk shall direct a voter to register in the office of the municipal clerk if the voter is registering in a municipality that is a self-provider in the county.

GAB 3.41 Annexation and redistricting procedures within the SVRS system

- (1) (a) If a relier municipality annexes or consolidates land, the provider shall be notified by the municipality of the changes.

(b) The provider or self-provider shall update the SVRS to reflect new district information.

(c) Notice of new district information shall be sent to the affected voters by the municipal clerk of the municipality gaining voters as a result of the annexation. Voters affected by annexation are not required to file a new voter registration application form.

(d) The municipality losing voters as a result of an annexation shall send all hard-copy voter registration application forms of the affected voters to the municipality gaining voters as a result of the same annexation.

(e) The municipal clerk of the gaining municipality shall mark the voter registration application form to indicate the change in district information due to an annexation.
- (2) (a) If a redistricting of county supervisory districts takes place under s. 59.10(2)(a), Stats., GAB staff, provider or self-provider shall update the SVRS to reflect the new district information.

(b) Municipal clerks shall inform all voters in the municipality affected by a redistricting of county supervisory districts. Informing voters for purposes of this subsection does not necessarily mean a first-class postcard or letter being sent to every affected voter.

Chapter GAB 3 - Ad-hoc Advisory Committee Members				
Name	Title	Jurisdiction	SVRS	County
Robert (Bob) Ohlsen	County Clerk	Dane County	Provider	Dane
Kathy Nickolaus	County Clerk	Waukesha County	Provider	Waukesha
Brenda Jaszewski	County Clerk	Washington County	Provider	Washington
DeeAnn Cook	County Clerk	Barron County	Provider	Barron
Sue Edman	Executive Director	Milwaukee City Bd of Election	Self-Provider	Milwaukee
Sue Strands	City Clerk	City of Fond du Lac	Self-Provider	Fond du Lac
Roxann Brue	Village Clerk	Village of Arlington	Relier	Columbia
Cindy Worden	Town Clerk	Town of Wausau	Relier	Marathon
Marcia Kelly	Town Clerk	Town of Dale	Self-Provider	Outagamie
Sandi Wesolowski	City Clerk	City of Franklin	Self-Provider	Milwaukee

Summary of Comments Received on Chapter GAB 3 Proposed Administrative Rules, Voter Registration

The GAB staff received comments from county and municipal clerks, GAB staff and the general public. The chart below summarizes the comments received. The full text of all comments received are posted on the agency website: <http://elections.state.wi.us/>

Topic/Subject Area	Number of Comments Received	Section (if applicable)	Brief Description/Additional Information
Definitions	1	3.01	HAVA Check – when is it available?
Definitions	1	3.01	Voter match report to include duplicates.
Definitions	1	3.01	Suggests adding use of obituary notices to deceased matching.
Definitions	1	3.01	Change definition by taking out completely and replacing with reasonable person standard. Procedures should be flexible.
Voter Registration Duties	5	3.25	Holding inspectors accountable for incomplete forms.
Voter Registration Duties	2	3.25	Entering voter participation into SVRS.
Voter Registration Duties	1	3.25	HAVA Check, resolving matches is time consuming
Voter Registration Duties	1	3.25	HAVA Check process and procedures: notifying voters
Voter Registration Duties	1	3.25	How do you know why someone failed a HAVA check? ID Required category expanded.
Voter Registration Duties	3	3.25	Late registration – does not like the certificate of registration issued to voters that will be on supplemental pollbook. Legislative change suggested.
Voter Registration Duties	1	3.25	ID Required on poll book should be changed to Proof of Residency Required.

Voter Registration Duties	1	3.25	Late Registration-forms received by State should come to municipality, not provider.
Voter Registration Duties	1	3.25	What is meant by clerk supervises elections and voter registration in the clerk's municipality? In light of special registration deputies conducting registration on a statewide basis.
Voter Registration Duties	1	3.25	State needs to send registrations to correct providers and self-providers.
Voter Registration Duties	1	3.25	Suggested language changes for who is responsible for conducting HAVA Checks (provider, self-provider, relier)
Voter Registration Duties	1	3.25	Concern over non-matches, information received from DOT and SSA, keep guidelines for voter registration flexible.
Voter Registration Duties	1	3.25	Comments on current system settings outside scope of rules. HAVA Check process in SVRS should be improved to near-real time and indicate reason for failing.
Voter Registration Duties	1	3.25	More instructions on resolving matches should be in rules, not in instruction manual. What actions do clerks take, and are the rules flexible for confirming matches.
Voter Registration Duties	1	3.25	Suggested language to be added regarding handling of absentee ballots.
Voter Registration Duties	1	3.25	Suggest removing subsection 2.
Voter Registration Duties	1	3.25	Why is (3)(d) in the late registration section?
Voter Registration Duties	1	3.25	SRD's in election day section?
Voter Registration Duties	1	3.25	Concerned over voter names not appearing same as on DL, and use of middle names.
Voter Information Updates and Revisions	2	3.27	SVRS process for updating voter records and status comment fields.
Voter Information Updates and Revision	2	3.27	Changes via phone conversation and reliable information.

Voter Information Updates and Revisions	2	3.27	What is reliable information?
Voter Information Updates and Revisions	1	3.27	Allowing updates over phone is bad idea on all accounts.
Voter Information Updates and Revisions	1	3.27	Section should itemize fields that can be updated without new registration form.
Voter Information Updates and Revisions	1	3.27	Inquiring about criteria used by Board to change voter's status.
Voter Information Updates and Revisions	1	3.27	Suggests changing "promptly" to "within 30 days" for updates to voter's record in SVRS.
Voter Information Updates and Revisions	5	3.27	Consider extending 30 day deadline for large elections
Voter Information Updates and Revisions	1	3.27	Very important for GAB to notify clerks of changes made.
Voter Information Updates and Revisions/Transferring Registration	5	3.27, 3.31	New voter registration form for name and address changes, and 6.40, Stats.
SVRS Data Entry	1	3.28	SVRS Data Standardization Document on website.
Data Quality	2	3.29	Employing an SVRS User.
Data Quality	6	3.29	Data double-check requirement. (removed in current version)
Data Quality	1	3.29	Standardize formats in SVRS
Data Quality	1	3.29	Voters that will turn 18 before next election.
Data Quality	1	3.29	Procedures are too specific, do not want to be told how to be careful with data quality.
Data Quality	2	3.29	Get rid of specific procedures, leave up to municipalities to formulate their own quality assurance procedures and provide examples of what clerks may do. Additional procedures unnecessary.
Data Quality	1	3.29	Is there a sample form and procedure available so everyone is doing the same thing?
Data Quality	1	3.29	If State wants quality assurance check procedure

			it should create one. What is required other than HAVA Check?
Data Quality	1	3.29	What are invalid birthdates?
Data Quality	1	3.29	Requesting sample of a data quality check procedure.
Data Quality	1	3.29	Suggests copy of procedure be sent to board to keep on file.
Data Quality	1	3.29	Suggests annually instead of periodically, and Board given results.
Data Quality	1	3.29	Duplicate language in note and rule itself (removed in current version)
Data Quality	1	3.29	Request explanation of data quality assurance check
Existing Ch. 3 Definitions	1	3.30	“The Board”
Address Verification Postcards	1	3.30	Requesting municipality send cards instead of State.
Address Verification Postcards	6	3.30	Notifying board to resend cards, process comments. Can it be more automated?
Address Verification Postcards	6	3.30	Why is second notice sent to voter notifying of status change?
Address Verification Postcards	1	3.30	Be sure correct municipality address is on card.
Address Verification Postcards	1	3.30	Why is D.A. involved if EDR card comes back?
Address Verification Postcards	1	3.30	Thought cards were sent to all newly registered voters, process for late registration.
Address Verification Postcards	1	3.30	Postcard is do not forward.
Address Verification Postcards	1	3.30	Notice is forwarded.
Address Verification Postcards	1	3.30	Post election review should be changed to mandatory on an annual basis.
Address Verification Postcards	1	3.30	Statutory cite incorrect. (Changed in current version) Placement of section.
Address Verification Postcards	1	3.30	Asking if this is currently done by GAB.
Address Verification Postcards	1	3.30	Concern over addresses on postcards and if they are deliverable, and process.

Transferring Registration	1	3.31	Looking for example of how it works.
Transferring Registration	1	3.31	Helpful process.
Transferring Registration	1	3.31	Notice provided to voter of polling place change.
Transferring Registration	1	3.31	Door-to-Door and Mail canvass-not going to happen
Transferring Registration	1	3.31	Clerk initiative changes should not be allowed, only from voter in writing.
Transferring Registration	1	3.31	Does reliable information not require a person to fill out a new EB-131?
Transferring Registration	1	3.31	Comments about voters providing previous addresses
Ineligible Voter Matching	1	3.32	Should be automatic when it works.
Ineligible Voter Matching	1	3.32	Wondering why not receiving reports more regularly to check ineligible.
Ineligible Voter Matching	1	3.32	Is sending notice to felon of voter status change duplication of services because they are notified upon sentencing?
Ineligible Voter Matching	1	3.32	Unable to find procedures on website.
Ineligible Voter Matching	1	3.32	Suggested language change.
Ineligible Voter Matching	1	3.32	What is timely basis?
Ineligible Voter List	1	3.33	Is sending notice to felon of voter status change duplication of services because they are notified upon sentencing?
Ineligible Voter List	1	3.33	Why an additional check of ineligible voters during absentee ballot process? Requiring extra step in process.
Ineligible Voter List	1	3.33	Suggests rule reflect beyond reasonable doubt standard.
Ineligible Voter List	1	3.33	Procedures must be detailed or at least outlined.
Ineligible Voter List	2	3.33	Definition of match and criteria.
Ineligible Voter List	1	3.33	Due care clause removed.
Ineligible Voter List	1	3.33	Suggests adding language that will appoint ombudsman to handle ineligible voter list disputes

			and procedures. Ombudsman would help voters not be disenfranchised.
Ineligible Voter List	1	3.33	Shouldn't be required to use list during late registration or on election day.
Deceased Matching	1	3.34	Looking for other criteria.
Deceased Matching	1	3.34	Comments on current process, and looking for it to be turned on.
Deceased Matching	1	3.34	Unable to find procedures on website.
Deceased Matching	1	3.34	Suggests rule reflect beyond reasonable doubt standard.
Deceased Matching	1	3.34	Exact match and criteria, as well as inquiring about death notices in newspaper.
Deceased Matching	1	3.34	Suggested language change.
Deceased Matching	1	3.34	Cancel instead of inactivate?
Provisional Ballots and the SVRS	1	3.35	Options are always nice.
Provisional Ballot and the SVRS	1	3.35	Need further training on this new requirement.
Provisional Ballots and the SVRS	3	3.35	Suggests changing "within 7 days" to "within 30 days" for entering information about provisional ballots into SVRS. Need longer period of time.
Post-Election Voter Participation Audits	1	3.36	Other voting irregularities audits.
Post-Election Voter Participation Audits	1	3.36	Change "municipal clerk" to "provider or self-provider".
Post-Election Voter Participation Audits	1	3.36	How does a self-provider deal with felon voting?
Post-Election and Voter Participation Audits	1	3.36	Suggest audit for voters on ineligible list incorrectly, and report to board.
Post-Election Voter Participation Audits	1	3.36	Should audit be limited to municipality?
Post-Election Voter Participation Audits	1	3.36	Add (s) to district attorney.
Post-Election Voter Participation Audits	1	3.36	Responsibility of DA's involved.

Revision of Registration List	1	3.37	Should be done less frequently.
Revision of Registration List	2	3.37	Combine activities, have purge done within SVRS and more automated with canned letters.
Revision of Registration List	1	3.37	Is this a purge?
Revision of Registration List	1	3.37	Suggests purge every 4 years.
Revision of Registration List	1	3.37	Concerned there will be more work put on the county clerks and they do not have time.
Revision of Registration List	1	3.37	Notice should be a postcard.
Revision of Registration List	1	3.37	Under impression GAB would complete purge, will be large project.
Registration in Office of County Clerk	5	3.40	Wondering why it's required, not able to do it because of staff and budget, usually refer voters to municipal clerk
Registration in Office of County Clerk	1	3.40	Not going to enter form for self-providers (changed in current version)
Registration in Office of County Clerk	1	3.40	Registration after close should only be allowed in municipal clerk's office.
Registration in Office of County Clerk	1	3.40	Suggested language differentiating between where a voter resides, and where they register.
Registration in Office of the County Clerk	1	3.40	All "shall" language for county clerks should be changed to "may."
Registration in Office of the County Clerk	1	3.40	Concerns over "may register" and "county clerk shall allow to register".
Annexation and redistricting procedures within the SVRS system	1	3.41	Likes the rules on this topic, looking for similar rules on other topics.
Annexation and redistricting procedures in the SVRS system	1	3.41	Boundary changes for sanitary districts should be mentioned also.
Annexation and redistricting procedures within the SVRS system	1	3.41	Add (2)(a) to statutory reference of 59.10.
Annexation and redistricting procedures within the SVRS system	1	3.41	Difficult to get municipalities to notify county.
General	1	N/A	Seem clear and workable.
General	1	N/A	Hopes clerks took the time to respond to the

			proposed rules.
General	1	N/A	GAB will have to work very hard with municipal and county clerks to get rule to work.
General	1	N/A	Expectations on counties were not properly set for SVRS providers.
General	1	N/A	Some of the timeframes in the rules will be hard to meet, will there be penalties?
General	1	N/A	The rules are somewhat repetitive.
General	1	N/A	Committee is making effort to ensure that “Wisconsin’s electoral process remains fair, transparent and problem-free.” Support for comments and suggestions submitted by Paul Malischke.
General	1	N/A	Rules are too specific. The more specific, the less innovative clerks are.
General	1	N/A	Charge given to GAB to promulgate rules is being overworked. Municipalities are overworked already, if GAB wants to audit work, please do so.
General	3	N/A	Found rules comprehensive, thorough, thoughtful.
Outside scope of rules	1	N/A	Capturing both DL and SSN on forms.
Outside scope of rules	1	N/A	Special registration deputy concerns

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter GAB 3

VOTER REGISTRATION

GAB 3.01	Voter registration.	GAB 3.11	Special registration deputy application form.
GAB 3.02	Content of the voter registration form.	GAB 3.12	Special registration deputy training.
GAB 3.03	Treatment of voter registration applications.	GAB 3.13	Revocation of special registration deputy appointment.
GAB 3.04	Requiring provision of certain information by election-day voter registration applicants.	GAB 3.20	Voter registration drives.
GAB 3.10	Special registration deputies.	GAB 3.50	Charges for voter registration data.

Note: Chapter EIBd 3 was renumbered chapter GAB 3 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 6., Stats., Register April 2008 No. 628.

GAB 3.01 Voter registration.

(1) "Applicant" is an individual who submits a voter registration application form or a special registration deputy application form.

(2) "Appointing authority" means the board, a municipal clerk or board of election commissioners.

(3) "Board" means the government accountability board.

(4) "By mail" means the completing and signing of a voter registration application form other than in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.

(5) "Close of registration" is the third Wednesday preceding the election.

(6) "Election cycle" means the period beginning on January 1 of an odd-numbered year and continuing through December 31 of the following even-numbered year.

(7) "In person" means the completing and signing of a voter registration application form in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.

(8) "Municipal clerk" has the meaning given in s. 5.02 (10), Stats., and includes the Milwaukee city board of election commissioners.

(9) "Provider" means a municipality or county that provides election administration services in conjunction with the Statewide Voter Registration System for a relier municipality.

(10) "Qualified elector" has the meaning given in s. 6.02, Stats.

(11) "Registration" means registration to vote under subch. II of ch. 6, Stats.

(12) "Registration period" means the time period occurring between the date of a special registration deputy's appointment and the close of registration for the election immediately following the appointment. For purposes of this subsection, the term "election" includes any primary that precedes the election.

(13) "Relier" means a municipality that enters into an agreement with another municipality or county to provide election administration services in conjunction with the Statewide Voter Registration System.

(14) "Self-provider" means a municipality that provides its own election administration services in conjunction with the Statewide Voter Registration System.

(15) "Special registration deputy" means a qualified elector appointed pursuant s. 6.26 (2) (a) and (am), 6.55 (6), Stats., to register voters.

(16) "Statewide Voter Registration System" is the election administration software application provided by the board to enable local election officials to register voters, track absentee voting and administer elections.

(17) "Voter registration application form" means the board-prescribed form (EB-131) on which voter registration informa-

tion is recorded before entry in the Statewide Voter Registration System.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.02 Content of the voter registration form. An elector shall provide all of the following information on the voter registration application form:

(1) The elector's full name, including first and last name.

(2) The elector's complete address, including street, number and municipality.

(3) The elector's date of birth.

(4) The elector's driver's license number or, if the elector has not been issued a valid and current driver's license but has a department of transportation issued identification card, the transportation identification card number, or the last four digits of the elector's social security number. If the elector has not been issued a valid and current driver's license and does not have a social security number, the elector shall indicate that the elector has neither of those documents.

(5) An indication of the elector's age.

(6) An indication of the elector's citizenship.

(7) An indication that the elector is not disqualified from voting because the elector has not completed the terms of a sentence resulting from a felony conviction.

(8) If the elector was registered at a different location, the complete address including street, number and municipality of the previous address.

(9) If the elector was registered under a different name; the elector's former name, including first and last name.

(10) The signature of the elector certifying that the elector is qualified to vote in this state.

History: Emerg. cr. eff. 7-1-76; cr. Register, August, 1976, No. 248, eff. 9-1-76; CR 07-059: r. and recr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.03 Treatment of voter registration applications. (1) If an applicant for voter registration fails to check either or both of the boxes indicating the elector is a U.S. citizen and indicating the elector is or will be at least 18 years old at the time of the next election, the municipal clerk may process the voter registration application if the elector has signed the certification on the application form indicating the voter meets or will meet the applicable requirements to vote in this state.

(2) If information is missing from a voter registration application form, the municipal clerk shall contact the applicant by any means feasible, including in person, by email, facsimile transmission or telephone, to obtain the missing information.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.04 Requiring provision of certain information by election-day voter registration applicants. (1) A qualified elector registering to vote at a polling place on election day, who has been issued a current and valid Wisconsin driver's license, shall list his or her Wisconsin driver's license number on the voter registration application before the registration may be accepted or processed and before the person is allowed to vote at

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any election in Wisconsin. A Wisconsin driver's license that has expired, or has been suspended or revoked, is not a current and valid driver's license.

(2) If a current and valid Wisconsin driver's license has been issued to the registration applicant, but the registration applicant does not list the driver's license number on the registration application, the applicant shall be allowed to vote a provisional ballot using the procedures set forth in s. 6.97, Stats. Individuals voting provisional ballots shall be given the written information required under s.6.97(1), Stats. If the person voting a provisional ballot provides his or her driver's license number to the municipal clerk, by any means feasible, including, but not limited to: in person, email, facsimile or telephone; not later than 4:00 p.m., on the day following the day of the election, the person's ballot shall be counted.

(3) If a current and valid Wisconsin driver's license has not been issued to the applicant, the applicant shall list on the registration application either the last four digits of the applicant's social security number, or the Wisconsin department of transportation identification card number if one has been issued to the applicant. If neither a driver's license nor a social security number has been issued to the applicant, and the applicant has not been issued a Wisconsin department of transportation identification card number, the applicant shall check the appropriate box on the application before the application may be accepted or processed and the registrant is allowed to vote.

History: CR 06-137: cr. Register March 2008 No. 627, eff. 4-1-08.

GAB 3.10 Special registration deputies. (1) A qualified elector of this state may apply to any municipal clerk or board of election commissioners to be appointed a special registration deputy, under s. 6.26, Stats., for the purpose of registering electors of that municipality before the close of registration.

(2) A qualified elector of this state may apply to the board to be appointed a special registration deputy for the purpose of registering electors of any municipality before the close of registration.

(3) Application to be appointed a special registration deputy shall be made by completion of the application form (EB-158) prescribed by the board and submission of the form to the appointing authority.

(4) Appointment shall be consummated by issuance of the special registration deputy's oath of office, on a form (EB-156) prescribed by the board.

(5) The term of an appointment under this chapter continues through the registration periods remaining in the election cycle at the time of application, and expires at the end of the election cycle.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.11 Special registration deputy application form. (1) An application to be appointed a special registration deputy shall require the applicant to provide the applicant's name, address, and contact information.

(2) The application shall contain a certification that the applicant is a qualified elector of the state.

(3) The applicant shall agree to follow the procedures established by the board and the municipal clerk.

(4) Before being appointed a special registration deputy the applicant shall attend a training session conducted by the appointing authority.

(5) The applicant shall be issued, by the appointing authority, a unique number that the applicant shall list on all voter registration forms collected by the applicant.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.12 Special registration deputy training. (1) The content and curriculum of the training session required of each special registration deputy shall be prescribed by the board.

(2) The training shall include all of the following elements:

(a) Review of Wisconsin voter eligibility requirements.

(b) Directions on the completion of the voter registration application form, including a direction that the special registration deputy shall affix to the form his or her printed name, signature and identification number.

(c) Directions that the information on the form shall be legible.

(d) Review of the applicable statutory deadlines for submitting a voter registration application form.

(e) Directions on the treatment of confidential voter information and on the handling of proof of residence documents received from an applicant.

(f) Review of the deadlines and procedures for delivering the completed voter registration application form to the appointing authority.

(g) Information on the consequences of failing to follow the prescribed procedures for registering voters.

(h) Information on providing assistance to individuals with difficulty understanding the English language and individuals with disabilities.

(i) Information on the provisions of s. 12.13 (3) (ze), Stats., prohibiting compensation of special registration deputies according to the number of registration forms collected.

(j) Information on the criminal sanctions applicable to the misuse of appointment as a special registration deputy.

(k) Any other information prescribed by the board.

(3) The board shall provide training at times and locations designed to facilitate the participation of applicants.

(4) The board may authorize a municipal clerk to provide training for an applicant applying for appointment by the board.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.13 Revocation of special registration deputy appointment. (1) Under s. 6.26 (2) (b), Stats., an appointing authority may, for cause, decline to appoint an applicant as a special registration deputy, or may revoke the appointment of an existing special registration deputy.

(2) The basis for denying or revoking an appointment includes:

(a) The applicant or special registration deputy lacks the qualifications of an election official as set forth in s. 7.30 (2), Stats.

(b) The applicant or special registration deputy fails to attend training sessions scheduled by the appointing authority.

(c) The applicant or special registration deputy has previously had an appointment revoked for cause.

(d) The applicant or special registration deputy fails to adhere to procedures established by the appointing authority, including submission of completed voter registration application forms in the time and manner prescribed by the appointing authority.

(e) The applicant or special registration deputy falsifies, fails to submit, or wrongfully suppresses a voter registration application form or otherwise commits official misconduct.

(f) The applicant has been convicted of a crime delineated in s. 12.13, Stats.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08.

GAB 3.20 Voter registration drives. (1) Individuals or organizations conducting voter registration drives shall use the voter registration application form (EB-131).

(2) Individuals or organizations conducting voter registration drives may not retain the following voter registration information: the date of birth, driver's license number, department of transportation identification number, or last four digits of the social security number of an individual completing a voter registration application form.

(3) Individuals or organizations conducting voter registration drives may utilize special registration deputies to assist in the collection of voter registration application forms.

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(4) Individuals or organizations conducting voter registration drives that do not utilize special registration deputies to assist in the collection of voter registration application forms shall collect a copy of the required forms of proof of residence for first-time voters and submit the copy to the appointing authority with the completed voter registration application form.

(5) Individuals or organizations conducting voter registration drives may not retain a copy of any form of proof of residence collected from an individual.

(6) Individuals or organizations conducting voter registration drives may not pay any individual collecting voter registration application forms compensation based on the number of registration forms collected as prohibited in s. 12.13 (3) (ze), Stats.

History: CR 07-059: cr. Register January 2008 No. 625, eff. 2-1-08; correction in (6) made under s. 13.92 (4) (b) 7., Stats., Register January 2008 No. 625.

GAB 3.50 Charges for voter registration data. (1) In this section:

(a) "Custom report" means a report that is not programmed to run in the Statewide Voter Registration System at the time a request for the report is made, or a report that requires additional programming tasks.

(b) "Election official" has the same meaning as provided in s. 5.02 (4e), Stats.

(c) "Official registration list" has the same meaning as provided in s. 6.36, Stats.

(d) "Protected information" means any information that is protected from general public disclosure by ss. 6.36 (1) (b) 1. a. and 6.47, Stats.

(e) "Report" means a defined list of related voter registration data records generated from the Statewide Voter Registration System.

(f) "Voter registration data" means data contained in the official registration list.

(g) "Voter registration data record" means a set of related information requested from the official registration list which consists of a core data element and related attributes. A core data element is the basic unit of data that is being requested, including, but not limited to, a voter name, candidate, election official, or address. The related attributes consist of pieces of data associated with that core data element.

(2) The official registration list shall be open to public inspection consistent with the requirements of ss. 6.36, 6.45 to 6.47, and ss. 19.31 to 19.36, Stats.

(3) Any person may obtain, from the official registration list, voter registration data that is not protected information, upon payment of the applicable charges.

(4) The charge for reports in electronic format is a \$25 base fee per report; plus \$5 for the first 1,000 voter registration data records, or up to 1,000 voter registration data records; plus \$5 for each additional 1,000 voter registration data records, rounded to the nearest thousand. The maximum charge for an electronic report is \$12,500.

(5) The charge for a paper copy of a report is \$.25 per page, plus the cost of postage and shipping.

(6) Any request for a report or custom report submitted to the government accountability board shall be made in writing by the requester or reduced to writing by the government accountability board's staff. Any request by the government accountability board for payment in advance for the report requested shall include a copy of the report request in writing as submitted by the requester or as memorialized by the government accountability board's staff.

(7) Any person may request a copy of the poll list used at an election from the municipal or county clerk who has custody of the list. The charge for a copy of a poll list provided by a municipal or county clerk shall be a charge determined by that clerk not to exceed the cost of reproduction.

(8) The government accountability board, its staff, and each municipal or county election official shall take steps to ensure that any protected information contained in the Statewide Voter Registration System, or on a poll list, is not made available for public inspection.

(9) If a request for voter registration data requires a custom report, and the government accountability board staff determines that it can produce the report, the charge for producing the custom report charged to the requester shall be calculated by the government accountability board's staff on a case-by-case basis and shall include, in addition to the charges articulated in subs. (4) and (5), any applicable charges for handling and mailing; charges for reproduction, including programming costs; and costs of maintenance of the Statewide Voter Registration System as authorized by s. 6.36 (6), Stats. Requests fulfilled under this subsection are not subject to the maximum charge limitations in subs. (4) and (5).

(10) The money received from requests for voter registration data shall remain with the municipality, county, or government accountability board, whichever produces and provides the report.

History: Emerg. cr. eff. 5-12-07; CR 07-043: cr. Register January 2008 No. 625, eff. 2-1-08.

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For August 27, 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

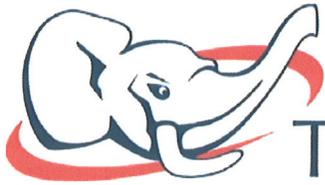
FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Republican Party Request to Review Proposed HAVA Check Procedures

On August 14, 2008, the Republican Party of Wisconsin (RPW) submitted a letter stating its belief that all new voter registration activity since the Help America Vote Act of 2002 (HAVA) became effective be subject to the HAVA Check procedure developed by the Board with the implementation of its Statewide Vote Registration System (SVRS).

At its July 15, 16, 2008 meeting, the Board reviewed a request from staff to authorize the promulgation of an emergency administrative rule to implement the HAVA Check procedure. The rule provided a voter who failed the HAVA Check the opportunity to vote a provisional ballot if the voter could not provide proof of residence at the polls on Election Day. The staff report is located under Agenda Item H at Pages 39-42 of the July 15, 16, 2008 meeting materials and can be found at this link: http://elections.state.wi.us/meetings_doc.asp?thismeeting=1737

The staff is reviewing the legal issues raised in the letter as well as the implementation of the HAVA Check procedure that began on August 5, 2008. The staff will present a report to the Board at the August 27, 28, 2008 meeting addressing the issues raised in the letter for the Board's consideration. A copy of the RPW letter accompanies this memorandum.



The Republican Party of Wisconsin

August 14, 2008

Chairman Thomas Cane
Government Accountability Board
17 W. Main Street, Suite 310
P.O. Box 2973
Madison, WI 53701-2973

Dear Judge Cane:

I write to you on a matter of the utmost importance to the integrity of the upcoming elections in Wisconsin. The fundamental position of the Republican Party of Wisconsin on participation in elections can be boiled down to this: It should be easy for Wisconsin's voters to vote, and as hard as practicable for any individual to cheat. Wisconsin must take all the reasonable steps it can to protect the integrity of our elections, and Wisconsin must comply with federal Help America Vote Act ("HAVA") mandates and its own election integrity laws. However, current plans fall short of this. As detailed below, we believe that all new registration activity since HAVA became effective should be subject to the federally mandated HAVA Check, and that registration problems identified by the HAVA Check can not simply be ignored until after this upcoming election.

Recent events highlight the need for rigorous checks to ensure, to the extent we are able, that our voter registration rolls include only the names of eligible voters, and are maintained in accordance with federal and state law. Already this election season, canvassers working for third-party groups have engaged in significant election fraud, filling out hundreds of false registrations. (See, Milwaukee Journal Sentinel of August 13, 2008, noting 100s of fraudulent applications being filed, or the Milwaukee Journal Sentinel, August 6, 2008, noting fake names and/or drivers license numbers being submitted.) And we presume you are familiar with the Milwaukee Police Departments Special Investigation Unit Report on the 2004 election finding numerous, serious problems. Of course, these reports only refer to the examples that were detected.

We were pleased to see the announcement last week that the "HAVA Check" was turned "on" by the GAB. As we understand it, that means all registration activity as of last Wednesday, August 6, 2008 forward will be subject to the HAVA Check, meaning the driver's license or social security information provided by the registrant will be cross-matched with those databases. Those registration activities which do not match with the databases (hereinafter referred to as "non-matches") will generate a letter to the potential voter notifying them of the problem and to take corrective action with the appropriate clerk. This letter is referred to as a "Ping" letter by the GAB staff.

Reince Priebus
Chairman

Mark Jefferson
Executive Director

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When a Ping letter is sent, it obviously means that a problem has been identified with that registration activity. After GAB sends the Ping letter, there are three potential scenarios, or categories of registrants:

1. The recipient corrects the error that caused the non-match;
2. The Ping letter is returned as non-deliverable; or
3. The Ping letter is delivered, but no follow-up of any kind occurs.

We are all hopeful that as many non-matches as possible fall into Category 1 where the problem is corrected. For those non-matches that fall into Category 2, the appropriate step is to remove the registrant from the voter list. That registration activity has not only failed the HAVA Check and generated a non-match, but the Ping letter was undeliverable. We have asked GAB staff to confirm that such obviously flawed registrations are indeed being removed from the voter list.

The primary concern then focuses upon those in Category 3. At this point in time, it appears to be the intent of the GAB to take no action of any kind with the Category 3 registration activities. In short, the State will have completed the HAVA Check, generated non-matches, those non-matches will have been in no manner addressed or cleared up, however, that will in no way be reflected upon the voting registration list. As discussed in more detail below, we do not believe that this course of action represents sound policy or is allowable under state and federal law. Therefore, we ask the GAB to address this issue at its August 27th meeting, and take appropriate action to insure that reasonable steps are taken to address non-matches generated by the HAVA Check.

A second major concern is that, although the HAVA Check system is now operable and the State has the ability to check all voter registration activity completed under the HAVA rules that require a state-issued identification number or social security information to be provided, the GAB's intent at this point is to do nothing with any registration activity completed prior to August 6, 2008. There is absolutely no sound policy basis why the HAVA Check would not be run on all registration activity for which it is possible to complete the check on. Further, we believe that federal law does not allow the GAB to randomly treat registration activity completed prior to August 6, 2008 in a different manner than registration activity occurring after August 6, 2008. This is particularly true when the GAB has the ability to treat such registration activity equally, and take reasonable steps to preserve the integrity of the vote by running the HAVA Check on all possible registration activity. We ask the GAB to also address this issue at its upcoming meeting on August 27, 2008.

PROTECTION OF THE INTEGRITY OF THE VOTE REQUIRES THE "HAVA CHECK" BE COMPLETED ON ALL NEW REGISTRATION ACTIVITY, AND THAT NON-MATCHES BE REQUIRED TO CONFIRM THE VALIDITY OF THE REGISTRATION ACTIVITY.

As we were all reminded just last week and again today, there are those who, unfortunately, are willing to attempt to utilize Wisconsin's exceptionally lax registration rules to gain unfair advantage. The HAVA Check, activated last week, could be an important tool in combating and/or dissuading such activity. However, under the current plans of the GAB, the HAVA Check will not be used in that manner. Instead, hundreds of thousands of registration actions will not even be run through the HAVA Check, and for that remaining percentage of registration activity occurring after August 6, 2008 which will be subject to the HAVA Check, in many cases problems that are found (non-matches) will result in absolutely no corrective action.

Take the following example: we now know that certain deputy registrars in Wisconsin have been “registering” voters using fake driver’s license numbers. If these fraudulent registrations were submitted using an address the Post Office recognized as deliverable, the HAVA Check is the sole screen that would capture such activity. Under the GAB’s plan, the HAVA Check would not even be run if the “registration” was completed prior to August 6, 2008. Further, if the HAVA Check was completed after August 6, 2008, thereby catching the fraudulent driver’s license number, and the Ping letter was deliverable but no follow up occurred, absolutely no change would be made to the voter registration list on Election Day. This is true notwithstanding the fact that the HAVA Check identified that there was a problem with the registration.

This is simply not sound public policy, and leaves the integrity of our election process needlessly open to manipulation and question. The GAB expended tens-of-millions of dollars to develop the HAVA Check system. We did so because we all believe that the integrity of the vote must be guarded as closely as possible. There is no sound argument to then not use that system to screen as many registration activities as possible, and to use the non-matches generated by the HAVA Check to insure that problems are addressed before a vote is cast under that registration activity.

Furthermore, Federal and State law anticipates such issues, and has provided a mechanism to guarantee that, even for those voters that fall into Category 3 (a non-match in the HAVA Check, and no corrective action from the Ping letter), their ability to vote can be completely protected. The provisional ballot process allows such a voter to cast a ballot even if the problem has not been addressed, and allows the voter to then address the problem with the clerk anytime until 4PM the day after the election.

FEDERAL AND STATE LAW DO NOT ALLOW THE GAB TO IGNORE PRE-AUGUST 6, 2008 REGISTRATION ACTIVITY AND THE HAVA CHECK, OR TO IGNORE THE NON-MATCHES IN THE HAVA CHECK WHEN THE PING LETTER GENERATES NO CORRECTIVE ACTION.

Although the State of Wisconsin was unable to make its HAVA Check system operable until August 6, 2008, that does not change the effective dates of the requirements of HAVA. In fact, under Section 303(a)(1)(A)(iv), of HAVA, GAB is required to coordinate the statewide voter registration list with other agency databases. That federal requirement did not begin on August 6, 2008. It was effective on January 1, 2006. HAVA, Section 303(a)(2) requires the GAB to engage in ongoing list maintenance.

That maintenance “shall” be conducted to insure that only appropriately registered voters remain on the list. That maintenance must be performed on a “regular” basis.

Pursuant HAVA Section 303(a)(4)(A), the GAB is required to conduct file maintenance and must make a “reasonable effort” to remove registrants who are ineligible to vote. While the phrase, “reasonable effort” certainly allows for discretion in how to meet the federal law requirements, GAB’s proposed plan to not run any check on registrations prior to August 6, 2008, although the ability exists to do so, and to ignore non-matches that fall in Category 3 above, does not constitute a “reasonable effort.”

Finally, pursuant HAVA Section 303(a)(5)(iii), the GAB, “shall determine whether the information provided by an individual is sufficient to meet the requirements [of verification of voter registration information], in accordance with State law.” Again, notwithstanding the operational date for the

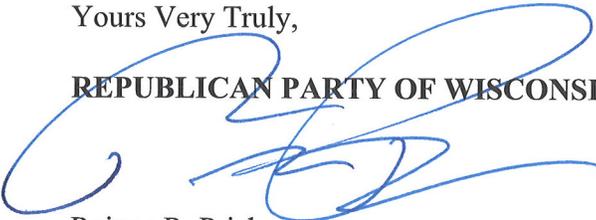
HAVA Check system in Wisconsin of August 6, 2008, this federal requirement (“shall”) exists on registration activity beginning on January 1, 2006.

The GAB’s proposed course of action is not consistent with these provisions of HAVA.

Further, Wisconsin law, which is also incorporated into HAVA Section at 303(a)(2)(A)(iii), requires corrective action when a clerk has, “reliable information that a proposed elector is not qualified.” This requirement is repeated at Wis.Stats. § 6.32(2), 6.48(1) and 6.50(3). A generation of a non-match in the HAVA Check certainly qualifies as such information, and therefore requires action under Wisconsin law, in addition to HAVA.

For all the above reasons we ask the GAB to address this important topic at its August 27th meeting, and to direct that reasonable actions to preserve the integrity of the election and to conform with the requirements of both HAVA and Wisconsin law be taken. Thank you for your attention to this urgent matter.

Yours Very Truly,


REPUBLICAN PARTY OF WISCONSIN

Reince R. Priebus
Chairman

“Birthplace of the Republican Party”

Authorized and paid for by The Republican Party of Wisconsin.

www.wisgop.org

Not authorized by any candidate or candidate committee.

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JUDGE THOMAS CANE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

DATE: For August 27, 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel
Kyle Brown, Summer Law Clerk

SUBJECT: Proposed Rule Governing Election Observer Conduct

Background

The public is given a right to observe all public aspects of the election process by § 7.41, Stats. The GAB is empowered by § 7.41(5), Stats. to promulgate rules to govern the conduct of individuals exercising this right.

Currently, Ch. GAB 4 is the administrative rule governing observer conduct; however, this rule was based on the statute that formerly governed observers, § 7.39, Stats. Under § 7.39, Stats., polling places were not open to the general public for observation. Rather, the only individuals who were allowed to observe were those appointed by a recognized political party, a candidate at a primary, an independent candidate, or registrants under s. 11.05(1), Stats., that were interested in a referendum question on the ballot. This section was repealed by 1989 Acts 192 and 359.

The current statute, s. 7.41, Stats., was created by 1989 Act 192. The section has been modified several times since then, but its core remains the same: anyone other than a candidate is allowed to be present at the polling place to observe.

Despite this statutory change in 1989, the GAB rule governing observers has remained largely unchanged. Consequently, Ch. GAB 4 is now inconsistent with the provisions of s. 7.41, Stats. and needs to be updated.

Current Regulation of Observer Conduct

The current statute lays out the right of observers to be present and authorizes the chief inspector of the polling place to remove the observers if they disrupt the orderly conduct of the election or engage in electioneering. The chief inspector is also empowered to reasonably limit the number of observers representing a particular organization.

The current rule lays out the procedures a party or registrant must follow to appoint an observer (something no longer necessary under the current statute) but does little to regulate the standards the observers must abide by. Board staff instructs chief inspectors and local election officials on what is permissible observer conduct during their trainings of chief inspectors, and the issue is covered in the Election Day Manual on pp. 41-42. However, the lack of formal regulation leaves a great deal to

the chief inspector's judgment and leaves poll workers unsure of what they must and must not allow the observers to do.

Effect of Proposed Rule

The proposed rule will bring Ch. GAB 4 into accord with s. 7.41, Stats. and specify the standards of conduct observers must abide by.

The proposed rule will now accurately reflect the fact that under the current statutory scheme any member of the public other than a candidate has a right to be present, rather than only those appointed by political parties and organizations as stated in the current rule.

Additionally, the proposed rule will codify standards the observers must abide by while in the polling place or other location where observation is permitted. The rule regulates observers' interactions with electors and election officials. The rule also deals with where observers can be physically located within the polling place, their right to view the poll lists, cell phone and camera usage by observers, and observers' clothing which constitutes electioneering or other communication restricted by statute.

Finally, the rule empowers the chief inspector at a polling place or the chief inspector's designee to issue a warning to any observer who violates the rule or refuses to follow a lawful order from the chief inspector; and, if the observer refuses to cease the offending conduct, the chief inspector or her designee can have the observer removed from the polling place.

The staff also plans to prepare a plain language pamphlet for distribution to poll workers and observers describing the procedures necessary to serve as an observer and the standards of conduct observers must abide by.

The standards in the rule reflect the instruction staff has been giving in their trainings. Staff solicited public comment on the initial draft of the rule and received seventeen pages of comments. The comments came from a number of municipal and county clerks, poll workers, state legislators and groups that utilize observers. These comments were then vetted by a committee composed of six clerks and five representatives from groups that utilize observers. The committee strove to reach a consensus on as many of the issues as possible. A copy of the comments and list of Ad Hoc Committee members accompanies this memorandum.

One issue the committee could not reach a consensus on, however, was subsection nineteen of the proposed rule, which deals with observer's clothing. The committee suggested several alternatives for the Board to consider. First, the committee proposed eliminating the language of s. 12.035, Stats. from the rule and only banning clothing with the name or likeness of a candidate, party, or referendum group. The second alternative was to keep the language from s. 12.035, Stats. in the rule and establish a procedure to allow groups to submit their proposed shirt designs to the Board for staff or Board approval.

The language in question from § 12.035, Stats. is the definition of "election-related material" and reads "any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place." This section was added by 2005 Act 451 after concerns that inaccurate information was being deliberately distributed to mislead voters and suppress turnout. A number of groups that utilize observers give their observers shirts with slogans like "HAVA Volunteer," "Election Protection," or "You Have the Right to Vote." The committee

debated whether these types of slogans would violate subsection nineteen and eventually decided this was an issue best dealt with by the Board itself.

Exceptions

The proposed rule creates two exceptions to the general provisions. The first is for media and allows observers from media organizations to take pictures and video inside the polling place. Staff felt there was a strong public policy interest in allowing the public to see the voting process through the lens of the media. Some of the comments expressed concern about whether bloggers and other new media forms should be included in this exception. The draft submitted to the public for comment incorporated the definition of communications media from § 11.01(5) which includes “newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.” Some committee members believed that bloggers should be added to this definition; but the ultimate consensus was that it was best to use the preexisting statutory definition of “communications media,” and allow the legislature to make the decisions about whether the definition should be expanded.

The second exception was added due to comments from disability rights advocates concerned about the impact this rule could have on their ability to assess polling places for accessibility. To verify polling places are in compliance with state and federal accessibility requirements, these observers need to be able to take measurements of various parts of the polling place and photos or videos to document their findings. They would not be able to effectively carry out their work if they were confined to observation areas and prevented from using cameras.

To address their concerns, a section was added allowing disability advocates to leave the designated observation areas to take measurements and also allowed them to use cameras. The exception requires that they notify the municipal clerk at least 24 hours in advance of their intent to observe at a polling place. This will ensure that poll workers know the different standards that apply to these observers and be able to facilitate their work.

Disability advocates continue to express concern with parts of the exception. They object to the requirement that they notify the clerk 24 hours in advance. Disability advocates also object to the language that lets the inspectors prevent them from taking measurements or photos if doing so “is disruptive or interferes with the administration of the election.” They note that neither of these restrictions is placed on other observers. In addition, some of the disability advocate groups provide hotlines for people to report accessibility issues during polling hours, and they felt the 24 hour notification provision would prevent them from investigating these complaints.

Staff, however, felt that these provisions were reasonable in light of the greater access granted to disability rights observers. Requiring them to notify the clerk in advance gives the clerk time to explain to the poll workers what the disability rights advocates are doing at the polling place and that different rules apply to their conduct which provide them with greater access than other observers. Staff also believes the advance notice will discourage observers from falsely claiming to be assessing polling place accessibility in order to get around the prohibition on cameras and be allowed out of the observation areas.

As for the provision that allows inspectors to prevent disability rights advocates from taking measurements or photos if doing so is disruptive or interferes with voting, it is important that inspectors are able to maintain order when the assessment is taking place outside of the observation area. Staff added a subsection to state that election officials shall facilitate disability advocate observers in carrying out their work. Staff is also considering adding a provision to the plain

language pamphlet mentioned above clarifying that it is presumptively permissible for the disability advocate observers to take photos and measurements and this should only be prevented if the size of the line and crowd make it too difficult to keep the election running efficiently.

As for concerns about disability advocate's ability to investigate complaints received on Election Day, staff believes these issues are best dealt with on a case-by-case basis between the municipal clerk, poll workers, and the disability advocates. If an Election Day complaint is received, the disability group is likely to contact the clerk to resolve the issue. The provision directing election officials to facilitate the assessment of polling places for accessibility is a better means to reinforce the policy than crafting definitions and additional exceptions in the rule.

Recommendation

The staff recommends the Board determine how to resolve the treatment of election observer apparel in proposed GAB 4.01 (19). The staff recommends the Board adopt the proposed finding of emergency set out below and direct staff to promulgate the proposed rules as both emergency and permanent rules.

Finding of Emergency

The Government Accountability Board adopts this rule to codify standards of conduct of election observers present at polling places, clerk's offices, central count locations, nursing home voting locations, and recounts.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists in the Board's May 5, 2008 decision to decline to reaffirm the administrative rule EIBd 4.01 because the rule was inconsistent with the requirements of its enabling statute, s. 7.41, Stats. The statute states that any member of the public is allowed to be present at the polls on Election Day to observe; however, it does not specify standards of conduct they must abide by.

The Board further finds that given the intense interest in the fall election, the expected high turnout, the increasing use of observers in the polling place, and the comments of municipal and county clerks regarding the obstacles observers can pose to the orderly conduct of elections, it is necessary to codify standards to regulate the observers' conduct and that the attached rule governing observer conduct must be adopted prior to the fall elections to ensure the public peace and safety with respect to the administration of the fall elections.

Election Observers

GAB 4.01 Observers at the polling place

- (1) In this chapter:
 - (a) “Board” means the Government Accountability Board.
 - (b) “Chief inspector” means the chief inspector at a polling place or the election official the chief inspector designates to carry out the responsibilities under this chapter.
 - (c) “Clerk” means the municipal or county clerk, the executive director of the board of election commissioners, or the official designated by the clerk or director to carry out the responsibilities under this chapter.
 - (d) “Communications media” has the meaning given in s. 11.01(5), Stats.
 - (e) “Electioneering” has the meaning given in s. 12.03(4), Stats.
 - (f) “Member of the public” means any individual excluding a candidate appearing on the ballot at that polling place or a registered write in candidate for an office voted on at that polling place.
 - (g) “Public aspects of the voting process” means the electors in line waiting to vote, the election day registration process, the recording of electors under s. 6.79 Stats., the elector’s receipt of a ballot, the deposit of the ballot into the ballot box, a challenge to an elector’s right to vote, the issuing of a provisional ballot, and the counting and reconciliation process.
- (2) The Government Accountability Board is empowered by s. 7.41(5), Stats., to promulgate rules consistent with the supervisory authority of a chief inspector at any polling place on election day, regarding the proper conduct of individuals exercising the right under s. 7.41, Stats., to readily observe all public aspects of the voting process in an election.
- (3) Any member of the public-intending to exercise the right to observe an election under s. 7.41, Stats., shall notify the chief inspector of that intent upon entering the voting area of a polling place. The observers shall sign a form acknowledging they understand the applicable rules and will abide by them. The observers shall also list their full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the form. The inspector shall attach the form to the Inspectors’ Statement, EB-104. The chief inspector will provide the observer with a name tag supplied by the Board which reads “Election Observer.”

- (4) To ensure the orderly conduct of the election, the chief inspector may reasonably limit the number of observers representing a particular organization or candidate.
- (5) The chief inspector shall direct the observer to an area of the polling place designated by the chief inspector as an observation area.
- (6) The observation area shall be situated to enable observers to observe all public aspects of the voting process during the election. When physically feasible within the polling place, the observation area shall be not less than 6 feet nor more than 12 feet from the table at which electors are announcing their name and address and being issued a voter number. If observers are unable to hear the electors stating their name and address, the poll workers shall repeat the name and address. If necessary to ensure all public aspects of the process are readily observable, the chief inspector shall set up additional observation areas near the election day registration table and area where elector challenges are handled.
- (7) Observers must comply with the chief inspector's lawful commands or will be subject to removal from the polling place.
- (8) All of the observer's questions and challenges shall be directed to the chief inspector.
- (9) Upon receiving a challenge to a voter's ballot at the polling place, the chief inspector shall follow the challenge procedure in Chapter GAB 9, Wis. Adm. Code. The challenge shall be recorded on the Challenge Documentation Form, EB-104c.
- (10) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the chief inspector, threatens the orderly conduct of the election or interferes with voting, the chief inspector shall warn the offending observer(s) that such conduct must cease or the observer will have to leave the polling place.
- (11) If, after receiving the warning provided in sub. 10, the offending observer does not cease the offending conduct, the chief inspector shall order the offending observer to depart the polling place. If the offending observer declines or otherwise fails to comply with the chief inspector's order to depart, the chief inspector shall summon local law enforcement to remove the offending observer.
- (12) While in the polling place, observers shall keep conversation to a minimum and shall try to conduct whatever conversation is necessary at a low enough volume to minimize distraction to electors and to the election inspectors and any other election officials. Failure to adhere to this sub. will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11.

- (13) Observers shall be permitted to view the poll lists, excluding the confidential portions of the lists maintained under ss. 6.35(4) and 6.79(6), Stats., so long as doing so does not interfere with or distract electors under s. 5.35(5) Stats. Observers shall not be permitted to make a photocopy or take photographs of the poll lists on election day.
- (14) Observers shall not be permitted to handle an original version of any official election document.
- (15) Observers shall not engage in electioneering. If an observer violates s. 12.03, Stats., the chief inspector shall issue a warning under sub. 10 and, if the conduct continues, removal under sub. 11.
- (16) Observers shall not use a cellular telephone or other wireless communication device inside the voting area to make voice calls. Such use will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11. Text messaging and other non-audible uses of such a device are permissible.
- (17) Observers shall not engage in any conversation with electors concerning a candidate, party, or question appearing on the ballot. Such conversation constitutes electioneering under s. 12.03, Stats., and will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11. The chief inspector may order that other conversation be minimized if it is disruptive or interferes with the orderly conduct of the election.
- (18) The restrictions on voter contact under sub. 17 shall not be construed to prevent any observer from assisting an elector under s. 6.82, Stats., provided that the elector requests the observer's assistance, and the observer meets the other requirements of s. 6.82, Stats.
- (19) Observers shall not wear any clothing or buttons having the name or likeness of a candidate, party, or referendum group appearing on the ballot or having text which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site. Wearing such apparel at the polling place constitutes a violation of ss. 12.03 or 12.035, Stats. and will result in a warning under sub. 10 and, if the observer refuses to comply with the chief inspector's order, removal under sub. 11. [Alternatives to be presented to the Board: 1) remove the language from 12.035 entirely. 2) leave the language in, but establish a review procedure where shirt designs can be sent in for staff or Board approval to ensure they comply with this subsection.]
- (20) Observers shall not use any video or still cameras inside the polling place while the polls are open for voting. Failure to adhere to this sub. will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11.

- (21) After the polls close, candidates are allowed to be present and the prohibition of video and still cameras does not apply unless it is disruptive or interferes with the administration of the election.

GAB 4.02 Observers at the municipal clerk's office

- (1) Observers shall be permitted to be present at the municipal clerk's office, provided the clerk's office is located in a public building, or the alternate site for absentee voting designated under s. 6.855, Stats., on any day that absentee ballots may be cast in the office.
- (2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The municipal clerk shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.
- (3) The clerk shall establish observation areas to allow observers to view all public aspects of the absentee voting process. The observers need not be allowed behind the counter in the clerk's office.
- (4) All of the observer's questions shall be directed to the clerk.
- (5) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the clerk, threatens the orderly conduct of the election or interferes with voting, the clerk shall issue a warning under s. GAB 4.01(10) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01(11).
- (6) Observers shall not use any video or still camera inside the clerk's office.

GAB 4.03 Observers at the central counting location

- (1) In a municipality using a central counting location under s. 5.86, Stats., observers shall be permitted to be present at the central counting location.
- (2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The municipal clerk shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.
- (3) The clerk shall establish observation areas to allow observers to view all public aspects of the counting process.
- (4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the clerk, threatens the orderly conduct of the count, the clerk shall issue a warning under s. GAB 4.01(10) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01(11).

- (5) Observers shall be permitted to use a video or still camera inside the central count location unless it is disruptive or interferes with the administration of the election.
- (6) All of the observer's questions and challenges shall be directed to the clerk.

GAB 4.04 Observers at absentee ballot canvass

- (1) In a municipality using a central absentee ballot canvass location under s. 7.52, Stats., observers shall be permitted to be present at the canvass location.
- (2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The board of absentee ballot canvassers shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.
- (3) The board of absentee ballot canvassers shall establish observation areas to allow observers to view all public aspects of the canvassing process.
- (4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the board of absentee ballot canvassers, threatens the orderly conduct of the count, the board of absentee ballot canvassers shall issue a warning under s. GAB 4.01(10) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01(11).
- (5) Observers shall be permitted to use a video or still camera inside the absentee canvass location unless it is disruptive or interferes with the administration of the election.
- (6) All of the observer's questions and challenges shall be directed to the member of the board of absentee ballot canvassers designated to receive questions and challenges.

GAB 4.05 Observers at absentee voting locations described in s. 6.875, Stats.

- (1) One observer from each of the two political parties whose candidate for governor or president received the greatest number of votes in the municipality may accompany the special voting deputies to absentee voting locations described in s. 6.875, Stats.
- (2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The special voting deputies shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

- (3) The special voting deputies shall establish observation areas to allow observers to view all public aspects of the absentee voting process.
- (4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the special voting deputies, threatens the orderly conduct of the absentee voting process, the special voting deputies shall issue a warning under s. GAB 4.01(10) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01(11).
- (5) Observers shall not be permitted to use a video or still camera inside the voting location.
- (6) All of the observer's questions shall be directed to the special voting deputies.

GAB 4.06 Observers at recount

- (1) The recount shall be open to any interested member of the public including candidates and their counsel.
- (2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The board of canvassers shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.
- (3) The board of canvassers may limit observers to a designated area, but the observers shall be positioned so that they can see the poll lists and each individual ballot as it is counted. If there is not room for all observers to view the ballots as they are being counted, preference shall be given to the candidates or their representatives.
- (4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the board of canvassers, threatens the orderly conduct of the count, the board of canvassers shall issue a warning under s. GAB 4.01(10) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01(11).
- (5) Observers shall be permitted to use a video or still camera inside the recount location unless it is disruptive or interferes with the administration of the election.
- (6) All of the observer's questions and challenges shall be directed to the member of the board of canvassers designated to receive questions and challenges.

GAB 4.07 Communications media observers

- (1) Observers from communications media organizations shall identify themselves and the organization they represent to the chief inspector upon arriving at the polling place. The inspector shall record that information on the Inspectors' Statement, EB-104.
- (2) Communications media observers shall be permitted to use video and still cameras provided there is no objection from the chief inspector or a voter who may be photographed and the cameras are not used in a manner that allows the observer to see or record how an elector has voted.

GAB 4.08 Polling Place Accessibility Assessments

- (1) This section applies to disability advocates and other individuals authorized by the Board to assess the compliance of a polling place with s. 5.25(4)(a), Stats.
- (2) Groups and individuals observing under this section shall notify the clerk at least 24 hours in advance of their intent to assess polling place accessibility.
- (3) Disability advocate observers shall be allowed out of the designated observation area to take measurements to ensure compliance with polling place accessibility requirements unless it is disruptive or interferes with the administration of the election.
- (4) Disability advocate observers shall be allowed to take photos and video to document the compliance with the accessibility requirements unless it is disruptive or interferes with the administration of the election.
- (5) Disability advocate observers shall be allowed to wear shirts or name tags identifying themselves as disability advocate observers.
- (6) Election officials, including poll workers, shall facilitate the work of disability advocates in making their accessibility assessments.

**Comments on the Proposed Election Observer Rule
(Revised 8/18/2008)**

Comments are arranged according to the section of the rule they refer to.

GAB 4.01

(1) (b) Definition of “Public aspects of the voting process.” Instead of listing the things that are open to inspection, this should assume that everything is open, with a few limited exceptions such as the secret ballot and the confidential voters.

Thus the definition should read:

“Public aspects of the voting process” includes but is not limited to the electors in line waiting to vote, the election day registration process, the recording of electors under s. 6.79 Stats., the elector’s receipt of a ballot, the deposit of the ballot into the ballot box, a challenge to an elector’s right to vote, the issuing of a provisional ballot, the counting and reconciliation process, the downloading and aggregation of results from memory cards and PROM packs, and the testing of voting machines as part of a recount. The confidential voter list and how an elector has voted are excluded from the public aspects.”

-Paul Malishke

(1) Under the definitions I would suggest that you place “electioneering” with the definition “Any activity that is intended to influence voting at an election”. Since the rules refer to 12.03 and unless there is a statute book at the polls this is the simple ways to refer to what 12.03 is about.

-Roxann Brue, Clerk, Village of Arlington

(1) I believe the reference to Community *Antenna* Television Stations should be Community *Access*... While it is true that there are Community Antenna Television Systems, personnel from Community Access Stations are more likely to be interested in election activities.

-Mike Brenner, Senior Elections Specialist, essvote.com

1(c) and **(3)** I believe that the candidate is permitted to watch the tally after the close of election. That should be reflected if it is the case

-Kris Schmidt, Clerk, City of Brookfield

1(c) and **(3)** should contain the same language as the alternate language in (c) above; i.e. “member of the public” means any individual excluding a candidate running for office at the current election. Someone might be running for election as a write-in; thus, not appear on the ballot.

-Teri Lehrke, Clerk, City of La Crosse

(3). In the past, many organizations who intend to send observers have contacted the clerk's office to give us that information ahead of time and we in turn, alert the chief inspectors to the fact. Possibly that wording could be included, or it could be an either/or situation.

-Carol S. Alexander, Clerk, City of Beloit

(3) "The observer shall give the inspector her full name"..... Shouldn't this read his OR her first name? We cannot assume that the observer is going to be a she.

-Carrie Kneifl, La Crosse County Clerk's Office

(3) Should read: Any member of the public, excluding candidates appearing on the ballot, intending to exercise the right to observe an election under s. 7.41, Stats. shall notify the Municipal Clerk 24 hours in advance and the chief inspector on the day of the election of that intent upon entering the voting area of a polling place. The observer shall give the inspector his/her full name, street address and municipality, and the name of the organization or candidate the observer represents, if any. The inspector shall enter that information into the Inspectors' Statement, EB-104. The Observer shall be given a name badge to wear identifying his/her name, organization affiliation and printed with the words OBSERVER.

-Juliet Edmands, Clerk Treasurer, Village of Mount Pleasant.

(4) Specifically, #4 states that the chief inspector may limit the number of observers. This doesn't happen often, but it could happen where disability groups could have as many as 4-5 people in a group to do accessibility surveys at polling sites. This would be more of a training type of situation. We believe it's useful to train someone at a site rather than not. Since #4 is written vaguely, we are concerned that a group of that size would not be allowed to do their work at all sites. Some inspectors would be fine with that number and others might not be.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

(5) and (6) These require observers to be confined to an observation area. Obviously, this is a problem for us if we are there to do measurements and the like for access purposes. Our observers need to be able to have access to the entire polling site not just an observation area. The only way to take measurements is to actually measure a booth, hallway, doorway, etc. It's not acceptable to just have to rely on "observing" a polling site.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

Proposed GAB 4.01(5) provides that the chief inspector "shall direct the observer to an area of the polling place designated by the chief inspector as an observation area." Proposed GAB 4.01(6) provides that this "observation area" shall be between 6 and 12 feet from the table at which voters are announcing their names and addresses. Milwaukee Election Protection is concerned that these provisions will result in the creation of a "corral" from which observers will be able to observe only one part of the voting process: the arrival and check-in of the voter. Such a corral may satisfy the interests of partisan observers, whose primary interests are in making challenges and checking off voters for

get-out-the-vote efforts. In our experience, however, non-partisan observers play a useful role in detecting problems at various other places in and around the polling area, including the lines of voters entering the polling area and in the vicinity of the voting machines. We recognize that voters and election workers are entitled to some breathing room in order to make the process go smoothly. However, we feel that “buffer zones” around various aspects of the voting process are a better means of balancing the need for efficient election administration against the need for transparency than the proposed Rule’s corralling of observers in a delimited observation area.

-Laurence Dupuis, Milwaukee Election Protection

Proposed GAB 4.01(6) also provides that voters will be asked to state their names and addresses “loud [sic] enough for observers in the observation area to hear the name and address.” We are concerned that this puts an unnecessary burden on the voter, who may have difficulty raising his or her voice, either because of a disability or out of simple embarrassment. We propose that the rule be amended to provide that, if the voter’s initial announcement of his or her name and address is not audible to observers, the election worker will repeat the name and address loudly enough for observers to hear.

-Laurence Dupuis, Milwaukee Election Protection

(6) – voters asked to announce their name and address loud enough for observers in the obs. area to hear. Why in the world is this necessary? The point of voting is to help the voter, not the observer. I would not ask my election inspectors to have people repeat loudly for the benefit of observers. On slow days it would get to be a joke – on busy days they would have to shout. Imagine a gym or room filled with 100, 200 people and the ensuing noise.

-Carol S. Alexander, Clerk, City of Beloit

(6) The final sentence of this regulation – “Voters will be asked to announce their name and address loud enough for observers in the observation area to hear the name and address.” – should be removed. Section 7.41, Wis. Stats., which authorizes the Board to enact these regulations, relates only to the conduct of the observers, and does not place any requirements on voters. To the extent there is any need for amplification, this should be handled at the polling place among and between the chief inspector, poll workers and any observers that are unable to hear the discussions.

-Robert Friebert, on behalf of the Democratic Party of Wisconsin

(6) – location of observation area shall be not less than 6’ nor more than 12’ from the table where voters are announcing their name and address. I suppose you must impose some parameters, and I’m glad to see that you state “when physically feasible” to allow for flexibility.

-Carol S. Alexander, Clerk, City of Beloit

(6) six feet is too close. Make it a minimum of ten feet.

-Bob Brusio, Oneida County Clerk

(6) Noting the size of my 5 polling places, there is no place within them which would satisfy the requirements of the rule 4.01 (6), which is ok as it says "when feasible". The observers would have to stand and move in and around voters.

-James Villiesse, Clerk, New London

(6) and (19)

Equipment setup:

Observers attempting to verify compliance to the new security rules (e.g. record the software version numbers for the firmware) require the observer be considerably closer than six feet. For example on the Accuvote OS scanners used in my home voting district of Germantown the version number flashes briefly on a small (approx 6 inch by 1 inch) LCD display and on the cash register tape beginning of day report. Because of the transient nature of the LCD display, video recording is the only practical way for an observer to record the data displayed. If there is no video, then the even if the displayed information is accurately recorded using a pen and paper, the rebuttal is that the observer has recorded the information incorrectly. Since the displayed data is ephemeral patterns of darkened starch crystals, there is no way for the observer to rebut the assertion of the election official.

Video recording must be allowed for these, non-polling activities. Prior to the start of polling the activities within the polling location are an open meeting and thus subject to reasonable recording by observers.

Local Board of Canvassing

For the canvassing of votes pursuant to 7.51, the limitation of 6 feet and no video cameras is whole inadequate to allow observers to actually observe what is being done. The LED display of the Optech IIIP Eagles is larger and easier to record at a distance of six feet than is the LCD display of an Accuvote, there is still the problem of reading the numbers printed on the cash register tap reports. One of the requirements of the canvassing of the local board of canvassers is to record the number of ballots cast into the machine and compare this number to the number of ballots handed to electors as determined by the poll lists. WI Stats. 7.51 forbids the local board of canvassers from adjourning until this minimal check of numbers is completed. As recently as September 12, 2006 this requirement was violated. But, without getting closer than 6 feet with a video camera in order to capture the discrepancy between the LED and the cash register tape report there would be no record of this violation.

-John Washburn

In proposed Gab rule 4.01 item (7), makes reference that "observer's must comply with the chief inspector's lawful commands or will be subject to removal from the polling place". We believe that a copy of these lawful commands should be available to the observers. It should also be noted that, it should be made clear that observers have the right to come and leave throughout the day and have the right to check the voter list throughout the entire Election day and evening.

-Marilyn Figueroa and Sylvia Ortiz

(8) I feel the observer should only be able to challenge or the type of questions allowed should be further spelled out here. We have had too many problems with inspector's being asked to repeat every voter's name and address and spelling to the observer. If they are seated within the distance specified this should not be necessary and really interferes with the orderly conduct of the election.

-Amy Reuteman, City Clerk, City of West Bend

(11) Only comment I have is in addition to "Local Law enforcement" would like it to state "or other town/municipality employees" to remove the offending observer. Since we do not have our own local enforcement, we would need to be assisted by the Village or Green County, which may take some time to reach our Town Hall.

-Roseann Meixelsperger, Clerk, Town of Brooklyn

(11) This is excellent. At a polling place in North Freedom there was an incident involving a voter and/or observer. The procedure was not clearly laid out for the chief inspector and local law enforcement were not called. This will be helpful.

-Representative Sheryl Albers

(11) inclusion of proposed rule GAB 4.01(11) into proposed rules GAB 4.02 through 4.06 means the illegal prohibition of recording open meetings, is propagated to these other proposed rules. Remove this prohibition against recording open meetings from proposed rules GAB 4.02-4.06. This can be done by

- a. Removing GAB 4.01(11), or
- b. Adding a specific inclusion for the use of video and still photography in proposed rules GAB 4.02 through 4.06.

(12) Should be eliminated.

-Joan C. Rennert, Racine County Clerk

I think there is value in using consistent language throughout all documents. As one example, I believe the "Registration List" referred to in Section **(13)** is also known as the "Supplemental Poll List" on the GAB web site.

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

(13) I am confused by this one because the poll list would have the voter number and the registration list would have the date of birth so neither of these should be permitted to be viewed by the observer because of the confidential portions.

-Amy Reuteman, City Clerk, City of West Bend

(13) and **(19)** are redundant. No camera, therefore no photo. I note that **(13)** includes photo copy.

-Kris Schmidt, Clerk, City of Brookfield

I propose that we change item **(19)**, **4.01** rule "Observers shall not use any video or still cameras inside the polling place. Failure to adhere to this sub. will result in a warning

under sub. 10 and, if the conduct continues, removal under sub.” 11. to be included in item (15) since they are both talking about electronic devices and the like of.

-Carrie Kneifl, La Crosse County Clerk's Office

(14) I suggest changing “her” to “their”. It would read—chief inspector or **their** designee.

-Kathy Lisowski, City Clerk, City of South Milwaukee

(15) rule appears restrictive. As long as the phone call does not take place where people are casting their ballots or as they are coming into the polling site, they should be able to make a call down the hall or around the corner.

-Kris Schmidt, Clerk, City of Brookfield

(15) I think that seems a bit harsh. Everyone uses cellular phones or wireless communications these days and I would imagine they might need to take a call or two. I would not have a problem with them using a cell phone or blackberry device if they were not disruptive – asking them to walk 100 feet from the entrance of the polling place seems extreme.

-Terri Kalan, Clerk, City of Superior

(15) I applaud cell phone restrictions at a voting site, but I am not able to connect the use of one with electioneering (as noted in Section 15). Can you explain that further in case we would need to explain it to an observer?

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

(15) First, if use of a cell phone or wireless device by an election observer is considered electioneering, what about others who use a cell phone in the polling place, e.g. municipal clerk, election inspectors, voting equipment workers, or perhaps a voter. It seems to me that singling out election observers could be construed as unfair especially if communication is through e-mail where no one can overhear a conversation. Therefore, it seems logical to me for enforcement reasons that either the use of a cell phone or wireless communication device should be allowed for everyone or banned for everyone except for use by municipal and election officials for administrative purposes.

Second, past experience has shown that election observers regularly utilize electronic devices in the polling places namely to check off voters' names as they come in. My concern regarding this rule, as it stands, is that the burden is placed on the poll workers to determine whether or not the communication device is wireless (I imagine there are some electronic devices that are not wireless). The only protective option for the poll worker is to have the election observer sign an Affidavit or something similar stating that the device is not wireless.

-Monica Schultz, Clerk/Treasurer's Office, West Allis

Proposed GAB 4.01(15) purports to make use of a cellular telephone or other wireless communication device inside the polling area or within 100 feet of the entrance to the polling place a violation of Wis. Stat. § 12.03's prohibition on "electioneering activity." It is difficult to see how *all* calls made by election observers can be characterized as electioneering. For example, our observers have frequently placed cell phone calls to report voting problems that were either not apparent to or not adequately addressed by poll workers on site. Such calls could not possibly be construed as electioneering, since they are not intended to "influence voting," yet they would be forbidden – and possibly punishable as a misdemeanor – under the proposed rule. Again, we understand the need to maintain order and decorum in the voting process and that unregulated cell-phone use may be disruptive. However, such disruptive use may be stopped by the chief inspector pursuant to the authority of proposed GAB 4.01(10). In the event that the Board believes that GAB 4.01(10)'s case-by-case approach to preventing disruption is inadequate to deal with electronic communications, we propose that cell phone use be prohibited only in the room in which voting is taking place. This will allow observers to make legitimate calls without requiring them to exit the building entirely. Some building exits in Milwaukee are quite remote from the room in which voting is actually taking place. Particularly for observers with mobility impairments, having to leave the building will be unduly burdensome. A more narrowly tailored restriction would better balance the legitimate interest in order against the legitimate interest in transparency.

-Laurence Dupuis, Milwaukee Election Protection

4.01 (15) may need to be expanded. If we allow 'non-communications' electronic devices to be carried by observers how can we be sure such devices couldn't affect the electronic parts of our voting equipment. It would be easy for someone to do something that would affect the memory cards on the touch screen machines or to erase memory on the prom packs. The paper trail could be used to address this, but not without harming voter confidence and the resultant disruption at the polling place as the equipment would not function correctly and the poll workers could not possibly know why. nor could the poll workers be expected to be constantly watching the observers, they are quite busy directing the voters. I would suggest that observers carry nothing other than a clip board, pencil & paper into the polls. They can access their laptops when they get back to their cars. Similar issues relate to taking cameras or other devices into the polling place by voters, such things may not really be cameras. This is a bit paranoid but it is the world we are living in, and is the kind of thing election watch groups tell us we must watch out for.

-James Villiesse, Clerk, New London

(15) I do feel that observers should not be allowed to have any devices heard, or conversations on such devices heard within the polling area.

RULE SUGGESTION: Observers devices must not emit any sounds, of any kind, when used in a polling location.

RULE SUGGESTION: Observers are limited to silent text messaging only within a polling location. Voice communications are not allowed.

OBSERVERS CAN MAKE UNLIMITED TEXT MESSAGES, PROVIDED THAT THEY ARE DONE IN A "SILENT MODE ONLY"

-Joe Maltby, Chief Elections Inspector, Green Bay

(15) DPW agrees that the use of cell phones and other wireless communication devices can and should be restricted within the observation area. Our experience demonstrates that such use is in fact disruptive to the voting process and intimidating to individual voters. The proposed regulation goes too far, however, in purporting to ban the use of cell phones or wireless communication devices anywhere within the polling place, and by deeming such activity to be electioneering. Many organizations monitoring elections have a centralized organization, and observers at individual polling locations should retain the right to communicate with the organization without having to leave the polling place. In light of these considerations, DPW proposes the following revisions:

(15) Observers shall not use a cellular telephone or other wireless communication device within the designated observation area. Failure to adhere to this subdivision will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11.

-Robert Friebert, on behalf of the Democratic Party of Wisconsin

(16) – Non-election related conversation between observers and electors shall be permitted. Why? Again, elections are about the voters, not the observers. How would chief inspectors have time to monitor such activity on a busy election day? Why should they have to monitor such conversation? A good idea is to give a set of rules to any and all observers and put the burden on them to comply, not on the chief inspector to monitor. Can you imagine the confusion of voters who are being engaged in conversation by observers, when the voters may mistake them for election officials, seeing as how they are being treated as quasi-election officials according to these draft rules?

-Carol S. Alexander, Clerk, City of Beloit

(16) Should read "Observers shall not engage in any conversations with electors or other observers." The word "observer" should mean just that, observe and not hold conversations. These conversations are disruptive to the election officials.

-Joan C. Rennert, Racine County Clerk

(17) – why would an observer be able to assist an elector? What thought has gone into this suggestion? 6.82 references assisting electors, however, taken in the context of election observers, it seems to go over the boundaries of usual and acceptable election day behavior. Are we going to start paying them and training them?

-Carol S. Alexander, Clerk, City of Beloit

Proposed GAB 4.01**(16)** regulates conversations between observers and voters, prohibiting conversations “concerning a candidate, party, or question appearing on the ballot,” but allowing “[n]on-election related conversation between observers and electors.” We are concerned that the phrase “non-election related conversations” is vague and may be interpreted to forbid permissible communication about election mechanics that would not constitute prohibited electioneering. For example, Election Protection

observers have, in the past, been helpful in directing confused voters to the appropriate line for same-day registration or for the proper ward. Such communication is not intended to “influence voting,” and thus should be permitted. We propose that the final sentence of GAB 4.01(16) be amended to read: “Conversations between observers and electors not concerning a candidate, party or question appearing on the ballot shall be permitted, but the chief inspector may order that such conversations be minimized if they interfere with the orderly conduct of the election.”

-Laurence Dupuis, Milwaukee Election Protection

I have a problem with observers being able to assist voters. **4.01 (17)** If an observer is there representing a candidate or a party, they can hardly be an impartial assistant to a voter. In addition, there would be no way to limit the number of voters they “assisted”.
-Julie Glancey, Sheboygan County Clerk

(17) In the case that someone needs assistance with their ballots because of a Language barrier; Local Elections commission should recruit and train bilingual poll workers and Chief Inspectors, so that observers are prevented from engaging in electioneering. The ballots should be available in Spanish if requested by an elector. If an observer requests a copy of the challenge procedure, the observer should be provided one in a timely fashion.

-Marilyn Figueroa and Sylvia Ortiz

(17) The main concern I have with Observers assisting voters, is I would hate to see them “Offering their Services” to voters. I think if the rule could state something like the assistance has to be unsolicited or initiated by the voter. Otherwise, I can see these observers jumping at the chance to offer assistance to a voter who asks the poll workers for help.

-Julie Glancey, Sheboygan County Clerk

(17) This is about voter contact. We [disability advocates] like this proposed rule. It would allow one of our observers to actually assist a people with a disability to vote if they were asked by the elector to do so. We see that as a positive.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

As this has been a longstanding issue for us, greater detail relating to Section **(18)** would be helpful. This may sound ridiculous, but I have been asked several times in training: A person comes to a polling place to vote wearing a candidate or political t-shirt and no other shirt. Should they be denied access?

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

(18) deals with clothing / buttons. It refers specifically to "name or likeness of a candidate, party, or referendum group appearing on the ballot". Those are easy to determine.

However, in November 2004 we had people from groups like ACT / Americans Coming Together wearing shirts / vests with their logos. Would they fall under that next section

"having text "which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site." Is it correct that observers can wear nothing that identifies them with any organization?

-Donna A. Austad, Clerk, City of Eau Claire

Proposed GAB 4.01(18) prohibits observers from wearing items of clothing or buttons that have "text "which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place." The rule purports to make the wearing of such apparel prohibited "electioneering activity." We understand that the GAB wishes to prevent the wearing of apparel with false or misleading statements as well as those that attempt to influence voters' choices. However, the rule as written is vague, in that it forces observers to guess what sorts of messages are prohibited, and substantially overbroad, in that it prohibits observers from wearing apparel with truthful statements that are not intended to influence voters' choices. Election Protection observers have in past elections worn apparel that allowed members of the coalition to identify one another to facilitate communication. These Election Protection t-shirts and jackets have had the national Election Protection logo, which includes the statement "You Have the Right to Vote." This perfectly innocuous statement appears to violate GAB 4.01(18). The possibility that such a statement may be prohibited – and even punished as a misdemeanor – illustrates the vagueness and overbreadth of the rule as currently written. If the GAB believes Wis. Stat. § 12.05's existing prohibition on false and misleading election information is insufficient to prevent misleading voting-related attire, it should come up with a clear and narrowly tailored regulation to do so.

-Laurence Dupuis, Milwaukee Election Protection

(18) This pertains to buttons, etc. worn by observers. Again this is a little vague and therefore we need to know that it would be acceptable for our observers to wear a button announcing that they are "Disability Access Inspectors" or something like that. Or perhaps they could be given an "Official Visitor" button by the chief inspector.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

(18) In our experience in past elections, the primary problem with clothing has been the use of vests or labeled clothing that implies that the individual is a governmental official or has some authority with respect to the electoral process. We have not witnessed any problems with clothing, pins or stickers that identify the group or organization on whose behalf an individual is observing the election. Accordingly, DPW suggests the following revision to the proposed regulation:

(18) Observers shall not wear any clothing or buttons having the name or likeness of a candidate, party or referendum group appearing on the ballot or having text which: (a) describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote; or (b) states or implies that the observers is a governmental official or has any authority related to the voting process. Wearing such apparel at the polling place constitutes a violation of ss. 12.03 and 12.035, Stats. and will result in a warning under sub. 10 and, if the observer refuses to comply with the chief inspector's order, removal under sub. 11.

-Robert Friebert, on behalf of the Democratic Party of Wisconsin

(19) Prohibition of use of still or video cameras. If the rationale is to avoid voter intimidation, then this prohibition should cease at 8:00 pm, or when voting is over, whichever comes last.

-Paul Malischke

(19) Prohibiting video cameras, still cameras, and other recording devices during the non-polling activities is a direct infringement of observer's ability to readily observe all public aspects of the voting process. Also this prohibition also violates the open meeting laws of WI Stats. 19.90

Remove proposed rule GAB 4.01(19). It is a clear violation of the open meetings laws of Wisconsin and a violation of the 7.41(2) in that it limits the ability of election observers to accurately record their observations.

If GAB 4.01(19) is not removed, then re-write proposed rule GAB 4.01(19). I propose the following:

- c. *Observers shall not use any video or still cameras inside the polling place in a manner which would compromise the anonymity of any ballot or in a manner which would expose how a particular elector voted his or her ballot. Failure to adhere to this sub. will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11.*

A less palatable revision would be:

- d. *Observers shall not use any video or still cameras inside the polling place during polling hours. Failure to adhere to this sub. will result in a warning under sub. 10 and, if the conduct continues, removal under sub. 11.*

-John Washburn

Also, applause for Section **(19)**, but how are observers with cameras different than the media with cameras? Should we also consistently be denying the media access to all voting sites?

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

(19) This relates to the use of cameras, etc. In the past we have used cameras and video devices to document polling sites of both good and bad situations. Implementing this rule would greatly affect our ability to advocate for our constituents. We also think this would impair our ability to work with GAB staff in order to point out in very specific ways what needs to be fixed or what is a best practice example. Our images could also be used by the GAB to develop training videos or DVDs to show poll workers the right and wrong ways to make a polling site accessible.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

(19) Cell phone cameras should be explicitly included.

-Juliet Edmands, Clerk Treasurer, Village of Mount Pleasant.

GAB 4.02 (1) and (2). Now this is funny. Please come and see my office and tell me where exactly I would put an election observer. The intent here appears to monitor the activities of the clerk, to ask the clerk to make room for more people to make more observations, to keep the observers from speaking to the voters inappropriately, etc., etc. Most clerks in busy election seasons barely take time to have a snack, do not have enough staff, do not have enough room, do not have enough time, do not have their usual patience to get everything done that they must do – and this is just in regards to elections! Please reconsider this section.

-Carol S. Alexander, Clerk, City of Beloit

4.02 The rules look good. I do see a potential problem in rural areas concerning the observation of absentee voting. My office is in my home. Insurance will not allow me to have people come to my home to vote. If someone wants to vote absentee in person I make arrangements to meet them outside the town hall at a time that works for both of us. I do not have regular office hours either at home or the town hall. My total absentee votes are normally 1-3. In a presidential election I have 20-25.

-Sue Haake, Clerk, Town of Howard

I am troubled by how **4.02** can work. The voter comes to the window and says they would like to vote, we give them the request form which they fill out and then consult the SVRS system to verify that they are registered, and give them ballots, affidavit envelope, etc. and direct them to a private place where they may cast the ballot. In late October I would expect this to happen several times a day. Unless we allow the observer into our secure area and let them watch us use the SVRS system follow us around as we get the correct ballots and materials, all they can do is hang around the counter and listen if some one wants to vote v.s. pay a utility bill. Do we have to allow them into secure areas in order to observe, and if so can we obtain information to assure our safety?

-James Villiesse, Clerk, New London

4.02 In small communities like ours there is not a clerks office where only voter assistance is offered but a central administrative services area where within ten feet someone is working on the SVRS system, someone is processing payroll, someone is receipting cash, collecting taxes, employees and family members call in with their health insurance and medical issues.

An observer inside the office could not be prevented from seeing employee social security numbers, addresses, hearing parts of conversations in violation of HIPAA and would be able to see exactly where all cash and sensitive documents are kept. Unless there is a security background check available for observers we would have to cease all other municipal services and lock the place down while the observers are in the office.

Naturally we have people come in and out of our offices all the time and we deal with their presence, the difference here is that we potentially could have some one parked in the office all day long. Perhaps a solution is to confine observers to the public areas of the public building in which the clerk's office is housed, with the Clerk giving a brief tour of the building to an observer; pointing out that things like: this is the computer a person

will use to access the SVRS system, in this room the absentee ballots are secured, in this file drawer the absentee requests are housed etc.

-James Villiesse, Clerk, New London

I have a concern about GAB 4.02, Observers at the municipal clerk's office. Does this really mean that, if they wanted to, observers could hang around each town hall all day, every day, from the time we receive the absentee ballots until the election date? And how many of these observers must we be willing to accommodate? Do they get to stay in my office all of the time, or can I put them somewhere else and bring them into my office when someone comes in to vote? Please think about how to clarify the GAB 4.02 section so these questions are answered.

Ginger Schwanebeck, Clerk, Town of Lac du Flambeau

Proposed GAB **4.05** provides that "one observer from each of the two political parties whose candidate for governor or president received the greatest number of votes in the municipality may accompany the special voting deputies to the nursing home." The ACLU recognizes that nursing homes present particular logistical difficulties for election officials and concerns about the vulnerability of the voters in such homes. However, limiting observation to only those affiliated with the two major parties discriminates against those not affiliated with the parties and, we believe, violates the First Amendment associational rights of third party and non-partisan observers. If nursing homes can accommodate only two observers, the two slots should be allocated randomly or by some other non-discriminatory means among those observers who apply to accompany the special voting deputies.

-Laurence Dupuis, ACLU

4.07

If the media arrives at a polling place, does the Chief Inspector have to announce to those that may be filmed that if they object they should raise their hand? At the 2006 Fall election we had lines of people being photographed but I doubt we asked the voters permission.

We need direction on how to handle this with the public waiting to register or vote. Besides an objection from a voter, under what circumstances would a Chief Inspector object to filming? How do you determine media observers from resident or political action committee observers who "say they are media" because they have an independent website that they consider to be media for the community? Do they need to present official credentials representing a specific news or polling organization. I believe the media should be an acknowledged community media organization, not just representatives from a PAC or blog website.

-Juliet Edmands, Clerk Treasurer, Village of Mount Pleasant.

The set up of equipment on election morning, the canvassing of votes by the local board of canvassers on election night (after 8:00 pm), as well as the municipal, county, and state canvassing activities are all open meetings as defined by 19.82 and thus, subject to recording by any member of the public. The granting of special access to some citizens

(Media personnel) and not others (designated observers) is affront to Wisconsin's proud tradition of open and transparent government.

Remove GAB 4.07 in its entirety. It is a clear violation of the open meetings laws of Wisconsin. Also, granting special access to an open meeting for some citizens (media personnel) denied to other citizens (election observers) is a clear violation of the equal protection clause.

If proposed rule GAB 4.07 is not removed, then I propose the following revision:

- e. Drop GAB 4.07(2) completely, and
- f. Re-write proposed rule GAB 4.07(1) as follows: *Observers wishing to record activities within the polling location shall identify themselves and the organization they represent to the chief inspector upon arriving at the polling place. The inspector shall enter that information into the Inspectors' Statement, EB-104.*

-John Washburn

As written GAB 4.07(2) appears "to allow" Communications media observers to use video and still cameras "inside" the polling place as opposed to 4.01(19) which "does not" allow the same for general observers. Poll Workers will have a hard time remembering this difference so to avoid any misunderstanding in these "observer" rules, I would add "inside the polling place" to 4.07(2) if that is GABs intent for Communications media, otherwise write 4.07(2) more like 4.01(19).

-Diane Kowalchuk, Deputy City Clerk, City of Mequon

Proposed GAB 4.07 makes an exception to the general rule prohibiting the use of still or video cameras for "[o]bservers from communications media organizations." Proposed GAB 4.01(1)(d) adopts the definition of "communications media" from Wis. Stat. § 11.01(5). This definition, which encompasses "newspapers, periodicals, commercial billboards and radio and television stations," fails to recognize emerging electronic media organizations, such as news web sites. Such media organizations have become an increasingly important source of information to the public and their exclusion unnecessarily limits their coverage of elections. Under the proposed rule, it is unclear whether the Capital Times of Madison, which recently ceased paper publication in favor of web-based publication, would be able to take photographs at Madison polling places. If the GAB's position is that the term "periodical" covers web-based media, it should amend the proposed rule to make the inclusion expressly.

-Laurence Dupuis, ACLU

I have a concern about media organizations being able to use video and still cameras. I could come into a polling location and say that I am from any media organization and then use a video or still camera.

-Joan C. Rennert, Racine County Clerk

Miscellaneous

It is my understanding that the Observers are not permitted to touch the poll book. I don't believe I saw that in the rules.

-Kris Schmidt, Clerk, City of Brookfield

Disability advocates have been concerned about polling site accessibility for years and indeed have been working with GAB staff to improve that situation. One of the activities we have done in the past is to observe a polling site on Election Day in terms of its accessibility for people with disabilities. We may even have people taking measurements, photos, etc. to document inaccessible features. In reading the draft I am wondering to what extent if any these changes will affect our behavior in the future. Will these rules apply to us? Thank you for your reply.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

Yesterday I met with 24 Chief Inspectors, and one of the issues we discussed was how to deal with problematic election observers. Most of the issues discussed yesterday are addressed in the administrative rule. We have encountered four additional issues at polling places:

- Election observers trying to touch the poll books.
- Election observers getting too close to the Election Officials, to the point where they are touching the Election Officials.
- Election observers interrupting Election Officials as they interact with voters.
- Election observers addressing the voters in the hallway or at the registration table.

-Maribeth Witzel-Behl, Clerk, City of Madison

I assume any and all of this should be recorded on the EB-104 by the Chief Inspector (or assigned person). You may want to note as much.

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

With everything to be logged on the Inspector's Statement as contained in various proposed rules, I hope that form is being changed accordingly.

-Teri Lehrke, Clerk, City of La Crosse

As you may already recognize, the timing of rule changes or new rules between the Primary and the General, is not the best. We have training manuals and other materials to consider. It is unfortunate this revision process is occurring just over 30 days from the Fall election event as it makes it impossible for us to revise our training manuals and very difficult for us (and other municipalities, I would imagine) to communicate this to election workers.

-Neil Albrecht, Deputy Director, City of Milwaukee Election Commission

I also feel that an observer name tag requirement of some sort be required. We have had many voter's thinking that the observer is actually an election inspector who is not helping them. I think this would help to clarify their presence at the polls.

-Amy Reuteman, City Clerk, City of West Bend

In talking to several municipal clerks, the one thing that they require of observers is to wear a name tag that simply reads, "OBSERVER". They feel this is very important as voters assume observers are poll workers. I think language should be included in the Administrative Rule that allows the Chief Inspector or Municipal Clerk the ability to require Observers wear some type of identification that allows people to know they are an Observer.

-Brenda Jaszewski, Washington County Clerk

Any item referring to a "warning" before removal-delete all references to a warning. Rule should include a copy of rules to observer who will SIGN a form stating that they have read and will conform to the rules. First time they don't throw them out. No election inspector needs to baby sit these people.

-Bob Brusio, Oneida County Clerk

I think the rules are great as they are written. It will be nice to have this in place for the upcoming elections because the observers can be pushy and intimidating according to my election workers.

-Tanya Reigel, Deputy Clerk, City of New Richmond

I commend the committee member who took the time and effort to make these rules.

-Connie K. Bushee, Deputy Treasurer, Village of Cottage Grove

Have read attachments and as a new clerk seem to understand the material.

-Merna Queen, Clerk, Town of Akan

I have reviewed the GAB's proposed administrative rules on Election Observers. I think they addresses many of the problematic situations we had at the 2004 Presidential election. They will be very helpful to the election officials on election day.

-Donna A. Austad, Clerk, City of Eau Claire

Thank you so much for drafting such a detailed administrative rule for managing observers at the polling places. I appreciate the detail. You covered every concern we have faced in Milwaukee. Bravo.

-Melanie Swank, Assistant City Attorney, Milwaukee

I've had the opportunity to review GAB 4 and don't have any comments or suggestions to make other than that I can see the reasoning behind making the rules and think they are all good to have in place.

-Jennifer Goergen, Clerk, City of Greenfield

I have reviewed the administrative rules for the conduct of election observers and feel the rules are reasonable and workable for the Election Officials.

-Sue L. Strands, Clerk, City of Fond du Lac

HAVA and other laws passed through the years have intended to make polling sites accessible to people with disabilities. They are having a positive affect; however we also know that change has been slow to come. One of the reasons for slow progress has been

enforcement. It appears that enforcement of the laws has been sporadic at best. We have noticed that enforcement has been increasing as we have raised awareness to the issue.

As disability advocates we have taken a much greater interest in this area and we have had up till now no restrictions in our ability to do our work. We are concerned that if all of these rules go into affect as presently written, we will not have the access that we currently have and therefore our effectiveness will be compromised.

-Howard Seifert, Voting Coordinator, Wisconsin Council on Developmental Disabilities

In past elections, our experience has been that the Chief Inspectors have not been well trained. Is there a recorded certification process to know that these Chief Inspectors and or designees are being properly trained with, and are following the Election Day Manual and the Election Day Manual for Wisconsin Election Officials? If there is not, there needs to be. Is there a mandated training period before a chief inspector or designee is given that role? We would also like to state that there needs to be a procedure in place in the event the Chief Inspector or Designee are not following the Election Day Manual and the Election Day Manual for Wisconsin Election Officials.

-Marilyn Figueroa and Sylvia Ortiz

Milwaukee has unique problems. There are serious issues with the Election Commission and Assessors Office Data. Data from the City of Milwaukee Assessors does not match the City of Milwaukee Election Commission data. Names of Chief Inspectors and contact information for polling locations should be publicized in a timely manner before the elections, and posted on the local municipalities Elections Commission website (if applicable). In the case that the Chief Inspector designates someone else, their contact information for that polling location should also be made public and updated on the website of the local municipalities Election Commission. We believe that the list of Chief Inspectors should be allowed, to be challenged by either party or candidate or member of the public. There should also be procedural rules on how to make that challenge.

-Marilyn Figueroa and Sylvia Ortiz

What is the penalty for violating these rules? If an observer violates multiple rules is the penalty the same or is there an escalating penalty based on the multiple violations.

Is the Chief Inspector allowed to confiscate any materials or equipment as evidence to the violation? It seems having the evidence would give teeth to any potential prosecution if it were to occur.

-Representative Sheryl Albers

Having dealt with the mess that the Town of Freedom had a few years back, I totally support this addition to the state statutes. Observers need written instructions as to what is allowed and what isn't. Polling operators need the written rules and authority of enforcement. I believe this will go far in preventing issues like we had.

-David Seamans

Election Observer Committee Members:

Donna A. Austad, City of Eau Claire

Sue Edman, City of Milwaukee/Milwaukee County

Sue Ertmer, Winnebago County

Janice Johnson-Martin, City of Racine

Kathy Nickolaus, Waukesha County

Carol Alexander, City of Beloit

Sheila Cochran, Milwaukee County Labor Council

Matthew W. O'Neill, Democratic Party of Wisconsin

Howard Seifert, Wisconsin Council on Developmental Disabilities

Jon Waclawski, Republican Party of Wisconsin

Andrea Kaminski, League of Women Voters of Wisconsin

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For August 27, 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Certain Administrative Rules and Formal Opinions of the State Elections Board Relating to the Wisconsin Election Campaign Fund, Campaign Finance Solicitation, Certain Informal Opinions related to MCFL Organizations and the Revised Recount Manual

This memorandum presents 4 formal opinions and 5 administrative rules of the State Elections Board presently in effect relating to the Wisconsin Election Campaign Fund (WECF) along with 2 formal opinions related to campaign finance solicitation for review and reaffirmation by the Government Accountability Board (GAB). The memorandum also presents 4 informal opinions of the State Elections Board related to MCFL organizations. Also included for review and reaffirmation is the revised Recount Manual that will be available for providing guidance on the conduct of recounts

1. Wisconsin Election Campaign Fund: 4 formal opinions and 5 administrative rules.

Opinion EI.Bd. 78-3

Disbursement Limits for Public Financing Applicants: Application of disbursement limits on public financing applicants to pre-campaign and post-campaign disbursements clarified. Sec. 11.31(7), Stats. (Issued to David M. Travis, May 18, 1978)

This opinion provides guidance with respect to the application of spending limits before, during and after the statutory campaign period defined in Wis. Stats. §11.31 (7). The guidance specifically excludes campaign staff time, campaign travel and the distribution of campaign literature if it occurs before the beginning of the campaign as defined in the statute. The opinion is consistent with current law and administrative rules.

Opinion EI.Bd. 78-5

Effect of Exceeding Personal Contribution Limit on Eligibility for Public Financing: A candidate who has exceeded the limit on contributions to his own campaign after October 21, 1978 is ineligible to receive a public financing grant, even if the candidate's committee reimburses him for the excess amount. Secs. 11.50(2)(b), 11.26(10), Stats. (Issued to David M. Travis, May 18, 1978)

This opinion discusses the effect of exceeding the self-contribution limit on applications for WECF grants. The opinion was applicable at the time it was issued because before October 21, 1978, there was no self-contribution limit on any candidates based on the direction the

Board had received from the Attorney General following the Buckley decision. Candidates were seeking guidance on application of the restriction on exceeding the self-contribution limit that was imposed as a condition of receiving a WECF grant. The reasoning of the opinion with respect to the effect of violating the requisite conditions for qualifying for a WECF grant is still applicable.

Opinion EI.Bd. 78-9

Application for and uses of public finance grants: A candidate's own contributions count towards the threshold of individual seed money required for public financing eligibility. Grants may not be used to purchase services directly from a person or business who or which does not meet the statutory definitions of "printer" or "communications medium." Withdrawal of an application for a grant prior to the acceptance of a grant is permissible. Disbursements of a public financing applicant must be allocated between the primary and election according to the ultimate purpose of the disbursement. Secs.11.50, 11.01(4), and (17), Stats. (Issued to Edward Jackamonis, June 22, 1978)

The opinion addresses four questions raised on behalf of candidates seeking a WECF grant. Some of the direction provided in the opinion is no longer applicable because of changes in the law. Candidates applying for a WECF grant receive detailed guidance in the informational manual developed by the staff and distributed to WECF applicants.

ftp://doafpt04.doa.state.wi.us/doadocs/complete_manual.pdf

The information about applying contributions from a candidate and the candidate's spouse to the qualifying contributions is still accurate. However, the response to the second question has been affected by statutory changes that removed the definition of "printer" from the statute and specifically permitted the use of WECF funds for printing, graphic arts and advertising services. Wis. Stats. §11.50 (7)(b). The Elections Board clarified the new statutory provision in an administrative rule. EIBd 1.34, Wis. Admin. Code

The law now provides a procedure for withdrawing an application for a grant. A candidate who chooses to decline to accept a grant after the deadline for withdrawing the grant application does not escape the limitations accepted as part of the candidate's WECF application. Wis. Stats. §11.50 (10m)

With respect to the fourth question on allocation of expenses, only legislative candidates are required allocate disbursements between the primary and the election, but the guidance is still of assistance to legislative candidates.

Opinion EI.Bd. 84-1

Effect of Exceeding Contribution and Spending Limits of Eligibility for Public Financing: a candidate who accepts contributions that exceed the applicable limits is ineligible to receive a public financing grant, even if the candidate's committee reimburses the excess contributions; a candidate who exceeds the applicable spending limits also is ineligible to receive such a grant; in-kind contributions are limited to things of value; loans if timely forgiven may be used as qualifying contributions. Ss.11.50(2)(b), 11.26(1), 11.31(1), (2), (9), and 11.01(6)(a)1., Stats. (Issued to David M. Travis, November 29, 1984)

This opinion reaffirms the discussion in EIBd Op 78-5 and applies the ineligibility to receive a WECF grant to exceeding spending and other statutory contribution limits. The opinion clarifies that a candidate may treat a loan that is forgiven as a qualifying contribution with the proper documentation. The opinion permits the use of an in-kind contribution to qualify for a WECF grant, however this has been changed by statute to limit qualifying contributions to money. Wis. Stats. §11.50 (2)(b)5.

Staff recommends the Board reaffirm formal opinions: EIBd 78-3, and EIBd 78-5.

Staff recommends the Board reaffirm formal opinions: EIBd 78-9 and EIBd 84-1 with an annotation directing the reader to subsequent legislative changes.

GAB 1.34 Use of funds received from Wisconsin election campaign fund.

(1) The term “printing, graphic arts or advertising services” includes, but is not limited to, the ordinary and necessary direct costs of planning, preparing proof copy and paste up, and printing or other like production of copy that is used in the candidate’s election campaign.

(2) The term “office supplies” includes expendable items normally utilized in office situations such as, but not limited to, envelopes, paper, cards, notebooks, pens, pencils, ribbons, tapes, paper clips, rubber bands, duplicating supplies, manuals and journals.

(3) Grant funds from the Wisconsin election campaign fund may not be used for the purchase or rental of office furniture and equipment; office rent; utilities; telephone, telegraph or teletype costs; or insurance costs.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; emerg. am. (1), eff. 7-1-86; am. (1), Register, November, 1986, No. 371, eff. 12-1-86.

GAB 1.36 Allocation of expenditures in nonpartisan elections.

(1) This rule is promulgated to clarify the allocation of expenditures between the primary and general election by candidates who receive public funding in a nonpartisan election.

(2) A candidate in a nonpartisan election who is subject to the limitations and disbursement levels specified in s. 11.31, Stats., may make expenditures for items used in the pre-primary period to be allocated toward the disbursement limitations for the primary until the date the candidate knows there is no primary.

(3) Any expenditures made after the date the candidate knows that there is no primary, shall be applied to the disbursement limitation for the general election.

(4) For purposes of this rule, a candidate shall be deemed to know that there will be no primary on the day following the last day that nomination papers must be filed with the appropriate officer.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

GAB 1.38 Return of contributions to committees by candidates who receive public funding.

(1) A candidate may return any contribution received from a committee or a political party committee for purposes of receiving a larger grant from the Wisconsin election campaign fund within the time period specified in sub. (3).

(2) The candidate shall disclose the date, amount and source of the returned contribution on the applicable campaign finance report form.

(3) Any contribution returned no later than 7 days after the primary shall not be counted against the limits specified in s. 11.50 (9), Stats.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

GAB 1.45 Return of excess grant funds from Wisconsin election campaign fund after campaign.

Pursuant to s. 11.50 (8), Stats., all grants from the Wisconsin election campaign fund which are unspent and unencumbered by any candidate on the day after the election shall be returned to the government accountability board no later than the date of filing the use of grant report which is filed with the next continuing campaign finance report due after the election.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85; emerg. am. eff. 7-1-86; am. Register, November, 1986, No. 371, eff. 12-1-86.

GAB 1.455 Allocation of disbursements of Wisconsin election campaign fund grant and other campaign funds.

A candidate subject to the disbursement limitations under s. 11.31, Stats., and s. GAB 1.44 who disburses grant and other campaign funds:

- (1)** May prorate a disbursement between the primary election spending limit and the general election spending limit if the proration accurately reflects the use of the purchased materials or services in the respective primary and general election campaigns.
- (2)** May use grant money from the Wisconsin election campaign fund to pay the amount allocated to the general election even if the disbursement was made before the primary election.
- (3)** May not allocate to a future campaign any disbursements for services or materials delivered during the current campaign.
- (4)** May not make any disbursements during the current campaign for a future campaign until on or after the first day after the day of the election and may only make such disbursements out of campaign funds which are not excess funds that must be returned to the Wisconsin election campaign fund.
- (5)** May not encumber any excess funds remaining on the first day after the day of the election with incurred obligations for a future campaign.
- (6)** May retire debts from previous campaigns by making disbursements during the current campaign.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

These administrative rules are consistent with current statutes and provide additional direction and guidance to candidates applying for and receiving WECF grants.

Staff recommends the Board reaffirm the administrative rules.

2. Campaign Finance Solicitation: 2 formal opinions.

Opinion El.Bd. 77-7

Joint solicitation by federal and state committees: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and the contributors are advised of such allocation at the time of contribution, 1) the federal committee is not subject to the regulatory and reporting requirements of Chapter 11, Stats., 2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of Chapter 11 and 3) the escrow agent is not subject to the registration and reporting requirements of Chapter 11. s.11.03, Stats., Op.El.Bd. 74-1. (Issued to Darwin Scoon, September 22, 1977)

This opinion provides direction for the conduct of a joint solicitation by a federal political committee and a state political committee. The opinion provides some common sense provisions for ensuring the accountability of funds raised for Wisconsin elections.

Opinion El.Bd. 78-6

Prohibition on use of filed campaign finance reports and statements. The ban on use of filed reports and statements for solicitation of contributions does not prohibit a candidate from using information gained from reports or statements in inform persons of his or her candidacy and inviting questions on political issues. (Issued to James Mueller, June 11, 1978)

This opinion draws a distinction between soliciting contributions using reports filed with the Board and soliciting political support. The opinion strongly reaffirms the statutory restriction on soliciting political contributions using reports filed with the Board. Given the greater accessibility of this information with electronic filing, it is important to remind candidates and committees of the restriction.

Staff recommends the Board reaffirm formal opinions: ElBd 77-7, and ElBd 78-6.

3. **MCFL Organizations:** 4 informal opinions.

The Elections Board staff issued a series of opinions addressing the registration and reporting requirements of certain qualified nonprofit corporations under Wisconsin campaign finance law based on a U.S. Supreme Court decision, *Federal Election Commission v. Massachusetts Citizens for Life, Inc.* (MCFL), 479 U.S. 238 (1986). The decision laid out a list of criteria concerning the application of federal registration and reporting requirements along with the application of restrictions on corporate political spending to certain nonprofit ideological corporations formed to promote political ideas including making independent expenditures in support of or opposition to political candidates.

Copies of the four informal opinions accompany this memorandum.

An MCFL organization must meet the following criteria in order to qualify for the less restrictive registration and reporting requirements and the ability to make expenditures from a corporate account:

1. The organization was formed for the express purpose of promoting political ideas, and cannot engage in business activities.
2. The organization has no shareholders or other persons affiliated so as to have a claim on its assets or earnings.
3. The organization was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities.

The informal opinions provide MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the Government Accountability Board or a local filing officer), and are required to report all the money it has spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those contributions it receives that have been earmarked for “political activity.” Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if it decides to make independent disbursements. If the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days before a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file a special report of late independent expenditure.

These opinions provide direction and guidance, but they are not widely available for agency customers seeking this information. When an agency adopts a policy interpreting statutory requirements, the Legislature has directed the agency to promulgate administrative rules to ensure legislative review and public access to the policy. Wis. Stats. §227.10 (1).

Staff recommends the Board reaffirm the informal opinions related to MCFL organizations and direct staff to prepare an administrative rule reflecting the treatment of MCFL organizations under Wis. Stats. Chapter 11.

4. Revised Recount Manual

The State Elections Board developed a recount manual setting out standard forms and procedures for conducting recounts. The Recount Manual was last updated in February 2007 and that version is posted on the agency website:

<http://elections.state.wi.us/docview.asp?docid=2307&locid=47>

By law, the Board is required to prescribe standard forms and procedures for conducting recounts:

(10) Standard forms and methods. The government accountability board shall prescribe standard forms and procedures for the making of recounts under this section. The procedures prescribed by the government accountability board shall require the boards of canvassers in recounts involving more than one board of canvassers to consult with the government accountability board staff prior to beginning any recount in order to ensure that uniform procedures are used, to the extent practicable, in such recounts. Section 9.01 (10), Wis. Stats.

The Recount Manual sets out procedures that have been used effectively in state and local recounts for a long period of time. In 2006, the agency conducted 8 recounts of legislative races using the procedures and forms set out in the recount Manual. Before the 2006 fall recounts, the staff set up teleconference calls with the county clerks and candidate representatives to review recount procedures.

It is not unusual for there to be more than 100 recounts following the April Spring election. In 2008, the Elections Division staff tracked 35 local recounts following the April Spring election. The Recount Manual is the guide for local boards of canvassers conducting the recount.

State trial and appellate courts have relied on its guidance and cited to the manual when recount determinations are appealed to court. *Clifford v. Colby School District*, 143 Wis. 2d. 581, 421 N.W. 2d. 852 (Ct. App. 1988). Candidates also utilize the manual to initiate the recount as well as to monitor the conduct of the recount by the board of canvassers.

In response to comments provided by Paul Malischke at the February 25, 2008 meeting, the staff has added a checklist, a table of contents, statutory citations and page numbers along with other procedural revisions. Staff chose not to add an index because we believe the organizational structure facilitates readers find the information they need efficiently.

A copy of the revised Recount Manual will be available on the agency web site at this location under upcoming events: <http://elections.wi.gov/>

Staff recommends the Board reaffirm and approve the Recount Manual with the revisions incorporated since the Board's February 25, 2008 meeting.

State of Wisconsin \ Elections Board

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JOHN P. SAVAGE
Chairperson

KEVIN J. KENNEDY
Executive Director

September 13, 2006

MCFL-1

Attorney Mike B. Wittenwyler
LaFollette, Godfrey & Kahn
One East Main Street
P.O. Box 2719
Madison, WI 53701-2719

Re: Non-Resident MCFL Organizations

Dear Mr. Wittenwyler:

This letter is in response to your inquiry that our office received on July 14, 2006, and that is excerpted or summarized below, to wit:

Per our earlier telephone discussions, I am writing to you to confirm that 2005 Wisconsin Act 176 does not affect any reporting requirements or other obligations under Wisconsin law for an MCFL organization located in a state other than Wisconsin (a "nonresident MCFL organization") that sponsors independent expenditure communications in Wisconsin.

As you also know, a new Wisconsin law, 2005 Wisconsin Act 176, modifies the reporting requirements for nonresident committees. Under this new law, a nonresident committee is required to disclose all contributions (\$20+) to the nonresident committee and all disbursements (\$20+) by the nonresident committee. Accordingly, a committee located in another state that engages in regulated campaign finance activity in Wisconsin (makes contributions to Wisconsin committees or sponsors independent expenditures involving Wisconsin candidates) must now disclose information about all of the committee's activities, regardless of where that activity occurred. These new disclosure requirements, however, only apply to nonresident committees and do not apply to nonresident MCFL organizations.

Because of the unique constitutional status of a nonresident MCFL organization, I want to confirm that:

- *a nonresident MCFL organization may sponsor independent expenditures affecting Wisconsin elections;*
- *a nonresident MCFL organization that sponsors an independent expenditure affecting state elections in Wisconsin should file an "Oath for Committees and Individuals Making Independent Expenditures" (Form EB-6) with the Elections Board;*
- *in addition to the Oath, the nonresident MCFL organization should file any necessary "Report of Independent Expenditures" (Form EB-7) disclosing the value of its expenditures in a timely manner;*
- *a nonresident MCFL organization is not required to file a "Campaign Registration Statement" (Form EB-1) or a "Campaign Finance Report" (Form EB-2) or any other form that would*

require the disclosure of the identity of any contributors to the nonresident MCFL organization; and,

- there are no other reporting requirements or obligations for a nonresident MCFL organization that sponsors independent expenditures affecting Wisconsin elections.

In summary, I request a written opinion of the Elections Board's staff confirming that the reporting requirements for a nonresident MCFL organization have not changed on account of 2005 Wisconsin Act 176 and that the reporting requirements outlined above are accurate. Please let me know if you have questions or need any additional information.

The staff believes that the enhanced non-resident reporting requirements of 2005 Wisconsin Acts 176, applicable to all non-resident political committees, do not apply to MCFL organizations because, under the U.S. Supreme Court's decision in Federal Election Commission v. Massachusetts Citizens for Life, Inc. (MCFL), 479 U.S. 238 (1986), such organizations are not considered political committees and, therefore, for purposes of ch.11, Stats., are not considered political committees.

The subject of disclosure requirements applicable to MCFL organizations was addressed by the Board's staff in a letter to Attorney Mike Maistelman, of Milwaukee, on October 2, 2002. Notwithstanding the enhanced reporting requirements established by 2005 Wisconsin Acts 176, the staff believes that the following excerpt from the Maistelman letter sets forth the reporting requirements that are still applicable to MCFL organizations based on the Supreme Court's decision in the MCFL case:

The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:

Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act. Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL. . . .

Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See Buckley, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]

Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those

contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24¹

At the end of the Maistelman letter, the Board's staff added a caveat that the disclosure requirements for MCFL organizations only apply as long as those organizations qualify for MCFL status. In the event that an organization ceases to qualify for that status - for the reasons described in the MCFL decision - the Board's staff is not aware of any reason why that organization would not have to commence full disclosure under ch.11, Stats.

Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In MCFL, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:

Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.

In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

¹ See s.11.12(6), Stats.: (6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or pre-election report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

Page 4

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

STATE ELECTIONS BOARD

George A. Dunst
Legal Counsel

State of Wisconsin \ Elections Board

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STEVEN V. PONTO
Chairperson

KEVIN J. KENNEDY
Executive Director

October 2, 2002

Attorney Michael S. Maistelman
1201 North Prospect
Milwaukee, Wisconsin 53202

Re: Disbursements and Reporting thereof by MCFL Organizations on Wisconsin Elections

Dear Mr. Maistelman:

This letter is in response to your inquiry of September 5, 2002, to wit:

I represent a Wisconsin registered 501(c)(4) non-profit corporation (the "501(c)(4)"). The 501(c)(4) wishes to take advantage of certain aspects of the U. S. Supreme Court's decision in Federal Election Commission v. Massachusetts Citizens for Life, Inc. (MCFL), 479 U.S. 238 (1986).

The 501(c)(4) organization wishes to make independent expenditures from its general treasury fund to expressly advocate the election or defeat of clearly identifiable state candidates to the general public.

As I read the MCFL case, a 501(c)(4) organization would only be required to report monies deposited into its general treasury fund from individuals who have specifically earmarked their contributions for political purposes. See 479 U. S. 238, 261 (entities other than political committees must disclose names of those persons making earmarked contributions over \$200).

I respectfully request a formal legal opinion from the State Elections Board as to how the MCFL decision interacts with Wisconsin campaign finance law, and more specifically, whether a Wisconsin 501(c)(4) organization is only required to report monies received from individuals who have specifically earmarked their contributions for political purposes.

The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:

Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of

contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act. Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL. . . .

Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See Buckley, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]

Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24¹

Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In *MCFL*, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:

Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.

In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.

(Emphasis supplied)

¹ See s.11.12(6), Stats.: (6) *If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or pre-election report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.*

We have assumed for the purposes of this opinion that your organization would qualify under the Court's standards. Obviously, if the organization does not so qualify, or ceases to qualify, then it is subject to the same disclosure requirements as any other political committee.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

STATE ELECTIONS BOARD

George A. Dunst
Legal Counsel

State of Wisconsin \ Elections Board

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SHANE FALK
Chairperson

KEVIN J. KENNEDY
Executive Director

November 5, 2003

Attorney Michael S. Maistelman
3127 W. Wisconsin Avenue
Milwaukee, Wisconsin 53208-3957

Re: Political Contributions by MCFL Corporations thru Umbrella Organizations in Wisconsin

Dear Mr. Maistelman:

This letter is in response to your inquiry of November 4, 2003, to wit:

As you know, I represent a Wisconsin MCFL-like organization ("the client"). When we spoke a few weeks ago, I informed you that the client wished to become a member of a newly formed nonpartisan organization that was comprised of entities, which included Unions. The focus of the organization would be to coordinate issue advocacy activities including nonpartisan candidate recruitment. The client would contribute resources to the organization including but not limited to money from its general treasury. Money contributed toward this effort would come directly from the 501c4 MCFL recognized entity and pooled with other resources to conduct coordinated advocacy activities.

Given the MCFL case and the prohibition that a qualifying MCFL organization could not receive Corporate or Union monies, I asked you if the client might be in jeopardy of losing its MCFL status should it become a member of a larger organization which also had Union and or Corporate members.

As we said in our discussion about this issue, the Board's staff is not aware that the courts have addressed the following issue: whether membership by a MCFL corporation in an umbrella organization that includes unions or for-profit corporations would jeopardize the MCFL status of the MCFL corporation if the MCFL corporation received no contributions from the umbrella organization or from its members.

The Board's staff believes that the answer to your question depends on whether the MCFL corporation continues to meet the three-part test articulated in the Supreme Court's MCFL decision. That test is described in the decision (*Federal Election Commission v. Massachusetts Citizens for Life, Inc. (MCFL)*, 479 U.S. 238 (1986)). as follows:

In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its

policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.

As you can see, first, the organization has to have been “formed for the express purpose of promoting political ideas, and cannot engage in business activities.” That means that an MCFL corporation has to maintain as its express purpose the promotion of political ideas and it must continue to refrain from engaging in business activities. You appear to be saying that membership in the umbrella organization will not affect either the MCFL corporation’s promotion of political ideas or cause it to engage in business activities.

Secondly, the MCFL corporation may “have no shareholders or other persons affiliated so as to have a claim on its assets or earnings.” That would mean that the umbrella organization could not (and cannot) have acquired an ownership interest in the MCFL corporation or have any claim on the MCFL corporation’s assets or earnings other than for past dues. Also, membership in the umbrella organization by your client would probably have to be voluntary and terminable at any time.

Third, the MCFL corporation may not have been “established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities.” You have already postulated that your client was not established by a business corporation or a labor union and that it will not accept contributions from such entities, including from the umbrella organization. The Board’s staff’s conjecture is that the pooling of money with labor unions for the purpose of funding a combined political message would not be treated as an in-kind contribution to the MCFL corporation because of the indirect benefit received thereby by the MCFL corporation, but we do not know of any case law (to which we could refer) on that subject.

The bottom line would appear to be that as long as you are prepared to defend your client’s compliance with all three of the MCFL tests, the Board’s staff has no basis to disagree. If circumstances imperiled your client’s compliance with the three MCFL tests, your client should be advised to make a choice between MCFL status and whatever circumstance jeopardizes that status.

I hope that this letter has been responsive to your questions and concerns, but if it hasn’t, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

STATE ELECTIONS BOARD

George A. Dunst
Legal Counsel

State of Wisconsin \ Elections Board

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JOHN C. SCHOBBER
Chairperson

KEVIN J. KENNEDY
Executive Director

October 18, 2004

Kelda Helen Roys, J.D.
NARAL
Pro-Choice Wisconsin
122 State Street, Suite 201
Madison, WI 53703

Re: MCFL Status for Certain Qualified Nonprofit Corporations

Dear Ms. Roys:

This letter is in response to your inquiry of September 10, 2004, to wit:

We are writing to request a letter confirming that we meet the standards for Qualifying Nonprofit Corporation status ("MCFL" status), allowing us to make independent expenditures on behalf of state or federal candidates within 60 days of an election.

We are a 501(c) (4) membership organization with an affiliated PAC and conduit, all organized under Wisconsin law. According to the FEC's June 2001 "Campaign Guide for Corporations and Labor Unions," available at . . . , Qualified Nonprofit Corporations (QNCs) may make independent expenditures if they meet the following five criteria:

- 1. Corporation is a social welfare organization as described in 26 U.S. C. 501(c)(4). 114.10(c)(5).*
- 2. The corporation's organic documents, authorized agents or actual activities must indicate that its only purpose is issue advocacy, election influencing activity or research, training or educational activities tied to the corporation's political goals. 114.10(b) and 114.10(c)(2).*
- 3. The corporation cannot engage in business activities, such as provision of goods, services, advertising or promotional activity that results in income. 114.10(b)(3) and(c)(2).*
- 4. The corporation does not have shareholders or persons who receive benefits (other than staff/creditors) that are disincentives for individuals to disassociate from the organization. 114.10(c)(3)*
- 5. The corporation was not established by a corporation or a labor organization, does not accept direct or indirect donations from such organizations. 114.10(c)(4).6.*

We certify that we meet each of these requirements. As such we hope to be recognized by the Wisconsin State Elections Board as a Qualifying Nonprofit Corporation for the purpose of federal and state election laws.

The Board's staff has issued an opinion¹ on organizations qualifying for MCFL status. A reprint of that opinion follows:

The Board's staff has read the MCFL decision anew and concludes that it does appear to exclude what are called MCFL-type organizations or what the Federal Election Commission refers to as "Qualified Nonprofit Corporations" from strict compliance with various disclosure obligations. The decision did not, however, exclude MCFL-type organizations from all disclosure. What the Supreme Court said is as follows:

Finally, the FEC maintains that the inapplicability of 441b to MCFL would open the door to massive undisclosed political spending by similar entities, and to their use as conduits for undisclosed spending by business corporations and unions. We see no such danger. Even if 441b is inapplicable, an independent expenditure of as little as \$250 by MCFL will trigger the disclosure provisions of 434(c). As a result, MCFL will be required to identify all contributors who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures. These reporting obligations provide precisely the information necessary to monitor MCFL's independent spending activity and its receipt of contributions. The state interest in disclosure therefore can be met in a manner less restrictive than imposing the full panoply of regulations that accompany status as a political committee under the Act.

Thus, the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL.

...

Furthermore, should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. See Buckley, 424 U.S., at 79. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns. In sum, there is no need for the sake of disclosure to treat MCFL any differently than other organizations that only occasionally engage in independent spending on behalf of candidates. [479 U.S. 238, 263]

Based on those conditions, the Board's staff believes that MCFL-type organizations may be, and are, required to register with the appropriate filing officer, (whether the State Elections Board or a local filing officer), and are required to report all the money they have spent to influence the election or nomination to election of candidates to state or local office. In addition, the organization is required to report those contributions to it that have been earmarked for "political activity." Also, the organization is required to file an EB-6 (Oath of Independent Disbursement) and EB-7 (Report of Independent Disbursements) if they decide to make independent disbursements and, if the organization spends more than \$20 cumulatively to independently advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the organization shall, within 24 hours of making the disbursement, file an EB-24²

Finally, we would be remiss if we did not reiterate that not all non-profit organizations qualify as an MCFL-type organization. In *MCFL*, the Supreme Court's set forth its criteria for organizations to qualify as an MCFL-type organization:

Regardless of whether that concern is adequate to support application of 441b to commercial enterprises, a question not before us, that justification does not extend uniformly to all corporations. Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status.

In particular, MCFL has three features essential to our holding that it may not constitutionally be bound by 441b's [479 U.S. 238, 264] restriction on independent spending. First, it was formed for the express purpose of

¹ October 2, 2002 letter to Atty. Mike Maistelman.

² See s.11.12(6), Stats.: (6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

(Emphasis supplied)

promoting political ideas, and cannot engage in business activities. If political fundraising events are expressly denominated as requests for contributions that will be used for political purposes, including direct expenditures, these events cannot be considered business activities. This ensures that political resources reflect political support. Second, it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity. 13 Third, MCFL was not established by a business corporation or a labor union, and it is its policy not to accept contributions from such entities. This prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.

We have assumed for the purposes of this opinion that your organization would qualify under the Court's standards. Obviously, if the organization does not so qualify, or ceases to qualify, then it is subject to the same disclosure requirements under ch.11, Stats., as any other political committee.

The five criteria set forth in the FEC Guidelines (re-printed in your letter) would appear to meet the U. S. Supreme Court's qualifications, set forth in the MCFL decision, for MCFL status. Consequently, because you have certified that your organization meets all those criteria, your organization would appear to qualify as an MCFL-type organization for purposes of Wisconsin's campaign finance law. Please note from our earlier opinion that qualifying for MCFL status does not relieve your organization of registration and reporting requirements, it just limits your reporting to those contributions that have been earmarked for political purposes and those expenditures that are made for express advocacy purposes in Wisconsin. Please review that earlier opinion for reporting requirements that may apply to your organization and its Wisconsin campaign finance activities.

I hope that this letter has been responsive to your questions and concerns, but if it hasn't, or if I can be of any other assistance, please give me a call.

This is an informal opinion of the staff of the State Elections Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Elections Board, itself.

STATE ELECTIONS BOARD

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

August 21, 2008

Nicole Martorana
Edison/Mitofsky
34 West Main Street, Suite 353
Somerville, NJ 08876

Dear Ms. Martorana:

You have asked for information from the Government Accountability Board concerning Wisconsin law with respect to the conduct of exit polls. Wisconsin law does not prohibit the conduct of exit polls by a news organization. Wisconsin's law regulating the conduct of persons on Election Day is designed to ensure that nothing interferes with the orderly conduct of the election and nothing distracts voters from exercising their right to vote at the polls on Election Day. §5.35(5), Wis. Stats. The Wisconsin Government Accountability Board, through its staff, has taken the position that exit polls may not be conducted within the building containing the polling place, and that persons conducting exit polls must not interfere with the access of voters entering and leaving the polling place.

We recommend that the persons conducting exit polls do so outside the entrance to the building containing the polling place. Exit pollsters should not block the entrance. We encourage the persons responsible for recruiting exit pollsters to contact the municipal clerk to discuss the conduct of exit polls, in order to take into consideration any unique circumstances created by the layout or configuration of a particular polling place. We expect both our election officials and the persons conducting the polls to be courteous and understanding of the respective rights of all participants in the voting process.

Wisconsin election officials are authorized to remove anyone from the polling place who interferes with or distracts voting at the election. §7.37(2), Wis. Stats. If any person refuses to obey the lawful commands of an election inspector or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, a law enforcement officer may remove them from the voting area.

Thank you for your inquiry. I hope this letter has been responsive to your concerns. Wisconsin election officials look forward to continued cooperation with your organization this election season. If you have additional questions, please contact our office.

Government Accountability Board

A handwritten signature in cursive script that reads 'Kevin J. Kennedy'.

Kevin J. Kennedy
Director and General Counsel

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For August 27, 28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy, Director and General Counsel

SUBJECT: Review of Staff Opinions on Exit Polls

For several years the Board staff has worked with state and national organizations to ensure the ability of these organizations to conduct exit polls on Election Day without interfering with the ability of voters to cast a ballot without distraction or interference. The Board's Director and General Counsel along with its staff attorney developed a standard letter describing the conditions we believe properly balance the interests of the media and voters at the polls on Election Day.

A copy of this year's version of the letter accompanies this memorandum.

Recommendation

Staff recommends the Board reaffirm the staff opinion on the conduct of exit polls in Wisconsin.

MEMORANDUM

To: Government Accountability Board Members

From: George A. Dunst, Staff Counsel

Date: August 27, 28, 2008 Meeting

Subject: Municipal Clerk Authority to Register Voters

A question has arisen from several clerks whether the authorization in s.6.29, Stats., to conduct late registration “at the office of the municipal clerk and at the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#),” includes registering at any location where the clerk is present for the purposes of conducting registration. In other words, where s.6.29(2)(a), Stats., refers to the “office of the municipal clerk,” is late registration limited to the physical space that has been dedicated by that municipality to the performance of the municipal clerk’s duties, including election responsibilities?

The statute in question is s.6.29(2)(a), Stats., which reads, in pertinent part, as follows:

6.29 Late registration in person.

(2)(a) Any qualified elector of a municipality who has not previously filed a registration form or whose name does not appear on the registration list of the municipality may register after the close of registration but not later than 5 p.m. or the close of business, whichever is later, on the day before an election at the office of the municipal clerk and at the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#). . . .

The effect of the statute is that although voter registration for an election “closes” (under s.6.28(1), Stats.), “at 5 p.m. on the 3rd Wednesday preceding the election,” voters may continue to register for that election but only “at the office of the municipal clerk and at the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#).”

The question of off-site registration is raised only in the context of that period of time between the “close” of registration and the day of the election when registration occurs only at polling places. Prior to the close of registration, because of the emergence of special registration deputies, registration takes place almost anywhere and everywhere – at college campuses, at malls or wherever people congregate, or even on sidewalks or doorsteps and, of course through the mails. In s.6.28(1), Stats., the legislature expressed its intent that, after the 3rd Wednesday before the election, registration could only occur in the clerk’s office or at the polls. The manifest purpose of closing registration appears to have been to limit last-minute registrations – especially by mail – that would inundate the clerk or his or her staff and prevent the clerk from being able to process those registrations in time to get that information entered on the poll list or

even on a supplemental poll list. Without that information on the principal or supplemental poll list, the voter would be subjected to the frustration and delay of having to register for a second time at the polling place when they had just gone through the steps necessary to register for that election and the voter would have to show an “identifying document that establishes proof of residence under s.6.34(3), Stats.”

Equally important in closing registration on the 3rd Wednesday preceding the election was the consideration that the 20-day cut-off for registration established the line between those registrants whose residency could be verified by mail under s.6.32(4), Stats., and those registrants whose residency had to be verified by an identifying document establishing proof of residence because their registration was received too late to be verified by mail. By making the late-registering voter attend the clerk’s office to register during the “closed” period, the legislature assured that persons registering without the benefit of verification by mail would have their proof of residence examined by the clerk, or by a member of the clerk’s staff, each of whom should be familiar with voter registration and familiar with the municipality and its streets and boundaries. Also, registering in the clerk’s office would have the benefit of the formalities that are attendant with conducting business in a clerk’s office and the benefit of readily available access to the Statewide Voter Registration System (SVRS) to ensure that the registering voter’s name and address would be added to poll list or supplemental poll list.

After the adoption of statewide voter registration and Wisconsin’s Statewide Voter Registration System, in which municipal clerks and county clerks became reliers and providers, (or partners, if you will), in maintaining that system of voter registration, because some municipalities delegated to another municipal clerk or to a county clerk the “responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#),” the legislature added to the location where registration may occur during the last 20 days preceding an election: “the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#).” Thus, if the clerk of municipality X had delegated to the clerk of municipality Y, or to the county clerk, the “responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#),” voters of municipality X could register in the office of the clerk of municipality Y or in the office of the county clerk just as they could have in their home municipal clerk’s office. Again the formalities that were attendant upon registering in the home municipal clerk’s office were also attendant in registering in another municipal clerk’s office or in the county clerk’s office, except that the surrogate clerk would, presumably, not be as familiar with the streets and boundaries of municipality X; but they would have ready access to SVRS.

Given the foregoing circumstances, the conclusion that late registration is limited to the offices where the clerk or her/his delegate conducts business seems manifest. That conclusion is not as simple as it may first appear, however. Some municipal clerks have their office in their home because their municipality, for whatever reason, does not have any formal space dedicated to the clerk’s performance of the responsibilities of the office. For instance, the Board’s staff has received the following response to its draft of an observer rule from Sue Haake, the Clerk of the Town of Howard, Chippewa County:

The rules look good. I do see a potential problem in rural areas concerning the observation of absentee voting. My office is in my home. Insurance will not allow me to have people come to my home to vote. If someone wants to vote absentee in person I make arrangements to meet them outside the town hall at a time that works for both of us. I do not have regular office hours either at home or the town hall. My total absentee votes are normally 1-3. In a presidential election I have 20-25.

Presumably, wherever the clerk's office is located, the clerk has to be able to register persons at that location, even during the late registration period. If the formalities of a dedicated office are relaxed for those clerks, because they register voters at their home, can they register those voters in their driveway or in the parking lot where they work? In at least one municipality, the clerk's office has been divided into two facilities: the principal municipal building and an annex located at some distance from the principal municipal building. If the governing body has authorized two spaces for the performance of the clerk's duties, can voters be registered at either one? Some clerks would like to have the ability or authority to take their office with them during the period of late registration and register voters at malls or shopping centers or at other large gatherings of citizens of the municipality, like college campuses. Are they precluded from doing this because their "office" is the space dedicated by the municipality for the performance of the clerk's duties, one of which is the registration of voters, and because it is that space that is attendant with the formalities of conducting the public's business?

Or can a clerk elect to take his or her office with her to campuses or malls or festivals, to recognize the realities of the 21st Century or the realities of large metropolises where instead of the voter going to the clerk's office, the clerk's office goes to the voter? On one hand, the legislature never said anything about late registration in malls or campuses or festivals and late registration is an exception to the rule that registration closes on the 3rd Wednesday before the election. But the legislature has not prohibited that conduct, either. And if one asks the question: what is it that a clerk can do at a counter in their office that they are unable to do at a registration table in a mall or in a campus building, one is hard-pressed for an answer - other than expose the process to the inefficiencies and risks of transporting voter registration data and documentation from one location to another as opposed to having that documentation centralized. The formalities of registering to vote in a clerk's regular office don't seem that formal any more. Add to that calculation the fact that the legislature has not defined the term "clerk's office," nor proscribed a governing body from dictating what shall be the clerk's office for the purpose of performing voter registration, and one might conclude that it is the municipality, and no one else, that has the authority to decide what the clerk's office shall be for those purposes.

This discussion might be a response to a question without a problem. The question has been raised by the City of Milwaukee Board of Elections Commissioners in response to a request to do voter registration at the campus of Marquette University. We do not know how many other clerks want to conduct voter registration in off-site locations possibly very few. The Board's counsel has not been asked by any clerks if they are allowed to spend their free time conducting voter registration. But free time may be the only time available for off-site registration because any rule or policy adopted by the Board has to prescribe two postulates: (1) The decision to exercise off-site voter registration is discretionary with the municipality and the clerk; no

municipality is obligated to provide off-site registration during the late-registration period and (2) If a clerk exercises discretion to register at other locations during the closed period, the clerk's regular office hours must be maintained to assure that any elector seeking to register there during office hours will not be turned away without being able to register.

CONCLUSION

The legislature's de facto decision to let the municipality and/or its municipal clerk determine what and where the clerk's office is has to be respected by the Board. But the Board can express its collective sense whether taking the clerk's office to the mall or to the campus, or to a symposium or festival, for the limited purpose of late registration, is good or sound public policy. The Board's decision won't be easy inasmuch as it involves the inexorable balance between two legitimate public policy objectives: facilitating and increasing voter registration (and, thereby, voter participation) on the one hand, with promoting regularity and formality in the registration process to ensure the greatest accuracy and integrity of that process and in the registrations generated thereby, on the other.

STATUTES (6.28(1), 6.29(2)(a), 6.32(4), 6.33(5)(b), 6.34(2))

6.28 Where and when to register. (1) Registration locations; deadline. *Except as authorized in ss. 6.29, 6.55 (2), and 6.86 (3) (a) 2., registration in person for any election shall close at 5 p.m. on the 3rd Wednesday preceding the election. Registrations made by mail under s. 6.30 (4) must be delivered to the office of the municipal clerk or postmarked no later than the 3rd Wednesday preceding the election. All applications for registration corrections and additions may be made throughout the year at the office of the city board of election commissioners, at the office of the municipal clerk, at the office of the county clerk, or at other locations provided by the board of election commissioners or the common council in cities over 500,000 population or by either or both the municipal clerk, or the common council, village or town board in all other municipalities and may also be made during the school year at any high school by qualified persons under sub. (2) (a). Other registration locations may include but are not limited to fire houses, police stations, public libraries, institutions of higher education, supermarkets, community centers, plants and factories, banks, savings and loan associations and savings banks. Special registration deputies shall be appointed for each location unless the location can be sufficiently staffed by the board of election commissioners or the municipal clerk or his or her deputies. An elector who wishes to obtain a confidential listing under s. 6.47 (2) shall register at the office of the municipal clerk of the municipality where the elector resides.*

6.29 Late registration in person. (1) *No names may be added to a registration list for any election after the close of registration, except as authorized under this section or s. 6.55 (2) or 6.86 (3) (a) 2. Any person whose name is not on the registration list but who is otherwise a qualified elector is entitled to vote at the election upon compliance with this section.*

(2)(a) *Any qualified elector of a municipality who has not previously filed a registration form or whose name does not appear on the registration list of the municipality may register after the close of registration but not later than 5 p.m. or the close of business, whichever is later, on the day before an*

election at the office of the municipal clerk and at the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance of the registration list to an agent under [s. 6.33 \(5\) \(b\)](#). The elector shall complete, in the manner provided under [s. 6.33 \(2\)](#), a registration form containing all information required under [s. 6.33 \(1\)](#). The registration form shall also contain the following certification: "I, ..., hereby certify that, to the best of my knowledge, I am a qualified elector, having resided at ... for at least 10 days immediately preceding this election, and I have not voted at this election". The elector shall also provide proof of residence under [s. 6.34](#). Alternatively, if the elector is unable to provide proof of residence under [s. 6.34](#), the information contained in the registration form shall be corroborated in a statement that is signed by any other elector of the municipality and that contains the current street address of the corroborating elector. The corroborating elector shall then provide proof of residence under [s. 6.34](#). If the elector is registering after the close of registration for the general election and the elector presents a valid driver's license issued by another state, the municipal clerk or agent shall record on a separate list the name and address of the elector, the name of the state, and the license number and expiration date of the license.

(b) Upon the filing of the registration form required by this section, the municipal clerk or clerk's agent under [s. 6.33 \(5\) \(b\)](#) shall issue a certificate containing the name and address of the elector addressed to the inspectors of the proper ward or election district directing that the elector be permitted to cast his or her vote if the elector complies with all requirements for voting at the polling place. The certificate shall be numbered serially, prepared in duplicate and one copy preserved in the office of the municipal clerk.

(c) At the time he or she appears at the correct polling place, the elector shall deliver any certificate issued under [par. \(b\)](#) to the inspectors. If the elector applies for and obtains an absentee ballot, any certificate shall be annexed to and mailed with the absentee ballot to the office of the municipal clerk.

(d) The inspectors shall record the names of electors who present certificates in person or for whom certificates are presented with absentee ballots under this section on the list maintained under [s. 6.56 \(1\)](#). These names shall then be added to the registration list if the electors are qualified.

6.29 - ANNOT. 

History: 1977 c. [394](#); 1987 a. [391](#); 1989 a. [192](#); 1999 a. [182](#); 2001 a. [51](#); 2003 a. [265](#); 2005 a. [451](#); 2007 a. [96](#).

6.32 Verification of certain registrations.

(4) If the form is sufficient to accomplish registration and the clerk has no reliable information to indicate that the proposed elector is not qualified, the clerk shall enter the elector's name on the registration list and transmit a 1st class letter or postcard to the registrant, specifying the elector's ward or aldermanic district, or both, if any, and polling place. The letter or postcard shall be sent within 10 days of receipt of the form. If the letter or postcard is returned, or if the clerk is informed of a different address than the one specified by the elector, the clerk shall change the status of the elector on the list from eligible to ineligible. The letter or postcard shall be marked in accordance with postal regulations to ensure that it will be returned to the clerk if the elector does not reside at the address given on the letter or postcard.

6.33 Registration forms; manner of completing.

(5)(a) Except as provided in par. (b), whenever a municipal clerk receives a valid registration or valid change of a name or address under an existing registration and whenever a municipal clerk changes a registration from eligible to ineligible status, the municipal clerk shall promptly enter electronically on the list maintained by the board under s. 6.36 (1) the information required under that subsection, except that the municipal clerk may update any entries that change on the date of an election in the municipality within 30 days after that date, and the municipal clerk shall provide to the board information that is confidential under s. 6.47 (2) in such manner as the board prescribes.

(b) The municipal clerk of any municipality may, by mutual consent, designate any other municipal clerk or any county clerk as the clerk's agent to carry out the functions of the municipal clerk under this section for that municipality. The municipal clerk shall notify the county clerk of each county in which the municipality is located and the board of any such designation in writing. The municipal clerk may, by similar notice to the clerk's agent at least 14 days prior to the effective date of any change, discontinue the designation. If the municipal clerk designates another municipal clerk or a county clerk as his or her agent, the municipal clerk shall immediately forward all registration changes filed with the clerk and voting record information obtained by the clerk to the clerk's agent for electronic entry on the registration list.

6.33 - ANNOT.



History: 1971 c. 304 s. 29 (1), (2); 1971 c. 336 s. 37; 1975 c. 85 ss. 15, 16, 17, 66 (3); 1975 c. 94 s. 91; 1977 c. 378, 394, 447; 1979 c. 32; 1981 c. 44 s. 3; 1981 c. 202 s. 23; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1999 a. 49, 182; 2001 a. 51; 2003 a. 265; 2005 a. 451; 2007 a. 96.

6.34 Proof of residence required.

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

To access a .pdf copy of the full opinion, click on the blue text.

For August meeting:

Lobbying registration and reporting

LOBBYING..... [2005 Wis Eth Bd 1](#)

This is in response to your letter in which you have asked a number of general questions concerning application of laws administered by the Ethics Board to a 501 (c) (3) or 501 (c) (4) organization. The answers pertain equally to a 501 (c) (3) or 501 (c) (4) organization.

¶1 Any organization may invite any or all state public officials or candidates for state office to attend a fundraising event and may note that attendance publicly. As Ethics Board Guideline 211 indicates, if the organization employs a lobbyist, a state official or candidate must generally decline to partake of food or drink. If the organization does not employ a lobbyist, a state official may accept food and drink but must pay for it; a candidate may accept food and drink without payment. Please note that §11.34, Wisconsin Statutes, forbids a person to solicit a charitable contribution from a candidate for office.

¶2 Any organization may invite a state public official or candidate for state office to be a speaker at a fundraising event and may provide a meal or reimbursement to the official or candidate if, but only if, the official is presenting a talk about state issues. Ethics Board Guideline 223 addresses this. If an official directs that a member of the official’s staff accompany the official in that circumstance, then the organization may provide a meal to the staff member.

¶3 Wisconsin Statutes impose no limitations on a 501 (c) (3) or a 501 (c) (4) organization’s ability to engage in lobbying activities. Such an organization, of course, is subject to the same restrictions and requirements under the lobbying law as any business or organization that pays an individual to lobby. If an organization does not pay an individual to lobby on its behalf, it is not subject to the lobbying law. Ethics Board Guideline 510 outlines the lobbying law’s requirements. Our understanding is that federal tax laws impose limitations on the amount of lobbying in which a tax-exempt organization may engage without losing its tax-exempt status. You should consult with the Internal Revenue Service about this issue.

¶4 If an organization that employs a lobbyist provides money to a second organization to lobby on issues under the first organization’s direction, the first organization may need to report those payments to the Ethics Board.

¶5 The lobbying law does not place restrictions on the sources from which an organization that employs a lobbyist obtains its money.

LOBBYING AND LOBBYISTS..... [2003 Wis Eth Bd 14](#)

The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin’s Native American tribes from its registration and reporting requirements.

LOBBYING AND LOBBYISTS..... [1997 Wis Eth Bd 19](#)

The Ethics Board advises:

- (1) If an individual contracts for or receives economic consideration (including stock or an option to acquire stock) from a company, attempts to influence legislation or rules on its behalf, and communicates with state officials, either orally or in writing, on five or more days in a reporting period in attempting to influence those officials,

then Wisconsin's lobbying law will require the company to register as a lobbying principal and to authorize the individual to lobby on its behalf; and

(2) An individual should not agree to lobby on behalf of a company if the individual's compensation is stock or a stock option, unless the individual is prepared to clearly and convincingly demonstrate that the value of the stock or the stock option is not *in any manner* dependent on the success or failure of legislative or administrative action.

LOBBYING AND LOBBYISTS..... [1999 Wis Eth Bd 7](#)

The Ethics Board advises that: (1) Wisconsin law requires an officer or member of a union who makes a lobbying communication on the union's behalf on more than four days in a reporting period to be licensed and authorized as a lobbyist if the union reimburses the member's employer for the individual's wages for the time spent in lobbying activities; and (2) the union should include, in its semi-annual report of lobbying expenditures, the union's salary reimbursement for an individual's time spent in lobbying activities, whether or not the individual is a lobbyist.

LOBBYING..... [1999 Wis Eth Bd 2](#)

Each independent chapter of a network of organizations that spends more than \$500 in a year to employ a lobbyist must separately register as a lobbying principal if its lobbyist makes lobbying communications on at least five days in a six-month reporting period. If the network (1) has articles or other written agreement of association; (2) has officers, directors, or others who jointly direct the association's activities; and (3) the lobbyist does not take direction from any one chapter or combination of chapters other than the association; then the network rather than the individual chapter should register as a principal.

LOBBYING LAW [1997 Wis Eth Bd 10](#)

The Ethics Board advises that a lobbying principal include in its semi-annual report to the Ethics Board the time an individual, who is not a lobbyist, spends on the principal's behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes.

LOBBYING AND LOBBYISTS..... [1997 Wis Eth Bd 5](#)

A lobbying principal should not report in its Statement of Lobbying Activities and Expenditures the time and money it has spent on developing and airing television commercials that do not urge members of the general public to try to influence legislation or administrative rulemaking.

LOBBYING..... [1996 Wis Eth Bd 17](#)

An association is a lobbying principal subject to Wisconsin's lobbying law if (1) it reimburses a member for lost wages in connection with lobbying on the association's behalf and (2) the member communicates with state officials other than the legislators from the member's own district, on more than 4 days in a 6-month reporting period.

A lobbying principal may not, consistent with the lobbying law, reimburse its members' campaign contributions that are furnished at a time not permitted to the principal.

LOBBYING AND LOBBYISTS..... [1993 Wis Eth Bd 10](#)

A. Regardless of whether a lobbyist is acting on behalf of the organization that employs the lobbyist or independent of it, the lobbyist need not account to the Ethics Board:

1. For time the lobbyist spends participating as a member in the deliberations either of a rule-making advisory committee established by a state agency under §227.13 or of a committee of the Legislature or
2. For time the lobbyist spends providing information to a state agency official in response to the official's request.

B. Otherwise the lobbyist should account for all the time he or she is engaged in attempting to influence state legislation or an administrative rule on his or her employer's behalf, even if the information the lobbyist provides was requested by a legislator.

C. A lobbyist is not obliged to account to the Ethics Board for activities:

1. That are unrelated to influencing state legislation or administrative rules or
2. That the lobbyist undertakes independent of his or her employer's interests and not as its representative.

LOBBYING AND LOBBYISTS..... [1993 Wis Eth Bd 1](#)

An individual is a lobbyist if he or she engages in activities that constitute lobbying under the lobbying law, even if the activities are merely an outgrowth of legal representation. Lobbying includes attempting to influence or affect legislation or administrative rules, but does not include attempting to influence other kinds of agency decisions. Discussions with state agencies concerning the use of conventional construction bidding as opposed to privatization for prisons, attempts to get a state agency to make payments due your client, a conversation with a state agency regarding the effect of a highway project on your client, contacts regarding a client's proposal to design buildings for the State of Wisconsin, and discussions with a state agency concerning possible investment in a client do not appear to constitute lobbying and an individual's pursuit of these activities would not require the individual to obtain a lobbying license or require the individual's client to register as a lobbying principal with the Ethics Board.

LOBBYING – DEFINITIONS..... [1992 Wis Eth Bd 21](#)

Wisconsin's lobbying law poses no restriction on a lobbyist representing clients in negotiating a purchase of land to a state agency on a contingency fee basis unless the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal.

LOBBYING AND LOBBYISTS..... [1992 Wis Eth Bd 16](#)

The time and expenses related to the lobbying activities of individuals employed by companies that are members of a trade association that is a principal should be recorded as follows:

- (1) If the individuals are lobbying on the trade association's behalf, and under its supervision or control, the trade association should account for their time and the lobbying expenses that the association incurs;
- (2) If the individuals are lobbying on their employer's behalf, then if the employer otherwise meets the definition of "principal," the employer

should account for the employees' time and the lobbying expenses that the employer incurs; and

- (3) If the individuals are lobbying on behalf of both the trade association and the employer, then both the trade association and the employer should undertake the accounting described in (1) and (2).

The exemption for participating in the deliberations of an agency's advisory committee on rulemaking established under §227.13 or of a legislative committee of which the individual is a member extends to preparation and communication with committee members and staff, outside a meeting, that is directly related to committee deliberations.

LOBBYING..... [1992 Wis Eth Bd 11](#)

Two organizations jointly lobbying under a different name should continue to report separately the time and resources expended in lobbying by each organization.

LOBBYING..... [1992 Wis Eth Bd 6](#)

The exemption in § 13.621(1)(c) applies only to service on ad hoc advisory committees established by state agencies to advise with respect to rule making. Moreover, service on a state board or committee may not be lobbying if the individual exercises independent judgment and is not a representative of his or her employer.

LOBBYING..... [1992 Wis Eth Bd 2](#)

Both organizations may be principals when one organization contracts with another for the latter's employee to lobby on the former's behalf.

LOBBYING..... [1992 Wis Eth Bd 1](#)

An employee does not violate the so-called "gag" law if he or she communicates with the legislature in his or her capacity as a union officer.

LOBBYING AND LOBBYISTS..... [1991 Wis Eth Bd 7](#)

Non-lobbyists need not maintain an individual daily log of activities. A principal need only maintain a log for the time of its employees and individuals engaged in lobbying activities under the supervision or control of the organization. Costs incurred by a principal for research must be reported only if the cost would not have been incurred but for lobbying.

Meals, travel, talks

LOBBYING LAW [2007 Wis Eth Bd 08](#)

The Ethics Board advises that a state official may not accept food, drink, and entertainment from anyone as long as the person extending the invitation is not a lobbyist or a lobbying principal and the official can demonstrate that the person made the offer for a reason unrelated to the official's holding or having held a government position.

MEALS, LODGING, TRAVEL

AND ENTERTAINMENT [2007 Wis Eth Bd 1](#)

You ask whether laws administered by the Ethics Board restrict your acceptance of a trip to a foreign country jointly sponsored by organizations whose purposes include fostering better relationships between that country and the United States and fostering understanding, harmony, and cooperation among different religious

traditions. You have indicated that you would be meeting with cultural groups and public officials, both to learn about the diverse cultures in the foreign country and potentially to develop cultural exchanges with that country.

FEES AND HONORARIUMS [2006 Wis Eth Bd 06](#)

Wisconsin law [§19.56 (1), Wisconsin Statutes] encourages you to address groups about legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch and to accept reasonable compensation from the sponsor when you do. The bookends offered are well within the ambit of reasonable compensation. If your address can be appropriately characterized as meeting the subject matter criterion, you may surely retain them.

FEES AND HONORARIUMS [2005 Wis Eth Bd 09](#)

The Ethics Board advises that a crystal bowl, valued at \$125, is reasonable compensation for an elected official who spent eight to nine hours preparing a talk and presented a keynote address related to state government issues to an out-of-state organization.

MEALS, LODGING, TRAVEL AND ENTERTAINMENT [2005 Wis Eth Bd 10](#)

The Ethics Board advises that state agency may accept funds from private sources to be used to reimburse a state official's travel expenses incurred by the official while engaged in official duties.

LOBBYING LAW [2004 Wis Eth Bd 07](#)

The Ethics Board advises that an agency official should pay a lobbying organization on whose board of directors the official serves for any food, lodging, or transportation the organization furnishes the official in connection with serving on its board of directors. Because the official's state agency encourages its employees to participate in the organization's activities, routinely permits employees to participate in those activities without the need to take leave time, and reimburses employees' expenses for those activities when it can, it appears appropriate for the agency to reimburse the official for those costs. The lobbying law is not an obstacle to the organization's reimbursing the state agency for those expenses.

IMPROPER USE OF OFFICE [2003 Wis Eth Bd 3](#)

The Ethics Board advises:
For chairing a conference about state government issues, a state public official may accept an award sanctioned, approved, endorsed by, and presented under the auspices of the organization that is sponsoring the conference but may not accept an award from another organization.

IMPROPER USE OF OFFICE, MEALS, LODGING, TRAVEL AND ENTERTAINMENT [2003 Wis Eth Bd 1](#)

The Ethics Board advises:

1. Consistent with laws it administers, a legislator may participate in a charitable fundraising event that includes golf and a lunch of which the primary beneficiaries are charities with which the legislator is not associated; and
2. A legislator should not accept the offer to bring guests or to attend the awards dinner without paying the same amount as members of the public for those activities.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT 1998 Wis Eth Bd 15

Apart from the limited exceptions contained in §19.56(3), *Wisconsin Statutes*, the Ethics Board advises that a judge either not partake of free food and drink not available to the general public or pay the higher of the fair value of such food and drink or the ticket cost of the event.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT 1998 Wis Eth Bd 10

The Ethics Board advises:

- [1] A state public official may accept for the official and for the official's spouse transportation, lodging, meals, food, and beverages, or reimbursement of actual and reasonable costs, from a national association of which the official's state agency is a member, for attendance at the association's meetings to the extent that the official can clearly and convincingly demonstrate that the association's payments are received on behalf of, and primarily for the benefit of, the state and not primarily for private benefit.
- [2] In the normal course of business and in the absence of evidence to the contrary, the Ethics Board will defer to a state agency's determination of whether the provision of travel costs for an official or an official's spouse by a national association of which the state agency is a member is primarily of benefit to and on behalf of the state.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT 1997 Wis Eth Bd 16

The Ethics Board advises that:

- (1) Both state and local officials may participate in a round-trip train excursion that celebrates a lobbying organization's 10th anniversary;
- (2) The lobbying organization should not furnish refreshments to elected state officials or to state agency officials whose responsibilities relate to rule-making; and
- (3) Local public officials and non-elected state officials whose responsibilities do not involve state rule-making may pay for and partake of the food and drink that is offered in connection with the proposed event. The official should pay the greater of [i] the established charge to others for the refreshments, [ii] the organization's cost of providing the refreshments, or [iii] the fair market value of the recipient's independently acquiring like items at a comparable event.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT 1997 Wis Eth Bd 12

The Ethics Board advises:

A lobbying organization may, consistent with the Ethics Code and lobbying law, furnish food and drink to state officials at a reception if:

- (1) the organization can demonstrate its genuine attempt to attract the general public to the reception;
- (2) the reception is open to the public on the same terms it is available to state officials without the purpose or effect of the manner of invitation conferring an advantage on a state official greater than that available to the general public; and

either: (a) the organization sets and collects from each state official the greater of: [i] the established charge or ticket price, if any, charged others for the same or comparable benefit, [ii] the organization's cost of acquiring the goods or services the organization provides, or [iii] the market price of the recipient's independently

acquiring like benefits; or (b) the reception is unrelated to state officials' discussion of state government processes or issues initiated by or affecting state government.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1997 Wis Eth Bd 3](#)

Agency officials may participate in a trip to a foreign country if the trip is authorized by the agency as an undertaking on behalf of the state and primarily for the state's benefit and the agency officials travel as the state's representatives.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1995 Wis Eth Bd 2](#)

Lobbying principals may furnish cash and in-kind contributions to a national organization or the Department of Development for the organization's annual meeting in Wisconsin. Wisconsin's officials may accept food and drink furnished at events that are provided, sponsored, or sanctioned by the national organization and authorized by the officials' agency. State officials generally may accept items that the national organization or the Department of Development furnishes. A state official should accept an item furnished by a vendor at the meeting only if the item is of insubstantial value and the vendor is not a lobbying principal.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1993 Wis Eth Bd 2](#)

The Department of Development may sponsor an anniversary celebration for a Wisconsin corporation if, but only if, the department determines that the event will benefit the State of Wisconsin and will promote business, economic development, or tourism. State and local public officials may accept food, drink, and lodging offered in connection with the celebration to the extent that the items are provided by the Department of Development.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1992 Wis Eth Bd 7](#)

A state public official may participate in a tour on which the official is invited because of his or her public position if it is primarily for the benefit of the state and not for private benefit.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1992 Wis Eth Bd 4](#)

A state public official may attend a dinner to which the official has been invited because of his or her public position if attendance is primarily for the benefit of the state and not for private benefit.

MEALS, LODGING, TRAVEL
AND ENTERTAINMENT [1991 Wis Eth Bd 10](#)

Consistent with the Ethics Code, a legislator, while attending a conference on behalf of the state, may accept meals, refreshment, and the like that are provided, sponsored, or sanctioned by the event organizer and authorized by the legislature.

LOBBYING AND LOBBYISTS..... [1991 Wis Eth Bd 4](#)

A judge may not accept an honorarium from a principal for presenting a talk but may accept reimbursement of expenses.

Appointed official running for elective office

EMPLOYMENT CONFLICTING

WITH OFFICIAL RESPONSIBILITIES..... [1997 Wis Eth Bd 14](#)

The Ethics Board: (1) advises that the Ethics Code does not require an appointed official of a state agency to resign if the official runs for election to public office; and (2) reaffirms the advice given in 1997 Wis Eth Bd 7.

¶ 1. You have asked about the propriety of an appointed official of a state agency establishing a committee to explore running for election to public office.

¶ 2. The matter about which you have asked is a personnel matter not governed by Wisconsin’s Ethics Code. Nothing in the Ethics Code requires an appointed official of a state agency to resign if the official runs for election to public office. Whether the official may simultaneously retain his position with the agency and seek election to a government position rests in the discretion of the official’s appointing authority.

¶ 3. The Ethics Board reaffirms its recent opinion addressing a like matter, 1997 Wis Eth Bd 7; and commends it as a guide for the agency.

Improper use of office

IMPROPER USE OF OFFICE

[2006 Wis Eth Bd 03](#)

A legislator should not take official action that has a fiscal effect on a private organization on whose board of directors the legislator serves unless the legislator’s appointment to the organization’s board were pursuant to a statute, a resolution of the Legislature, or a condition imposed by the State of Wisconsin that established the legislator’s role as an agent of our state’s government representing governmental interests, not the separate interests of the organization.

IMPROPER USE OF OFFICE

[1992 Wis Eth Bd 24](#)

A legislator should not solicit or accept contributions of legal services or money to pay for legal services if the contributions could reasonably be expected to influence judgment or actions or be considered a reward for past action. A legislator should not accept legal services or contributions to defray litigation expenses unless the legislator can demonstrate, clearly and convincingly, that the contribution is made primarily for a reason that is independent of the legislator’s holding a public office.

For November meeting:

Local officials – conflicts of interest

LOCAL OFFICIALS – DISQUALIFICATION.....

[2007 Wis Eth Bd 9](#)

The Ethics Board advises:

1. If a matter before a town board, is reasonably likely to have more than a trivial, insignificant, or insubstantial financial effect on a supervisor, then the supervisor SHOULD ABSTAIN from discussion, deliberation, and votes on that matter.
2. If a matter before a town board will have no effect or only a trivial, insignificant, or insubstantial financial effect on a supervisor, then the supervisor SHOULD PARTICIPATE; and
3. If reasonable people cannot reasonably foresee the effect of a board of supervisors’ action on a supervisor’s financial interests or disagree about whether the effect will be positive or negative or will be substantial or insignificant then the supervisor’s financial interest is too speculative to deny the supervisor’s participation in related discussion, deliberation, and votes, and the supervisor SHOULD PARTICIPATE UNLESS, in the supervisor’s

judgment, to do so would undermine public confidence in the decision or in government.

LOCAL CODE 2005 Wis Eth Bd 04

The Ethics Board advises:

1. A school board member, who is a retiree of the district, should not take any vote on the budget if resolution of the matter is likely to affect the level of health insurance premiums the school district will contribute to retirees.
2. The school board member may vote on a budget matter if any effect on the member's health benefits is remote and speculative.
3. Application of these principles depends on the facts. A local school board attorney is in a better position to resolve this factual issue than are we.

LOCAL CODE – DISQUALIFICATION 2005 Wis Eth Bd 2

The Ethics Board advises:

1. That the retired teacher who is a member of the school district's board of education should not vote on the resolution that would establish, for the 2005-2006 budget, revenue assumptions and a supporting tax levy if that is likely to affect the health benefits the member receives; but
2. That the retired teacher who is a member of the school district's board of education may vote on the resolution if its effect on the member's health benefits is remote and speculative.

LOCAL CODE 2004 Wis Eth Bd 05

A member of a county board who serves as a trustee of the county's nursing home facility, whose mother is a resident of the facility, should not use her position to obtain anything of substantial value or a substantial benefit for the official personally or for a member of the official's immediate family. Whether that will, or is likely to occur, is a question of fact that the Ethics Board cannot resolve. If a matter comes before the nursing home board that would have a financial effect on the supervisor or the supervisor's immediate family, then she should abstain from participation in the matter. If her need to recuse herself becomes so frequent as to impede her ability to contribute to the nursing home board, then the better alternative is that another individual take her place.

LOCAL CODE – DISQUALIFICATION 2003 Wis Eth Bd 17

The Ethics Board advises that a member of the Village's governing board may participate in the consideration or decision about improvements the village will make to the village's sewage system and the financing of those improvements as follows:

1. If the sewer improvement does not personally and substantially benefit the property interest of a village trustee, the trustee is disqualified neither from participating in the designation of the sewer improvement nor from determining how the improvement's cost will be met.
2. If the sewer improvement personally and substantially benefits the property interest of a village trustee, but the improvement also confers a substantial benefit on all or a sizeable portion of the village's property owners, the trustee is disqualified neither from participating in the designation of the sewer improvement nor from determining how the improvement's cost will be met.
3. If the sewer improvement produces a substantial or personal benefit to the trustee's property interest that is not common to all or a sizeable portion of the village's property owners, but the village assesses the improvements' costs to the property owners who are the beneficiaries of the improvement,

the trustee is disqualified neither from participating in the designation of the sewer improvement nor from determining how the improvement's cost will be met.

4. If the sewer improvement produces a substantial or personal benefit to the trustee's property interest that is not common to all or at least to a sizeable portion of the village's property owners, and the village assesses the improvements' costs to all of the village's property owners or at least to property owners who do not benefit from the improvements ordered, the trustee should not participate in discussions and actions that have as their goal the transfer of the costs of the sewer improvements to the trustee's property to others in the village.

LOCAL CODE – DISQUALIFICATION [2003 Wis Eth Bd 9](#)

The Ethics Board advises:

That a special purpose district reconsider its vote because a commissioner who voted to distribute a large monetary refund to original members of the district would be a recipient of that sum. In any new vote on the same proposal, the commissioner who would receive the distribution should abstain from any participation in discussion, debate, or vote.

LOCAL CODE – DISQUALIFICATION [2003 Wis Eth Bd 8](#)

The Ethics Board advises that a town chair should not simultaneously participate in Town decisions concerning services provided to the Town by a company owned by the same individual that owns the company of which the town chair is an employee.

LOCAL CODE [2002 Wis Eth Bd 5](#)

The Ethics Board advises:

The effect of building a public facility on the value of an official's adjacent property is a factual one. The factual assessment is important but is not one we can make. In the absence of anything other than conjecture about that effect, public policy favors a public official's exercise of official duties. But the official, at his or her discretion, may abstain from participation if the official believes participation is likely to undermine citizen confidence in the county's government. Therefore:

1. If building the public facility on adjacent property will, or is reasonably likely to have a financial effect on the official's land, the official should abstain from participation in the decision.
2. In the absence of any financial effect, the official should participate; and
3. If the effect is conjectural or attenuated, the official should participate unless, in the official's judgment, to do so would undermine public confidence in the decision or in government.

LOCAL CODE – DISQUALIFICATION [2002 Wis Eth Bd 4](#)

The Ethics Board advises:

If a county's contract with a union will provide a significant precedent for a union contract in which a county board supervisor has a personal financial interest, then the supervisor should not participate in negotiations, discussions or votes on the former. If the effect of the county's contract on the contract covering the supervisor is merely conjectural or inconsequential, the supervisor may participate in decisions concerning that contract.

LOCAL OFFICIALS – DISQUALIFICATION [2002 Wis Eth Bd 2](#)

The Ethics Board advises that :

1. Under §19.59, Wisconsin Statutes, the village trustee whose property abuts the property that is the subject of the company’s rezoning petition, and who is an employee of the company, should not participate in discussion, debate, or votes on the petition;
2. Section 19.59, Wisconsin Statutes, is unlikely to restrict the village trustee who is an employee of a company that sells supplies to the company seeking the rezoning to vote on the petition; and
3. Section 19.59, Wisconsin Statutes, is unlikely to restrict the village trustee who owns a company that, in the past, has done business with the company seeking the rezoning to vote on the petition.

LOCAL CODE – DISQUALIFICATION [2002 Wis Eth Bd 1](#)

The Ethics Board advises:

1. As long as the effect of teacher contract negotiations on the salary and benefits provided to school principals is uncertain and conjectural, §19.59 does not restrict a school board member whose spouse is a principal to participate in negotiations with the teachers’ union. Resolution of the issue requires a determination of fact that cannot be made in an opinion. A school district’s attorney is in a better position to ascertain this fact.
2. A school board and superintendent should amend the superintendent’s employment contract to remove a provision that ties the superintendent’s salary increases to increases provided to district administrators.

LOCAL CODE – DISQUALIFICATION [2001 Wis Eth Bd 1](#)

The Ethics Board advises: (1) that local governmental officials should not accept free or discounted admission to events at a facility owned by the local governmental unit; (2) that, except as just stated, statutes administered by the Ethics Board are not an obstacle to the facility’s oversight authority using, for the conduct of official business, a conference room that looks out on events; (3) that a local governmental official may not use the conference room for a non-governmental purpose unless the use of private rooms, or admission to private rooms, is for sale to the general public for the pertinent event, and then only under the same terms and conditions available to the public; and (4) that statutes administered by the Ethics Board are not an obstacle to the local governmental unit’s making the conference room available to charitable organizations; however, a local governmental official should not use his or her position to arrange for use of the conference room by an organization of which the official is an officer, director, or authorized representative or agent. Because the room is a public facility, other laws may govern the room’s use.

LOCAL CODE – DISQUALIFICATION [2000 Wis Eth Bd 4](#)

The Ethics Board advises that in the case of a local official who has been elected to serve on the board of directors of a municipal mutual insurance corporation by a government approved process, to represent the local government’s interests on the board, §19.59, *Wisconsin Statutes*, does not bar the official from participating in the local government’s consideration, discussion, or votes to award a contract to or change government policy to permit the purchase of services from the corporation.

LOCAL CODE – DISQUALIFICATION 2000 Wis Eth Bd 2

The Ethics Board advises that:

In the case of a county board supervisor who has been selected as a member of an insurance company’s board of directors by the company’s organizer, the supervisor should not participate in county board consideration, discussion, or votes to award a contract to the company or to change county policy to permit the purchase of services from the company.

LOCAL CODE – DISQUALIFICATION 2000 Wis Eth Bd 1

The Ethics Board advises (1) that a county board supervisor not participate in discussions or votes about litigation strategy or whether or not the county should sue a business with which the supervisor is associated and should absent himself or herself from that portion of a meeting at which the matter is discussed; (2) that §19.59 is not an impediment to a county supervisor’s participation in decisions affecting the liability of a municipality of which the supervisor is an elected official, but considerations of incompatibility of office, which may be addressed by the Attorney General, may speak to abstention; and (3) that §19.59 is not an impediment to a county supervisor’s participation in decisions affecting the financial interests of a child’s spouse, unless the child's family either receives one-half of their support from the supervisor or furnishes one-half of the supervisor’s support, but considerations of the appearance of impropriety may lead the supervisor to abstain.

LOCAL CODE – DISQUALIFICATION 1999 Wis Eth Bd 3

A village trustee should not participate in the discussion, consideration, or vote on a proposal to ban or regulate a business activity in the village in which the trustee is engaged unless the trustee can demonstrate that the trustee's official actions will not result in a substantial financial gain, or avoidance of a substantial financial loss, for the trustee's business.

LOCAL CODE 1998 Wis Eth Bd 4

The Ethics Board advises that, under §19.59, *Wisconsin Statutes*, a county board supervisor should not simultaneously be a member of a county task force established to recommend the feasibility of the county’s building a proposed facility and hold an interest or option to purchase an interest in a company seeking to operate that facility if it is built.

LOCAL CODE 1998 Wis Eth Bd 1

The Ethics Board advises:

that a member of a municipality’s governing body who lives in an unsewered subdivision may, consistent with §19.59, *Wisconsin Statutes*, participate in a decision whether to require the extension of water and sewer service to all existing and future development in the municipality.

LOCAL CODE – DISQUALIFICATION 1997 Wis Eth Bd 6

The Ethics Board advises that a school board member whose spouse is employed as a teacher by the school district:

- (1) not participate in negotiations, discussions, or votes on the teachers’ contract;
- (2) may vote on the district’s budget if the school board has already entered into a contract that establishes teachers’ salaries and benefits for the period covered by the budget but may not vote on the budget if the budget will substantially affect teacher salaries or benefits;

(3) not participate in negotiations, discussions, or votes on the terms of another union's contract if it will affect the terms of the teachers' contract in other than an inconsequential manner;

(4) may participate in a disciplinary or similar matter affecting another teacher if the action does not result in a school board member's spouse obtaining a substantial benefit or anything of substantial value from such decision;

(5) may participate in decisions affecting class size, teaching hours, other general school district policy decisions if the effect on the school board member's spouse does not differ materially from the effect on other teachers.

The Ethics Board advises that a school board member who is covered by the school district's health benefits plan not participate in consideration of the terms of that plan or the award of the district's health benefits contract.

LOCAL CODE – DISQUALIFICATION [1996 Wis Eth Bd 13](#)

A member of a local unit of government's legislative body should not simultaneously serve, in a private capacity, as an officer or director of a tourism organization and participate in discussions or votes to establish a room tax to support the organization financially.

A member of a local unit of government's legislative body who is a director of a tourism organization generally should not participate in a decision concerning room tax receipts if the decision could substantially affect the level of receipts earmarked for the organization. If decisions on these issues are presented to the legislative body in the form of an ordinance or ordinance amendment, then a member of that body who also serves on the board of the tourism organization should not act in a way that aids the organization of which he or she is a director.

LOCAL CODE – DISQUALIFICATION [1996 Wis Eth Bd 12](#)

A member of a local unit of government's legislative body should not simultaneously serve, in a private capacity, as an officer or director of the tourism organization and participate, in a governmental capacity, in discussions or votes to establish a room tax to support the organization financially.

A member of a local unit of government's legislative body to whose business the tourism organization will furnish a substantial benefit through the use of room tax revenues should not participate in discussions or votes to establish a room tax.

LOCAL CODE – DISQUALIFICATION [1996 Wis Eth Bd 10](#)

A city council member who is a retired city employee and who receives health insurance paid for by the city, should not participate in consideration of the terms or award of such contracts.

A city council member whose child participates in the city's health insurance program, and who either provides more than one-half of the official's support or receives more than one-half of his or her support from the official, should not participate in consideration the terms or award of such contracts.

A city council member, disqualified from voting on the health insurance contracts themselves may nevertheless vote on the city's budget as a whole as long as the member's personal stake in the budget is indirect and attenuated and the member does not participate in discussions or votes on any amendment to the budget affecting such member's health insurance.

LOCAL CODE – DISQUALIFICATION [1996 Wis Eth Bd 9](#)

The Ethics Board advises that §19.59, *Wisconsin Statutes*, does not bar a local government official (1) from acting in a matter concerning another body politic with which the official is associated or (2) from acting in a matter that could affect the financial interests of an organization to whose board of directors the local governmental unit has appointed the official pursuant to statute, ordinance, or resolution to represent the interests of the local government.

A local government official may not simultaneously be an officer or director of a private organization (in a capacity other than as a representative of the local governmental unit's interests) and (a) take official action substantially affecting the organization or (b) use his or her public office to produce a substantial benefit for the organization.

LOCAL CODE – DISQUALIFICATION [1994 Wis Eth Bd 7](#)

A town board member should not as a matter of policy, participate in the town's consideration of a landfill expansion as long as the member derives financial benefit from his or her spouse's employment by a company owned by the individual owning the controlling interest in the landfill operator. A town board member may participate in such a decision without restriction from laws administered by the Ethics Board where the town board member's child is so employed and the member's child neither supports nor derives support from the town board member.

LOCAL CODE – DISQUALIFICATION [1994 Wis Eth Bd 6](#)

The Ethics Board advises that a member of the governing body of a local government unit should not participate in any labor issues in which a union is involved or that could affect the union's interests while the member's law firm simultaneously represents that union.

LOCAL CODE – DISQUALIFICATION [1994 Wis Eth Bd 6 Supplemental](#)

A member of the governing body of a local governmental unit should not participate (1) in labor issues in which a union that is a client of the member's law firm, or one of that union's members, is a party or (2) in labor matters involving other unions that could have a precedential effect on issues affecting the client. The board member may participate in other policy matters as long as those matters have no more than an incidental effect on the union and its members.

LOCAL CODE – DISQUALIFICATION [1994 Wis Eth Bd 5](#)

The Ethics Board advises that two city council members should not participate in any official discussions, consideration, or vote concerning a city's lease or purchase of a building while each simultaneously derives income from a business that itself has, or from a business whose principal owner has, a direct financial stake in the outcome of the city's decision.

LOCAL CODE – DISQUALIFICATION [1994 Wis Eth Bd 4](#)

The Ethics Board advises that a member of a city council that is a negotiator for a labor union in other municipalities should not participate in any official discussions or vote on the Union's contract with the city on whose council the member serves; should not use any information not available to the public, derived from the council member's holding public office, to benefit the Union in other municipalities; and should not be present during closed sessions in which labor negotiations with the Union are being discussed.

LOCAL CODE – DISQUALIFICATION 1992 Wis Eth Bd 28

A village engineer should not act in an official capacity with respect to the review of plans the engineer has prepared in a private capacity or submitted by developers with which the village engineer is associated.

LOCAL CODE – DISQUALIFICATION 1992 Wis Eth Bd 22

A village board member should not participate in official discussions, deliberations and votes with respect to legislation (that is, ordinances and the like) affecting his or her real estate interests except to the extent that the action affects a whole class of similarly situated interests, the board member's interest is insignificant when compared to all affected interests, and the action's effect on the board member's private interests is neither significantly greater nor less than upon other interests affected by the act.

The village board member ought not to participate in quasi-judicial deliberations or decision-making such as actions on permits, licenses, rezoning of specific parcels, and the like affecting the member's interests or competing real estate interests.

In those instances in which the member should refrain from votes, the member should also refrain from discussion and deliberations and ask that the minutes reflect that the member has withdrawn.

LOCAL OFFICIALS – DISQUALIFICATION 1992 Wis Eth Bd 20

The Ethics Board recommends that a village board member not participate in official discussions, deliberations, and votes with respect to legislation affecting his or her business unless the action affects a whole class of similarly situated interests, the board member's interest is insignificant when compared to all affected interests, and the action's effect on the board members' private interest is neither significantly greater nor less than upon other interests affected by the act.

The village board member ought not to participate in quasi-judicial deliberations or decisionmaking affecting his or her own business or competing businesses.

LOCAL OFFICIALS – DISQUALIFICATION 1992 Wis Eth Bd 12

Members of local landfill negotiating committees or other local officials, whose financial interests are likely to be affected by negotiations concerning a landfill expansion, should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations.

LOCAL OFFICIALS – DISQUALIFICATION 1992 Wis Eth Bd 10

A local public official is not disqualified from participating in the award of a contract to a business simply because that business is involved in an unrelated joint venture with the official's employer.

Local officials – gifts and meals

LOCAL CODE –

INFLUENCING OFFICIAL JUDGMENT 2003 Wis Eth Bd 16

The Ethics Board recommends that an official who is a member of a city's plan commission not simultaneously serve on the commission and solicit more than insignificant contributions from individuals or entities that are likely to become involved in matters that will be materially affected by actions of the plan commission.

LOCAL OFFICIALS 2002 Wis Eth Bd 7

If a member of a village board participated in the village’s decision to hire him to supervise a village project, then he should return the checks he has received and not accept any payment for the services he has provided. If the member of the village board abstained from participating in the village’s earlier decision, then §19.59, Wisconsin Statutes, permits him to accept payment for the services he has provided.

LOCAL CODE – GIFTS..... 1997 Wis Eth Bd 15

The Ethics Board advises:

An official of a school district who receives a gift from foreign dignitaries visiting the district should treat the gift as given to the school district. The school district may retain, sell or otherwise dispose of the item in accordance with the school district’s policies and interests. This can include selling the item to an official of the district.

LOCAL CODE – MEALS, LODGING,
TRAVEL AND ENTERTAINMENT 1993 Wis Eth Bd 8

A law firm should not sponsor a dinner or hospitality suite at a conference of local government officials if more than an insignificant number of the officials attending are responsible for making or approving purchasing decisions that could involve the firm.

LOCAL CODE –
INFLUENCING OFFICIAL JUDGMENT 1992 Wis Eth Bd 31

A vendor should not sponsor a river cruise for local public officials attending a convention if more than an insignificant number of the officials attending are responsible for making or approving purchasing decisions that could involve the vendor’s goods.

LOCAL OFFICIALS – IMPROPER USE OF OFFICE..... 1992 Wis Eth Bd 17

A law firm should not purchase meals for officials of the local units of government the firm represents (nor should a local public official accept) unless, and only to the extent that, the local government would otherwise bear the official’s expense and the governmental units' obligation to bear the expense is expressly authorized by, and in accordance with, established written criteria.

LOCAL OFFICIALS – MEALS, LODGING,
TRAVEL AND ENTERTAINMENT 1992 Wis Eth Bd 9

A local public official may attend a breakfast meeting sponsored by a private firm at a convention if the official's local governmental unit would otherwise pay the cost.

LOCAL OFFICIALS – MEALS, LODGING,
TRAVEL AND ENTERTAINMENT 1992 Wis Eth Bd 8

A local official should not permit another to pay the official's costs of a golf outing to which the official has been invited because of holding an official position.

Local officials – miscellaneous

LOCAL CODE..... 2006 Wis Eth Bd 01

Whether a member of a school board may serve as an unpaid coach in the school district is primarily a question of compatibility of offices. Generally, the Ethics Code prohibits a member of a school board to use his or her position to obtain a position as an employee in, or a contract with, the school district.

LOCAL CODE 2003 Wis Eth Bd 13

The person or persons on whose behalf a town attorney sought the Ethics Board's advice are entitled to keep the Board's opinion confidential. Whether the attorney directed the letter to the Ethics Board on half of the Town, or on behalf of the Town's chair, is a question of fact the Board cannot resolve.

LOCAL CODE – JURISDICTION 1999 Wis Eth Bd 1

Except in the uncommon instance in which the teacher's appointment is for a specified term or at the pleasure of the appointing authority, a public school teacher is not a local public official covered by §19.59, *Wisconsin Statutes*.

In an instance in which a teacher is a local public official, the teacher should consult with the school district's legal counsel to review the specific circumstances to determine whether §19.59 restricts participation in a program open to teachers whose benefits include lodging and meals in connection with a training seminar in another state, the provision of certain equipment, reimbursement for released time (with prior approval), expense reimbursement for presentations (with prior approval), and lodging and meals in connection with an annual reunion.

LOCAL CODE – JURISDICTION 1998 Wis Eth Bd 16

The Ethics Board advises that §19.59, *Wisconsin Statutes*, does not empower a county to amend its ethics code to require officials and employees whose duties involve oversight, regulation, or reporting with respect to campaigns for county office to identify the campaigns in which the official or employee is involved, together with a description of the involvement.

To access a .pdf copy of the guideline from the GAB website, click on the guideline number

Remaining Guidelines

Receipt of items and services

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How to request advisory opinions

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Included as .pdf attachments on pages 2 and 3 of this document

Lobbying registration and reporting

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Wisconsin Ethics Board

Relating to the Ethics Code for state public officials and the lobbying law

Requesting Advisory Opinions from the Wisconsin Ethics Board

Evidence of intent to comply with law. It is prima facie evidence of intent to comply with the Ethics Code for State Public Officials (subch. III, ch. 19, *Wisconsin Statutes*) and the lobbying law (subch. III, ch. 13, *Wisconsin Statutes*) when a person refers a matter to the Ethics Board and abides by the Board's advisory opinion, if the material facts are as stated in the opinion request. §19.46(2), *Wisconsin Statutes*.

Who may request an advisory opinion. Any individual, either personally or on behalf of an organization or governmental body, may request of the Ethics Board an advisory opinion regarding the propriety under the Ethics Code or the lobbying law of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request of the Ethics Board an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party.

Confidentiality. Written requests for advice and the Board's replies are confidential unless made public by the requestor. No member or employee of the Ethics Board may make public the identity of anyone requesting an advisory opinion or of persons mentioned in an opinion. Periodically, the Board publishes summaries of its opinions after making sufficient alterations to prevent the identification of the requestor and persons mentioned in the opinions.

How to request an advisory opinion. A request for an advisory opinion must be in writing. The request should state each question upon which an opinion is desired, present all relevant facts, be as specific as possible, identify the names of all parties that are pertinent to the question, and include references to pertinent law known to the requestor.

A request posed by an attorney-at-law on a client's behalf should also set forth: a tentative conclusion upon each question presented, the reasoning upon which that conclusion is based, and all relevant statutory provisions, case law, opinions of the Attorney General, prior opinions of the Ethics Board, and other authorities, whether or not they support the tentative conclusion concerning the questions presented.

A request requiring the resolution of questions of fact should not be submitted because the Ethics Board cannot resolve factual issues in an opinion. A local public official may request an advisory opinion relating to the code of ethics for local government officials, §19.59, *Wisconsin Statutes*, from the attorney for the official's local unit of government. A local government attorney may seek advice from the Ethics Board.

Wisconsin Ethics Board

For county, municipal and other local government attorneys

Requesting Advisory Opinions from the Wisconsin Ethics Board

Pursuant to section 19.59(6), *Wisconsin Statutes*. A county corporation counsel, an attorney for a local governmental unit, or a state-wide association of local governmental units may ask the Wisconsin Ethics Board to issue an opinion concerning the interpretation of § 19.59, the Code of Ethics for local government officials, employees and candidates. Written requests for advice are confidential. No member or employee of the Ethics Board may make public the identity of anyone requesting an advisory opinion or of persons mentioned in an opinion. Periodically, the Board publishes summaries of its opinions after making sufficient alterations to prevent the identification of the requestor and persons mentioned in the opinions. The *Statutes* do not authorize the Board to issue an opinion to an official or representative of a local government other than the local government's legal counsel.

A request from a county corporation counsel, an attorney for a local governmental unit, or a state-wide association of local governmental units should:

- a. State on whose behalf the opinion is requested.
- b. State each question upon which an opinion is desired.
- c. State all of the facts giving rise to each question presented.
- d. Set forth a tentative conclusion upon each question presented and the reasoning upon which that conclusion is based.
- e. Set forth and analyze all relevant statutory provisions, case law, prior opinions of the Ethics Board, and other authorities, whether or not they support the tentative conclusion concerning the questions presented.

A request requiring the resolution of questions of fact should not be submitted because the Ethics Board has no authority to decide questions of fact. The Ethics Board does not issue opinions on whether past conduct has violated the law.

Although the foregoing criteria are subject to exception when the circumstances warrant, a request which does not meet these criteria may be returned and the requestor asked to resubmit the request in an appropriate form.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: July 30, 2008

TO: Members, Wisconsin Government Accountability Board

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

SUBJECT: Further review of Ethics Board opinions

Attached to this memorandum are the digests of all the remaining opinions of the Ethics Board, issued since 1990, that the Government Accountability Board is scheduled to review this year. For review at the Board's August meeting there are 17 opinions addressing Lobbying Registration and Reporting issues, 20 opinions addressing an official's accepting meals, transportation, and speaking fees. There is also 1 opinion on an appointed official running for elective office and 2 on improper use of office (all of which should have been part of the Board's earlier reviews). In addition, there are 32 opinions addressing local officials' conflicts of interest, 8 opinions addressing local officials' acceptance of gifts, and 4 opinions addressing miscellaneous issues under the Code of Ethics for Local Officials. These are scheduled for review at the Board's November meeting.* Finally, there are 16 Guidelines that need to be reviewed.

I recommend that the Board affirm each Guideline and all but one opinion. The Board should withdraw 2003 Wis Eth Bd 14 in light of a statutory change exempting tribal officials from provisions of the lobbying law.

There are several issues to which I would like to draw the Board's attention. The Ethics Board and the Attorney General have both interpreted the lobbying law's prohibition on a lobbyist or principal furnishing items to a state official to include both giving and selling. I believe that the Government Accountability Board should adopt that interpretation.

The Ethics Board created a policy exception to the prohibition to permit officials to purchase food and drink from a lobbying principal at an event intended for and conducive to the discussion of state governmental processes, proposals, or issues. The Government Accountability Board should decide whether it wants to continue that exception. I recommend that it do so. (Guidelines 211, 212, 213, 214, 216, and 218.

* I am also attaching a 57 page index of opinions issued between 1978 and 1990. Many opinions are listed more than once because they were indexed under more than one topic heading. I am recommending that the Board not review these opinions and allow them to lapse. The opinions were issued before the Ethics Board assumed administration of the lobbying law, before the Code of Ethics for Local Officials was adopted, and before substantial changes were made to the restrictions on state officials' accepting meals and travel. The opinions are between 18 and 30 years old. To the extent they created useful precedent, that precedent almost certainly found its way into later opinions that the Board will review. Alternatively, I suggest that the Board take up the older opinions early next year, rather than as part of the current review.

The final issue is that the Ethics Board advised that, in general, an official could demonstrate that food and drink were received on behalf of the state and for the state's benefit (and hence permitted under the specific statutory exception for such receipt) if the official obtained authorization to attend the event from superiors or, in the case of legislators, from the Assembly Speaker or Senate Committee on Organization. I think this policy has worked well for the most part. The Board should consider whether it wants to continue this policy.

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JUDGE THOMAS CANE
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: August 19, 2008

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Activities

Elections Administration Update

Introduction

Since the July 15-16, 2008, G.A.B. meeting, the Elections Division continued to focus on preparing for the fall elections – the September 9 primary and the November 4 general election.

1. Wisconsin Achieves HAVA Compliance: On Tuesday, August 5, our Statewide Voter Registration System (SVRS) was able to successfully match voter registration data with voter's driver's license, and felon and deceased files. Complete interfaces or matches of these data is a requirement of the Help America Vote Act (HAVA) of 2002. We received favorable news coverage, including editorial praise.
2. New Voter Registration Numbers: Between January 2008 and August 18, 2008, the total number of new registrations and updated voters was 310,306. Of this number, 138,104 were new registrations. Please refer to the Attachment (Yellow) for details.
3. Special Registration Deputies: On Tuesday, August 12, we reached a milestone of training 1,000 Special Registration Deputies (SRD). Interest in our SRD training has been high.
4. Tools to Assist Clerks with Fall Elections Preparedness: In late July, a media kit was sent to Wisconsin 72 county clerks and 1,851 municipal clerks to assist them and voters to prepare for the September 9 Partisan Primary. Draft news releases were designed to:
 - A. Remind Wisconsinites to register early, properly, and to vote.

- B. Request voters avoid out-of-state voter registration campaigns in favor of contacting their clerk or Elections Division.
 - C. Remind state voters to use the Voter Public Access function of the G.A.B. website to find basic election and registration information.
 - D. Give state voters basic Election Day pointers about their rights at the polling place.
 - E. Remind voters how to vote in Wisconsin's "open" partisan primary. In this case, there are three versions of the draft release for clerks to choose from: A paper ballot, optical scan and touch screen version.
5. Meeting with Municipal Clerks: The Wisconsin Municipal Clerks Association (1,851 clerks) is meeting in Stevens Point on August 20-22. Our Elections Division staff have been invited to make a three-hour presentation on Wednesday, August 20. Note that we will also make a presentation at the Wisconsin Towns Association's convention in October in Appleton.
 6. Training for Municipal Clerks and Chief Inspectors Set: Starting on July 24 through August 26, 17 training courses are scheduled in various venues throughout Wisconsin. Since July 24, 375 election officials (Chief Inspectors) have received initial baseline training.
 7. Pierce County: At your July meeting, we reported a potential problem that had been brought to our attention regarding Pierce County's alleged inability to use its Voting Technologies International (VTI) VOTWARE DRE Electronic Voting Systems for the April 1, 2008, election for disabled voters. We verified this allegation with the Pierce County Clerk. We have now been assured by the County Clerk and Command Central, the voter system vendor that will equip Pierce County with new machines. We are told that Command Central has a contract with ALL the municipalities in Pierce County and training will begin next week.
 8. Candidate John Kimmel: During your July meeting, John Kimmel was denied ballot access for the fall election cycle. Mr. Kimmel prevailed on appeal filed to the Trempealeau County Circuit Court. He will now appear on the September 9 ballot.

Key Metrics

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

1. News Releases

- Friday, August 15, 2008: "State Elections Division Employees Receive National Certification as Election Administrators."
- Wednesday, August 6, 2008: "Voter Registration System Data Interfaces Now Working."
- Thursday, July 17, 2008: "Accountability Board Certifies Candidates for Fall Elections."

2. Technical Assistance to Local Election Officials

- Friday, August 8, 2008: August *Election Update*
- Tuesday, July 29, 2008: As already mentioned in its #4 in the “Introduction” section, September primary election media kit (draft news releases) from clerks to local news media

3. Other Communications

- Wednesday, August 13, 2008: Review and feedback for Common Cause/The Century Foundation's National Report on the 2008 Elections (10 states' electoral processes reviewed)
- Wednesday, July 16, 2008: Letter to Wisconsin's ballot party officials regarding SRD program, poll worker recruitment, and voter registration

Noteworthy Activities

1. Three Elections Division staff members (Barbara Hansen, Ross Hein and Steve Pickett) completed the Election Center's Professional Education Certification Program. They are now Certified Elections/Registration Administrator, the Election Center's highest designation.
2. Staff reviewed and updated the Election Day Voter Registration Manual and the Recount Manual.
3. Met several times with a County and Municipal Clerks' Ad-Hoc Committee who advised on Voter Registration Administrative Rules.
4. Continued Implementation of the \$2 Million Election Data Collection Grant.

30-day Forecast

1. Continue to plan and prepare for the fall elections.
2. Continue to manage implementation process of our \$2 million data grant.
3. Continue to meet with the G.A.B. Accessibility Advisors.
4. Convene meeting of the G.A.B. Elections Administration Council and apply for an additional \$2.1 million Federal dollars due Wisconsin.

Statewide Voter Registration System Update

Barbara A. Hansen, SVRS Project Director

Introduction

This section updates the preparations within the Statewide Voter Registration System (SVRS) Project to implement the HAVA-required Interfaces since the GAB's July 15-16 meeting. The

successful implementation of the HAVA-required Interfaces on August 5 makes Wisconsin HAVA compliant.

SVRS Benchmarks

1. Software Upgrade(s)

Last month, we reported work planned for SVRS version 6.5. Version 6.5 will give clerks the ability to track the issuance of absentee ballots in large municipalities, and generate reports that reflect the correct number of absentee voters and their status. Clerks will also be able to track requests for absentee ballots and issuance and return of those ballots with confidence in the integrity of the information in the system.

The Absentee functionality, which was one of the issues raised in the November 2007 LAB report, is being addressed by successful improvements made in version 6.5. The staff of Department of Administration/Division of Enterprise Technology (DET) installed the application in the test environment and testing is ongoing. Once version 6.5 is successfully tested, a target date for installation into Production for use by clerks will be set.

2. Data Interfaces

This important component was successfully completed on August 5, 2008.

In mid-July, the DET Administrator assigned a point person to be responsible for all DET tasks affiliated with the Interfaces. G.A.B.'s Director and General Counsel, Elections Division Administrator and SVRS Director met with DET's Administrator again on July 29th. Agreement that was reached included:

- A. DET's point-person will remain the principal liaison for coordinating day-to-day project activities between the G.A.B.'s SVRS and DOA's DET teams.
- B. That the DET Administrator and the Elections Division Administrator will meet monthly at least through the fall election cycle to ensure critical tasks are being addressed at both DET and G.A.B.
- C. That after the November 4 General Elections, the DET will assist the G.A.B. in developing a Request For Information (RFI) for the purpose of preparing to address longer-term SVRS and related computer support and technical assistance needs.

3. Standards Committee Special Group

On July 28, 2008, SVRS staff met by teleconference with 6 clerks from the SVRS Standards Committee to review and provide feedback to the modified procedures for voters who fail to match records from DOT or SSA.

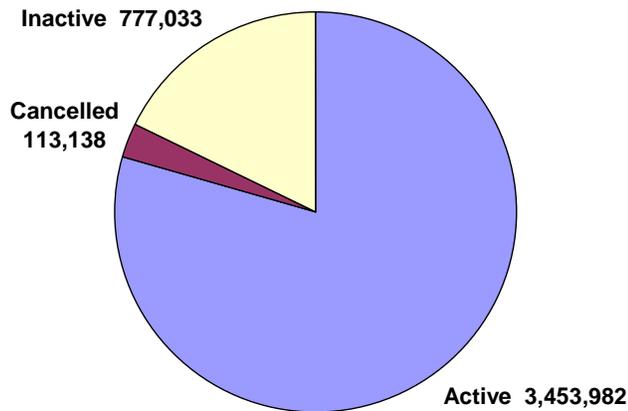
4. Training

Last month, the curriculum for training Clerks on the data interfaces was announced to clerks. The training uses a website broadcast and hands-on SVRS training modules through our Web-Based Election Training System (WBETS). Sixty clerks have responded to the training and requested clerk recertification credits. Other clerks had been waiting for the Interfaces to “go live” in SVRS before taking the training session. SVRS staff continues to monitor clerks’ attendance to assure that adequate training has been made to clerks throughout the state.

G.A.B. staff conducted four “initial” SVRS Application & Election Management training classes in July: Madison, West Allis, Wausau and Rice Lake and trained 30 new users. An additional 15 clerks or staff members also participated as a “training refresher.” We conducted 3 Absentee Process training classes in Appleton (2) and Rice Lake for about 45 clerks and their staff wanting to learn this functionality of the SVRS system prior to the fall elections.

5. Total Number of Voters in Wisconsin’s Statewide Voter Registration System

Voter Registration Statistics by Status
Total Records in SVRS: 4,344,153



Note: An Active Voter is one whose name will appear on the poll list.
A Cancelled Voter is one who will not become active again, e.g. deceased person.
An Inactive Voter is one who may become active again, e.g. convicted felon.

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director & General Counsel

MEMORANDUM

DATE: August 27 -28, 2008 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Activities

Campaign Finance Update

Richard Bohringer, Lead Campaign Finance Auditor
Ken Macur, Campaign Finance Information System Project Manager

Introduction

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

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

Key Metrics

1. **Audits**

Staff completed 27 audits this reporting period. Three committees were terminated and 26 committees were put on "R" status. The committees on "R" status are no longer required to file campaign finance reports, however, they are required to be available to answer questions and resolve any violations prior to termination being granted.

2. **July 2008 Continuing Report**

The July 2008 Continuing report for all registrants (Candidates, PACs, Parties, Referendum Committees, Conduits and Corporations) was due in the GAB office on July 21, 2008. Of the 1650 registrants required to file, 121 failed to timely file. The staff sent a reminder notice to 40 Candidate committees, 32 PACs, 24 Corporations, 16 Parties, and 9 Conduits.

Staff has not yet sent settlement offer letters to committees failing to file the July 2008 Continuing Report on a timely basis. They wanted the Board to review the proposed settlement offer schedule for finance report violations first, and issue settlement offers accordingly.

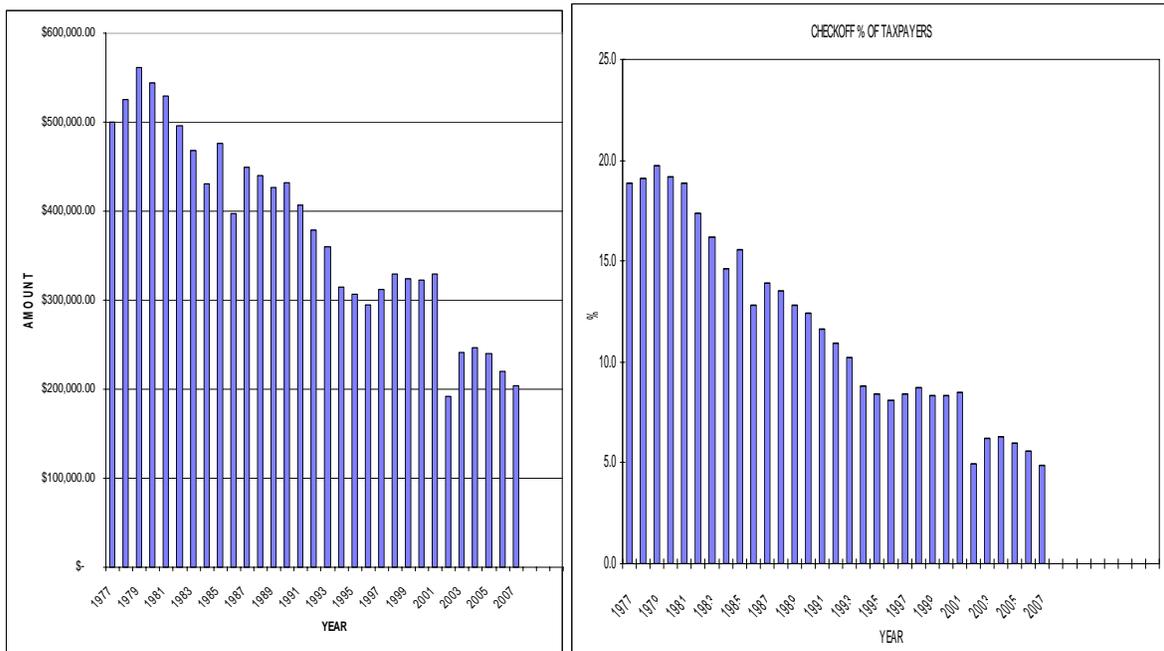
3. Pre-Primary Finance Report

On August 19, 2008, staff sent notices to 1220 committees informing them of who is required to file the Pre-Primary finance report; these reports are due by September 2, 2008. All candidates running in the fall 2008 election are required to file the Pre-Primary report, unless they claimed the exemption from filing finance reports (< \$1,000). All committees making contributions to or expenditures on behalf of candidates running in the fall 2008 elections are also required to file a Pre-Primary report. This report will cover all campaign finance activity from July 1, 2008 through August 25, 2008.

4. Wisconsin Election Campaign Fund (WECF) Summary

On August 15, 2008 the Department of Revenue certified a total of \$203,463 as the amount designated by taxpayers during 2007 for the Wisconsin Election Campaign Fund. This amount is approximately \$16,000 less than last year, in part due to last year's total being overstated by \$8,631 and that amount being deducted from this year's total. This amount represents \$1 per taxpayer that checked the box on their 2007 income tax forms. This year approximately 4.9% of the taxpayers checked the box to designate \$1 to go to WECF and be allocated to candidates that apply for and meet the requirements for a grant. The grants replace the special interest (PAC) money that a candidate may accept.

The following charts show a history of the WECF dollars from the check-off and percentage of taxpayers participating. Both charts show that the amount and participation rates have declined considerably since a peak in 1979. A separate print-out of these charts will be available at the meeting.



Campaign Finance Information System

Project Accomplishments

Significant progress continues to be made in the implementation of the Campaign Finance Information System (CFIS). The project is on time and in budget.

The application has been subjected to two rounds of extensive User Acceptance Testing beginning July 21. Approximately 100 issues were opened. The Contractor, PCC Technology Group has closed 80 of those issues to date. The twelve high-priority issues are scheduled to be closed by August 25. The application will be tested once more and then placed into production for the Pilot Implementation phase.

Data conversion of the Ingres (SWEBIS) database has been tested twice and is successful. A final pull of that database will be completed by August 29. We anticipate 99% accuracy of the conversion of registration data (i.e., names, addresses, etc.). Conversion of the transaction data has been cumbersome because of the inconsistency of the files received from committees. Because of the variety of the data and the complexity of transactions, we anticipate an accuracy rate of 90%. The roll out plan calls for committees to review their historic reports as captured by the new system and to work with the GAB staff to correct those reports.

Pilot implementation of the new system will begin on September 9th. Several committees have volunteered to assist with pilot. GAB staff will also participate in the pilot by entering Pre-Primary and Pre-Election reports into the new system.

We have been in contact with Committees regarding the roll out of the new system. The system will go-live (officially) on November 5, 2008. The 2009 January Continuing Report will be the first report submitted using the new system.

Training plans are being developed. Training will be done in November and December, based on the successful roll out of the new system.

All agencies engaged in major IT projects are required to submit a Dashboard report to the Division of Enterprise Technology monthly. On August 8th, staff submitted its sixth CFIS Dashboard report. The report summarizes the schedule status, scope status, budget status and risk status of the project.

Looking Ahead

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

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

Action Items

No action is required of the Board at this time.

Contract Sunshine Update
Tommy Winkler, Contract Sunshine Program Director

Introduction

Wisconsin's Contract Sunshine Act (2005 Act 410) calls for the creation and maintenance of an Internet site at which anyone may access information about every state contract, purchase, and solicitation of bids or proposals that involves an annual expenditure of \$10,000 or more. *Wisconsin Statutes* direct the Wisconsin Government Accountability Board to create and maintain this site. In enacting the Contract Sunshine Act, the Legislature's intention was to enhance citizens' confidence in the State's procurement process by providing a one-stop Internet location where citizens, the press, vendors, and others can learn about current procurement activities. The legislature intended that the Act provide potential vendors of goods and services with ready access to information about the State's purchases and confirm that the State's procurement programs are operating fairly and efficiently.

Key Metrics

None

Milestones

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

Looking Ahead

Government Accountability Board staff plans to this fall meet with DOA staff in order to finalized the previously solicited feedback on the new version of the application. After receiving this feedback, GAB staff will meet with personnel from Sundial in order to implement the final changes to the application and release the updated version of the website. GAB staff will meet with DOA personnel to train procurement staff in reporting information using the updated version of the program. After completing this training, correspondence will be sent to all agencies communicating the changes made to current version of the application; the updated version of the application will be released for all agencies to use. It is staff's goal to have all agencies required to report information to the GAB under the Contract Sunshine law do so using the new website by the end of 2008.

Action Items

None.

Financial Disclosure Update

Tommy Winkler, Financial Disclosure Program Director

Introduction

State officials and candidates file Statements of Economic Interests under Chapter 19 of Wisconsin Statutes. These statements are filed on an annual basis with the Government Accountability Board, and they are open for public inspection at the time they are filed. A statement identifies a filer's, and his or her immediate family's, employers, investments, real estate, commercial clients, and creditors. The idea is to identify which businesses and individuals an official is tied to financially. The focus is on identifying a filer's financial relationships, not on identifying the individual's wealth. This information is entered into an online index that is managed by Government Accountability Board staff.

Key Measurements

- 191** The number of challengers who filed Statements of Economic Interests in order to have their name appear on the ballot this fall. Challengers for partisan fall offices were required to file a Statement of Economic Interests with the Government Accountability Board by 4:30 p.m. on July 11, 2008 in order to have their name appear on the ballot.

- 107** The number of state agencies and boards who completed and filed a legislative liaison report with the Government Accountability Board identifying those agency officials who engaged in lobbying activities between January and June, 2008. The reports were due by 4:30 p.m. on July 31, 2008.

- 34** The number of State of Wisconsin Investment Board members who completed and filed a Quarterly Transaction report filed with the Government Accountability Board. These reports were hand delivered to the Legislative Audit Bureau for review to ensure an absence of any conflict of interests between the Investment Board member's investment decisions on behalf of the State of Wisconsin and their personal financial interests. These statements were due by July 31, 2008.

Milestones

As of 4:30 p.m. on Monday, August 18, 2008, 99.9% of those state public officials required to file a Statement of Economic Interests with the Government Accountability Board for 2008 did so. Those officials who have yet to file a Statement are:

Robert Smith	WHEDA
Kristin Walker	WHEDA

Staff has attempted to contact the remaining officials yet to file via the contact information we were able to obtain without a response. Staff will continue to follow up with these remaining two officials.

Staff received and processed 107 legislative liaison reports from state agencies and boards in July and early August. All agencies required to complete a report have done so. Furthermore, 34 quarterly transaction reports from Investment Board members and employees were received and

processed. All but one board member completed their report on or before the July 31, 2008 due date. The reporting efficiency for the legislative liaison reports was greatly improved from previous six month reporting periods due to process improvements and staff efforts. A special thanks to Cindy Kreckow for her tremendous effort in communicating with the proper officials and helping process these reports in an efficient manner.

Looking Ahead

Government Accountability Board staff will begin preparing for the 2009 annual filing and Spring 2009 election. A part of that preparation is to draft and send a letter to municipal clerks communicating to them that municipal judges and candidates for municipal judge are required to file Statements of Economic Interest with the Government Accountability Board. This letter's objective is to eliminate confusion and unawareness of the filing requirements that have denied municipal judge candidates ballot access in the past. Also, changes to the filing forms, reports, and the database application are going to be reviewed by staff in September and made by October in order to provide adequate time to construct and mail the necessary materials to potential candidates/filers in the upcoming calendar year. Due to the uncertainty of our staff's location in January and possibly February, staff is investigating the process for obtaining a P.O. box to be used to receive completed 2009 Statements of Economic Interests. State public officials will start filing these statements in early January.

Additionally, staff will continue to work with SunDial Software Corporation on changes to the Eye on Financial Relationships website application in order to improve efficiency in reporting information to the online index. A major part of the proposed enhancement to the website is allowing filers the ability to file their Statements of Economic Interests online. Staff is working to transition to online filing of Statements of Economic Interests for the 2010 filing year.

Action Items

None.

Lobbying Update

Katharine Lang, Assistant Lobbying Administrator

Introduction

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

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

Key Metrics

784	The number of principal lobbying organizations registered with the Government Accountability Board.
696	The number of lobbyists registered to lobby on behalf of one organization.
144	The number of lobbyists registered to lobby on behalf of more than one organization.
1,777	The number of individual authorizations of lobbyists representing a principal organization.
101,306	Total Hours Lobbied by registered Lobbying Principals between January 1 st – June 30 th , 2008
\$7,600,175	Total Dollars Spent by registered Lobbying Principals between January 1 st – June 30 th , 2008
371,381	Total Hours Lobbied by registered Lobbying Principals for the 2007-2008 legislative session (through June 30 th , 2008)
\$42,212,396	Total Dollars Spent by registered Lobbying Principals for the 2007-2008 legislative session (through June 30 th , 2008)

Noteworthy Activities

Following the July 31st due date for Statement of Lobbying Activities and Expenditures Reports, Katharine has enforced deadlines by contact late filers. Lobbying Organizations that filed after July 31st are subject to the forfeitures under s.13.69 (1) to (8). Organizations that have reported bills, rules, and/or topics that were not previously reported within the 15 day communication period prescribed under s.13.67 (1) are subject to further forfeitures. Please see the attached memo for a detailed description of these organizations and their corresponding penalties.

Looking Ahead

Katharine will be working on the 2007-2008 Lobbying Report due in late August.

Action Items

No action is required of the Board at this time.

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the August 27, and August 28 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Kevin J. Kennedy, Director and General Counsel
Sharrie Hauge, Special Assistant to the Director

SUBJECT: Administrative Activities

Agency Organization

Introduction

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

Noteworthy Activities

1. Space Planning

Agency staff and Department of Administration facilities staff worked diligently over the past month and a half to prepare a request to the Building Commission for its August 6 meeting at State Fair Park for lease office space. The agency requested approval for 11,587 SF of lease space at 212 East Washington Avenue at \$20.28/SF or approximately \$234,984 with a term of ten years and (2) five-year renewal options. Furniture for the occupancy would be provided by the Lessor for an estimated annual cost of \$38,254 or \$3.30/SF resulting in a total gross annual cost of \$273,238 or \$23.58/SF.

The current average rate the agency is paying for current lease space is: \$20.27/SF.

However, the Building Commission deferred action on our proposed lease. The subcommittee responsible for the review of our lease expressed concern about its length and the relative youth of our agency in terms of long term staffing requirements.

The Commission is not scheduled to meet again until September 17th. This means our moving plans are delayed until at least January 1, 2009. In preparation for the September

meeting, DOA Building staff and GAB staff will meet with the subcommittee members to address their concerns.

2. 2009-2011 Biennial Budget Request

Staff is diligently working on the agency's 2009-2011 biennial budget submission. The first phase of the budget process has been completed which was to complete our base reconciliation to make sure that the beginning point for our 2009-2011 request is correct.

The second phase of the process has also been completed which was to complete our position reconciliation which is used for our full funding calculation for the biennium.

Staff will continue to work on finalizing our biennial budget submission by cleaning-up any items that did not get cleaned up in the base reconciliation, updating our agency performance measurements and preparing additional decision items that we want added to the agency's biennial budget base.

In addition to the standard biennial budget request, GAB is required to conduct a base budget review of all its programmatic activity for the last three fiscal years. The review consists of a description of each programmatic activity and its expenditures for each activity area. Expenditures need to be reported for the last three fiscal years, with detailed breakouts of expenditures occurring in the third and fourth quarters of those fiscal years.

The budget submission and base budget review is due to the State Budget Office and the Legislative Fiscal Bureau on September 15, 2008.

The Board will have to meet by teleconference before that date to formally approve the agency budget request.

3. Staffing

16.54 Request for Federally-Funded Project Positions

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

Our State Budget Analyst is reviewing our request and will make a recommendation to her team lead within the next couple of weeks. We have apprised existing staff about the status of their positions. We asked that these positions be created for 4-years to ensure the upkeep, maintenance and administration of the SVRS. These positions will be funded with HAVA monies.

Attorney Positions

The recruitment process for the two-attorney positions is moving along. We posted the positions for open recruitment and received a certification list of 13 eligible candidates. We are in the process of developing interview questions and scheduling first-round interviews.

EAC Data Collection Grant Positions

We have finally received approval from the State Budget Office to fill four project positions for our Data Collection Grant. We are recruiting a Program and Planning Analyst Advanced (Project Manager), an Accountant, a Training Coordinator and an Office Operations Associate. The deadline to apply for the positions is August 25, 2008.

LTE's

In preparation for the fall elections we are recruiting five-data entry specialist LTE's to enter voter registration applications into the SVRS system. We will be conducting interviews and hiring for those positions immediately.

4. Presentations

On July 21, 2008, Nat Robinson and I met with the Milwaukee Mayor, his chief of staff, the Director and Deputy Director of the Milwaukee City Election Commission along with an attorney from the Milwaukee City Attorney's office to discuss preparations for the fall elections in Milwaukee.

On July 24, 2008, Nate Judnic and I attended a forum organized by One Wisconsin Now related to the conduct of the fall elections in the state.

On July 25, 2008, I was interviewed by Wisconsin Eye about preparations for the fall elections. The interview can be viewed at:

http://wisconsineye.com/wisEye_programming/ARCHIVES-agencies.html

On July 28, 29 and 31, 2008, Jon Becker and I made presentations to Legislative staff on key elements of the state ethics code, lobbying and campaign finance law. These trainings are required as part of the resolution of the "caucus scandal" enforcement by the former State Elections and Ethics Boards.

On July 30, 2008, Nat Robinson, Barbara Hansen and I met with representatives of the League of Women Voters of Wisconsin to discuss poll worker recruitment and voter registration issues.

On August 12, 2008, I participated in a call-in radio show with Wisconsin Public Radio about preparations for the fall elections.

Looking Ahead

In the next month, we will be working diligently on finalizing the agency's 2009-2011 biennial budget requests.

Independent candidates for president must file nomination papers no later than 5:00 p.m. on September 2, 2008 in order to qualify for the November 4, 2008 ballot. §8.20 (8)(am), Wis. Stats. The political parties with ballot status (Democrat, Libertarian, Republican and Wisconsin Green Parties) must certify the names of their candidates for president and vice

president no later than 5:00 p.m. on September 5, 2008 in order to qualify for the November 4, 2008 ballot. §8.16 (7), Wis. Stats., as amended by 2007 Wisconsin Act 132.

The Board is required to certify the candidates as soon as possible after the filing deadline and no later than September 23, 2008. §7/08 (2)(b0, Wis. Stats. The agency head generally certifies the candidates for the February primary, April election, November election and any special election without authorization from the Board because the Board does not meet close to the certification deadline.

The Board formally approves the staff recommendation for certifying candidates' names for the September partisan primary because of the number of challenges to the eligibility of candidates to appear on the ballot. If a challenge is filed concerning the eligibility of a candidate to appear on the ballot for the February primary, April election, November election and any special election; the Director calls a special meeting of the Board to address the challenge.

Staff believes the Board should authorize the Director and General Counsel to certify the names of candidates qualifying for the ballot for the office of president and vice president after the applicable filing deadlines. This will alleviate any issue concerning the validity of the certification that may arise.

Action Items

1. Authorize the Director and General Counsel to certify the names of candidates qualifying for the ballot for the office of president and vice president after the applicable filing deadlines. If a challenge is filed concerning the eligibility of a candidate to appear on the ballot, the Director will arrange for a special meeting of the Board to address the challenge.

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BOARDS, COMMISSIONS AND AGENCIES; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; The Ethics Code forbids a member of a part-time board to act both for the State of Wisconsin and for a corporation of which the person is an officer in the same transaction if the transaction results in the State's payment of money to the corporation. Eth. Bd. 295, Volume **VIII**, Page 3

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; Circumstances under which a member of a board should disqualify self from discussions and decisions concerning grants to people and organizations are discussed. Eth. Bd. 280, Volume VII, Page 11

INFLUENCING OFFICIAL JUDGMENT; BOARDS, COMMISSIONS AND AGENCIES; The Ethics Code will not bar a member of an advisory council from soliciting contributions to further the council's purposes. Eth. Bd. 279, Volume VII, Page 9

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; Circumstances under which a member of a board should disqualify self from decision making are discussed. Eth. Bd. 278, Volume VII, Page 5

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; As long as a nominee to a state board retains a 10% or greater interest in a private business, he or she may not use his or her public position to obtain financial gain or anything of substantial value for that business except under certain conditions.

The nominee's private company may not enter into a state contract or lease involving a payment exceeding \$3,000 within 12 months unless the nominee's relationship to the private business is disclosed to the Ethics Board and the agency acting for the state with regard to its contract. Further the nominee should disqualify himself or herself from any matter coming before the board which involves the nominee's private business, and the board's minutes should reflect the nominee's absence from the discussion and voting upon the issue. Eth. Bd. 266, Volume VI, Page 33

BOARDS, COMMISSIONS AND AGENCIES; DISQUALIFICATION; The Ethics Board approved a course of conduct for a member of a state board concerning his or her withdrawal from certain official actions involving the board and the official's private interests. Eth. Bd. 259, Volume VI, Page 27

BOARDS, COMMISSIONS AND AGENCIES; Procedures proposed by the chief officer of a regulatory agency for treatment of regulated companies are discussed. Eth. Bd. 254, Volume VI, Page 17

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; BOARDS, COMMISSIONS AND AGENCIES; A person who is a state public official by virtue of his or her membership on a state board may not participate in that board's consideration of an appeal concerning a controversy involving the official or the official's partner, but the Ethics Code will not ordinarily pose an obstacle to the official's participation in the board's decisions in which the official does not have a financial stake. The Ethics Code does not pose an impediment to an official's participation in votes, deliberations, and discussions concerning the board's work and its employment of independent contractors as long as the official's actions affect a large class of similarly situated people and businesses, the official's presence in the class is insignificant when compared to the number of members of the class, and the official's actions' effects upon his or her own self interest are neither significantly greater nor less than upon other members of the class.

If an agency's selection and payment of independent contractors is a ministerial function not requiring the exercise of discretion by members of the board which direct the agency, the Ethics Code does not pose an obstacle to the agency's entrance into a contract with a member of that board or with the member's partner. Eth. Bd. 242, Volume V, Page 89

BOARDS, COMMISSIONS AND AGENCIES; IMPROPER USE OF OFFICE; DISQUALIFICATION; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for

Public Officials and Employees does not require a member of a board, whose members by statute are required to be representatives of local governments, to withdraw from participating in decisions of the board simply because the official is an officer of a local government potentially affected by the Board's actions. However, it would be inappropriate for a member of the board to benefit personally, as opposed to officially, from any action of the board. Eth. Bd. 201, Volume **III**, Page 93

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

BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees would pose no impediment to a person's appointment to a board while the person is an officer of an organization with which the board transacts business. However, the person's private interests would impair his or her ability to participate in the board's actions. Eth. Bd. 197, Volume **III**, Page 83

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; The Ethics Board continues to recommend that no member of a regulatory board be an officer, director, trustee, employe, or authorized representative of or a paid consultant to a trade or professional organization which is organized to promote or affect the practice of the occupation or profession regulated by that board.

A state public official's membership on an examining board does not necessarily preclude holding an office or directorship in an association which is involved in issues of public policies if the association is not organized to promote or affect the practice of the occupation or profession regulated by the examining board. Eth. Bd. 196, Volume **III**, Page 81

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; BOARDS, COMMISSIONS AND AGENCIES; Although the Ethics Board continues to recommend that no member of a regulatory board be an officer, director, trustee, employe, or authorized representative of or a paid consultant to a trade or professional organization which is organized to promote or affect the practice of the occupation or profession regulated by that board, the Ethics Code does not pose any obstacle to a person's holding an office in a social organization unaffected by the regulatory board of which the person is a member. Eth. Bd. 175, Volume **II**, Page 107

FEES AND HONORARIUMS; EXPENSES; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; BOARDS, COMMISSIONS AND AGENCIES; In connection with its sponsorship of a bonafide meeting, a professional association may appropriately offer a modest honorarium to each participating state public official other than a member or employe of a board or agency that regulates the profession practiced by the association's members and may appropriately reimburse all state public officials for actual and necessary expenses they incur as a result of their participation in the meeting and invite the participants to be the association's guests at a luncheon held in connection with the meeting. Eth. Bd. 172, Volume **II**, Page 101

BOARDS, COMMISSIONS AND AGENCIES; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A person's membership on an examining board does not

preclude a business regulated by that examining board or other organization with which the member is associated from offering a course to candidates for licensure by the board if the member neither prepares, administers, grades nor is privy to the board's examination and will have no direct or substantial pecuniary interest in the course if it is offered. Eth. Bd. 170, Volume II, Page 97

BOARDS COMMISSIONS AND AGENCIES; DISQUALIFICATION; A state agency's adoption of a plan for avoiding conflicts between its administrator's personal interests and public responsibilities is desirable and makes it unnecessary for the official to consult the Ethics Board each time he or she is subjected to conflicting interests. Eth. Bd. 162, Volume II, Page 82

BOARDS COMMISSIONS AND AGENCIES; DISQUALIFICATION; FEES AND HONORARIUMS; Where a member of an examining board did not participate in preparation of the board's examination for licensure, he or she may accept an honorarium from a college in appreciation of his or her providing instruction to a student of a field regulated by the examining board; but a member of the examining board who prepares or administers or is privy to the board's examination should not instruct students preparing themselves for the examination regardless of whether compensation is offered. Eth. Bd. 57, Volume II, Page 75

GRANTS; DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; A member of a panel which advises a state agency on the distribution of money should not benefit directly from the panel's actions and should not participate in official activities from which he or she may benefit even indirectly. Eth. Bd. 141, Volume II, Page 49

BUDGET REQUEST

BUDGET REQUEST; A state employee's preparation of a fiscal estimate does not violate the Ethics Code's prohibition against an employee's presenting a request before the Legislature for an appropriation that exceeds the amount requested by the agency. Eth. Bd. 527, Volume XI, Page 13

CAMPAIGN ACTIVITIES

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

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

LEGISLATORS; CAMPAIGN ACTIVITIES; The Ethics Code does not prohibit a legislator's preparation and distribution of a newsletter that mentions the reason the legislator is not

seeking reelection as long as the information is presented as an unadorned statement of fact that could not reasonably be considered an attempt to solicit support for his or her election to another elective office. Eth. Bd. 247, Volume V, Page 111

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

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

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

COMPATIBILITY OF OFFICES

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A member of a state board should not be the direct financial beneficiary of that board's actions.

A member of a state board should not accept a payment from an interested party to prepare a matter for review and action by the board.

Compatibility of membership on board and municipal employment discussed. Eth. Bd. 324, Volume IX, Page 7

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INTERAGENCY COOPERATION; COMPATIBILITY OF OFFICES; JURISDICTION; Section 19.56, *Wisconsin Statutes*, encourages state public officials to meet with people and organizations to discuss the legislative process and public policy. However, this section should not be read as an exception to that section of the statutes prohibiting a commissioner from holding any other position of profit or from pursuing any other business or vocation. Eth. Bd. 203, Volume III, Page 99

BOARDS, COMMISSIONS AND AGENCIES; IMPROPER USE OF OFFICE; DISQUALIFICATION; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for Public Officials and Employees does not require a member of a board, whose members by statute are required to be representatives of local governments, to withdraw from

participating in decisions of the board simply because the official is an officer of a local government potentially affected by the Board's actions. However, it would be inappropriate for a member of the board to benefit personally, as opposed to officially, from any action of the board. Eth. Bd. 201, Volume III, Page 93

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; The Ethics Board continues to recommend that no member of a regulatory board be an officer, director, trustee, employe, or authorized representative of or a paid consultant to a trade or professional organization which is organized to promote or affect the practice of the occupation or profession regulated by that board.

A state public official's membership on an examining board does not necessarily preclude holding an office or directorship in an association which is involved in issues of public policies if the association is not organized to promote or affect the practice of the occupation or profession regulated by the examining board. Eth. Bd. 196, Volume III, Page 81

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for Public Officials and Employes poses no obstacle to an agency's chief executive's service on a policy making board of another agency when the duties and activities of the two agencies are unrelated. Nor does the Ethics Code bar an official of a state agency from providing lodging to a legislator under the circumstances described. Eth. Bd. 173, Volume II, Page 103

CONTRACTS

SEE: PUBLIC CONTRACTS

DIRECTORSHIPS

SEE: OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS

DISQUALIFICATION

DISQUALIFICATION; A legislator should not participate in official discussions, deliberations, or votes with respect to legislation to sustain or alter a statute affecting the requirements for the official's spouse's employment unless the action affects a whole class of similarly-situated interests, the legislator's interest is insignificant when compared to all affected interests, and the action's effect on the legislator's private interests is neither significantly greater nor less than upon other people affected by the act. Eth. Bd. 525, Volume XI, Page 9

DISQUALIFICATION; REPRESENTATION OF CLIENTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; With respect to a member of a state board, the Ethics Code's application to these circumstances is discussed:

- a. Official action directly affecting the official's personal interest;
- b. Official action directly affecting a client of the official's firm;
- c. Action the official, in a public capacity, may take involving a matter in which the official personally or a client of the official's firm is interested; and

- d. Action the official, in a private capacity, or a member or employe of the official's firm may take involving a matter about which the official, as a public officer, is authorized to take some discretionary action. Eth. Bd. 365, Volume X, Page 13

DISQUALIFICATION; If a member of a government board is associated with a corporation, the member, ordinarily should not, as a member of that board, participate in discussions, deliberations, or votes concerning that corporation; however, the member need not withdraw from a matter if the matter is so broad that it affects scores of organizations among which the corporation is not especially significant and the action's effect on the corporation is neither greater nor less than upon the other affected organizations. Eth. Bd. 360, Volume X, Page 3

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; DISQUALIFICATION; A state legislator should not, in connection with his business, refer to his official position except in a limited circumstance. A state official should not, except in narrow circumstances, communicate with a state official or employe on behalf of the official's business. A state official must give notice of his interest in contract before official's business enters into contract paid for state funds. A legislator should not act officially in a way likely to affect legislator's business unless business is insignificant member of larger class affected by legislation. Eth. Bd. 346, Volume IX, Page 45

DISQUALIFICATION; When confronted with a need for legal counsel in a matter in which the Attorney General is unable to act, it is appropriate for the affected state agency to ask the Governor to designate special counsel. Eth. Bd. 338, Volume IX, Page 35

DISQUALIFICATION; A state board's earlier award of a grant to an organization does not bar a member of the board from later working for the organization as a paid consultant in a capacity unsupported by the grant; nor does a board member's working as a paid consultant to an organization foreclose the board's award of a grant to the organization unless the member or the member's immediate family would benefit from the grant. In any event the board member may not in either a public or private capacity promote a grant to an organization of which the member is a paid consultant. Eth. Bd. 336, Volume IX, Page 31

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A member of a state board should not be the direct financial beneficiary of that board's actions.

A member of a state board should not accept a payment from an interested party to prepare a matter for review and action by the board.

Compatibility of membership on board and municipal employment discussed. Eth. Bd. 324, Volume IX, Page 7

DISQUALIFICATION; If the owner of a regulated business became the chief executive of a state agency responsible for regulating that business, then the owner's personal financial interests would conflict with his public responsibilities whenever, in the discharge of official duties, he was confronted by a matter in which his business had a substantial financial interest including action affecting his business and its competitors.

If the conflict were substantial and continually present or frequently recurring, the conflict's cure could come only from the person's divesting himself of the regulated business. Eth. Bd. 304, Volume VIII, Page 33

DISQUALIFICATION; A board that awards grants should not consider an application for a grant from which one of the board's members or the member's immediate family would

benefit financially. Having disqualified himself or herself from considering an application for a grant, a person should not participate in a subsequent ranking of that application relative to others. Eth. Bd. 303, Volume VIII, Page 31

LEGISLATORS; DISQUALIFICATION; A legislator who practices a trade or profession may participate in votes, deliberations, discussions and other legislative activities likely to affect that trade or profession as long as:

- a. The legislator's presence in the class of people affected by the legislator's action is insignificant when compared to the number of similarly situated people in the affected class, and
- b. The legislator's actions' effects upon himself or herself are neither significantly greater nor less than upon other members of the class. Eth. Bd. 300, Volume VIII, Page 21

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; Circumstances under which a member of a board should disqualify self from decision making are discussed. Eth. Bd. 298, Volume VIII, Page 11

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A state public official should not:

- a. as a representative of a firm, participate in a matter pending before or likely to be appealed to the state panel of which the official is a part;
- b. as an officer of a state agency, participate in a matter pending before or likely to be appealed to the state panel of which the official is a part if the firm with which the official is affiliated is involved;
- c. rely upon his or her title or a state agency's prestige to attempt to acquire new or additional business for a firm with which he or she is associated. Eth. Bd. 284, Volume VII, Page 21

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; Circumstances under which a member of a board should disqualify self from discussions and decisions concerning grants to people and organizations are discussed. Eth. Bd. 280, Volume VII, Page 11

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; Circumstances under which a member of a board should disqualify self from decision making are discussed. Eth. Bd. 278, Volume VII, Page 5

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The Ethics Code does not forbid a state public official to hold an office in an organization, provided:

- a. the official does not use his or her public position to obtain a substantial favor or service for the organization;
- b. the official does not, in furtherance of the official's responsibilities to or interest in the organization, rely upon the state's facilities, supplies, or services that are not generally available to all of Wisconsin's residents; and
- c. that if in the discharge of official duties the official confronts a matter in which the organization has a substantial interest, the official gives his or her superior a written statement describing the nature of the possible conflict and the superior assigns the matter to a person not subject to the conflicting interests. Eth. Bd. 270, Volume VI, Page 41

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; As long as a nominee to a state board retains a 10% or greater interest in a private business, he or she may not use his or her public position to obtain financial gain or anything of substantial value for that business except under certain conditions.

The nominee's private company may not enter into a state contract or lease involving a payment exceeding \$3,000 within 12 months unless the nominee's relationship to the private business is disclosed to the Ethics Board and the agency acting for the state with regard to its contract. Further the nominee should disqualify himself or herself from any matter coming before the board which involves the nominee's private business, and the board's minutes should reflect the nominee's absence from the discussion and voting upon the issue. Eth. Bd. 266, Volume VI, Page 33

BOARDS, COMMISSIONS AND AGENCIES; DISQUALIFICATION; The Ethics Board approved a course of conduct for a member of a state board concerning his or her withdrawal from certain official actions involving the board and the official's private interests. Eth. Bd. 259, Volume VI, Page 27

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; The Ethics Code does not prohibit a state public official's continued employment with a law firm while the official is serving on a part-time board provided (a) the official does not represent the firm before that board, (b) the official does not participate in any vote or discussion concerning a legal proceeding in which the official's law firm represents interests adverse to those of the board, and (c) the official's actions are consistent with the Supreme Court's rules. Eth. Bd. 243, Volume V, Page 93

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; BOARDS, COMMISSIONS AND AGENCIES; A person who is a state public official by virtue of his or her membership on a state board may not participate in that board's consideration of an appeal concerning a controversy involving the official or the official's partner, but the Ethics Code will not ordinarily pose an obstacle to the official's participation in the board's decisions in which the official does not have a financial stake. The Ethics Code does not pose an impediment to an official's participation in votes, deliberations, and discussions concerning the board's work and its employment of independent contractors as long as the official's action affects a large class of similarly situated people and businesses, the official's presence in the class is insignificant when compared to the number of members of the class, and the official's actions' effects upon his or her own self interest are neither significantly greater nor less than upon other members of the class.

If an agency's selection and payment of independent contractors is a ministerial function not requiring the exercise of discretion by members of the board which direct the agency, the Ethics Code does not pose an obstacle to the agency's entrance into a contract with a member of that board or with the member's partner. Eth. Bd. 242, Volume V, Page 89

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; The Ethics Code discourages a state public official from representing a person in a matter over which the official or the official's colleagues or subordinates must take official action or exercise some official judgment. Eth. Bd. 239, Volume V, Page 79

IMPROPER USE OF OFFICE; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code bars a public official from taking

any official action likely to affect a business in which he or she has a 10% or greater interest unless:

- a. his or her action affects the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class and
- c. his or her action's effect upon the business 1) is neither significantly greater nor less than upon other members of the class or 2) results from the regular process of competitive bids.

In addition the official may not intentionally use or disclose any information which could result in the receipt of anything of value for the business had the information not been communicated to the public.

The business may not enter into a contract or lease involving a payment or payments of more than \$3,000 within 12 months in whole or in part derived from the state's funds unless the official has disclosed in writing the nature and extent of his or her relationship or interest to the Ethics Board and to the department acting for the state with regard to the contract or lease. Eth. Bd. 235, Volume V, Page 65

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; LEGISLATORS; DISQUALIFICATION; A legislator should not participate in votes, deliberations, discussions, or other legislative activity likely to affect a business with which he or she is associated except to the extent that:

- a. the legislator's actions affect the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class, and
- c. the effects of the legislator's actions upon the business are neither significantly greater nor less than upon other members of the class. Eth. Bd. 234, Volume V, Page 59

DISQUALIFICATION; The Ethics Code does not bar a state public official's participation in a program administered by a state agency of which he or she is a member of the policy making board provided (1) the official neither seeks nor receives any consideration with regard thereto that the official would not receive were he or she not a state public official and (2) the official does not act officially with respect to a matter in which he or she has a personal interest except to the extent that the official's personal interest in the matter is insignificant when compared with the interests of others in the same matter. Eth. Bd. 228, Volume IV, Page 103

DISQUALIFICATION; The Ethics Code does not compel a state public official to refrain from acting officially with respect to a business with which the official's spouse has a contract for professional services provided the spouse does not receive payments from the business in connection with projects financed through the public body of which the official is a member. Eth. Bd. 227, Volume IV, Page 97

JUDGES; DISQUALIFICATION; FEES AND HONORARIUMS; The public's perception of an impartial judiciary would best be served by a judge's withdrawal from officiating in matters involving the judge's business associates, even though the Ethics Code does not require that result in all cases. Eth. Bd. 210, Volume IV, Page 49

BOARDS, COMMISSIONS AND AGENCIES; IMPROPER USE OF OFFICE; DISQUALIFICATION; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for Public Officials and Employees does not require a member of a board, whose members by statute are required to be representatives of local governments, to withdraw from

participating in decisions of the board simply because the official is an officer of a local government potentially affected by the Board's actions. However, it would be inappropriate for a member of the board to benefit personally, as opposed to officially, from any action of the board. Eth. Bd. 201, Volume **III**, Page 93

BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employes would pose no impediment to a person's appointment to a board while the person is an officer of an organization with which the board transacts business. However, the person's private interests would impair his or her ability to participate in the board's actions. Eth. Bd. 197, Volume **III**, Page 83

DISQUALIFICATION; LEGISLATORS; The Ethics Code does not require a legislator to withdraw from votes, deliberations, or other actions concerning legislation that might affect organizations of the type with which his or her spouse is associated.

A legislator must give the Ethics Board and the presiding officer of his or her house written statement describing the legislator's substantial interest in a matter before the house of the Legislature. The presiding officer must have the statement published in the legislative journal. A legislator may satisfy this requirement by filing a blanket statement of matters in which the legislator and his or her immediate family are substantially interested. Eth. Bd. 190, Volume **III**, Page 67

BOARDS COMMISSIONS AND AGENCIES; DISQUALIFICATION; A state agency's adoption of a plan for avoiding conflicts between its administrator's personal interests and public responsibilities is desirable and makes it unnecessary for the official to consult the Ethics Board each time he or she is subjected to conflicting interests. Eth. Bd. 162, Volume **II**, Page 82

BOARDS COMMISSIONS AND AGENCIES; DISQUALIFICATION; FEES AND HONORARIUMS; Where a member of an examining board did not participate in preparation of the board's examination for licensure, he or she may accept an honorarium from a college in appreciation of his or her providing instruction to a student of a field regulated by the examining board; but a member of the examining board who prepares or administers or is privy to the board's examination should not instruct students preparing themselves for the examination regardless of whether compensation is offered. Eth. Bd. 157, Volume **II**, Page 75

GRANTS; DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; A member of a panel which advises a state agency on the distribution of money should not benefit directly from the panel's actions and should not participate in official activities from which he or she may benefit even indirectly. Eth. Bd. 141, Volume **II**, Page 49

DUAL EMPLOYMENT

DUAL EMPLOYMENT; FEES AND HONORARIUMS; LEGISLATORS; The Ethics Board recommends that legislators not retain compensation from state agencies. Eth. Bd. 352, Volume **IX**, Page 55

DUAL EMPLOYMENT; An employe of the University of Wisconsin system compensated for a full-time academic year appointment at an annual salary exceeding the salary for the position of state legislator may not derive more than \$5,000 from another state agency for

services performed in furtherance of one position during that part of a calendar year for which the employe holds a full-time appointment.

The Ethics Code does not limit the income the employe may receive from another state agency for services the employe performs during the part of the year the employe does not hold a full-time appointment.

An infraction of § 19.45(9m) is remedied by the university's termination of the employe or reduction of the employe's income to an amount that does not exceed the salary for the position of state legislator. Eth. Bd. 307, Volume VIII, Page 45

DUAL EMPLOYMENT; § 19.45(9m), Wisconsin Statutes, does not forbid a state employe to hold 2 or even several positions in addition to his or her principal employment as a full-time employe of the State of Wisconsin if the employe does not derive more than \$5,000 in a calendar year from any one of the secondary positions. Eth. Bd. 294, Volume VIII, Page 1

DUAL EMPLOYMENT; § 19.45(9m), Wisconsin Statutes, will ordinarily not preclude a faculty member of the University who holds an academic year appointment from accepting another position during that part of the year that is not part of the academic year. Eth. Bd. 223, Volume IV, Page 83

DUAL EMPLOYMENT; A person who is employed by the state for 32 or fewer hours per week is not employed in a state position full-time and is not subject to the limitations imposed by § 19.45(9m), Wisconsin Statutes, on employment by a second state agency. Eth. Bd. 194, Volume III, Page 77

DUAL EMPLOYMENT; A state agency should not enter into agreement for University of Wisconsin professor's services as consultant if (a) the proposed contract would authorize payment of income to the professor exceeding \$5,000 per calendar year and (b) the professor holds a state position full-time at an annual salary exceeding two-thirds of the midpoint of the current salary for executive salary group 2. Eth. Bd. 193, Volume III, Page 75

DUAL EMPLOYMENT; A state employe may not, during a time when he or she holds a full-time position with the University of Wisconsin with an annual salary exceeding \$20,495.33, derive, from any other position he or she holds, more than \$5,000 of income from the State of Wisconsin during any calendar year. Eth. Bd. 171, Volume II, Page 99

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with which he or she is associated but prohibits retaining compensation for referral of clients for whom the legislator has not previously provided legal services unless the legislator's relationship with the client arises and remains manifestly independent of the legislator's public position. Supreme Court Rules may also apply. Eth. Bd. 383, Volume X, Page 57

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with which he or she is associated but prohibits retaining compensation for referral of clients for whom the legislator

has not previously provided legal services. Supreme Court Rules may also apply. Eth. Bd. 375, Volume X, Page 35

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; An official of a state agency may serve as director of a private corporation that provides services to the agency and whose parent company has granted funds to the agency as long as the person (a) does not rely upon the state's time, facilities, supplies, and services not generally available to anyone and (b) the person's membership on the corporation's board does not pose an unavoidable conflict of substance between the person's responsibilities to the agency and the person's fiduciary responsibilities to the corporation.

The official should not accept the private position unless and until the official has obtained (a) the agreement of his or her appointing authority that this activity will not conflict with the official's responsibilities to the agency and (b) verification that the action is consistent with Wisconsin's lobbying laws. Eth. Bd. 369, Volume X, Page 19

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; An administrator in a state agency may, under certain circumstances, engage in a private planning business as long as (a) the person does not rely upon the state's time, facilities, supplies, and services not generally available to anyone and (b) the venture does not pose unavoidable conflicts of substance between the person's responsibilities to the agency and the duties the person would undertake for clients. Eth. Bd. 367, Volume X, Page 19

DISQUALIFICATION; REPRESENTATION OF CLIENTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; With respect to a member of a state board, the Ethics Code's application to these circumstances is discussed:

- a. Official action directly affecting the official's personal interest;
- b. Official action directly affecting a client of the official's firm;
- c. Action the official, in a public capacity, may take involving a matter in which the official personally or a client of the official's firm is interested; and
- d. Action the official, in a private capacity, or a member or employe of the official's firm may take involving a matter about which the official, as a public officer, is authorized to take some discretionary action. Eth. Bd. 365, Volume X, Page 13

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; A state official may represent a firm for pay before representatives of various organizations provided the official (a) pursues the activity without reliance upon the state's time, facilities, supplies, and services not generally available to anyone, (b) obtains his appointing authority's concurrence that the official's work for the firm will not effect the official's work for the state, (c) does not represent the firm before any institution for which the official's agency may have occasion to award a grant or a contract with respect to which the official or the official's agency is authorized to undertake some discretionary act, and (d) does not represent the firm before a state agency. Eth. Bd. 364, Volume X, Page 9

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; A state official's attention to personal business inappropriately distracted the official's attention from his responsibility to the state agency that employed him. The agency's chief executive, consistent with the Ethics Board's advice, treated this circumstance as a personnel matter. Eth. Bd. 354, Volume IX, Page 57

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; DISQUALIFICATION; A state legislator should not, in

connection with his business, refer to his official position except in a limited circumstance. A state official should not, except in narrow circumstances, communicate with a state official or employe on behalf of the official's business. A state official must give notice of his interest in contract before official's business enters into contract paid for state funds. A legislator should not act officially in a way likely to affect legislator's business unless business is insignificant member of larger class affected by legislation. Eth. Bd. 346, Volume **IX**, Page 45

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; Wisconsin's Ethics Code does not forbid a member of a licensing board to teach a course at a state school of higher education even if the subject taught is a subject on which the licensing board tests candidates for licensure. Eth. Bd. 333, Volume **IX**, Page 25

INFLUENCING OFFICIAL JUDGMENT; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; A member of a state board with responsibilities concerning recreational equipment and activities should not retain the use of equipment and other benefits offered to the member by a manufacturer and seller of that equipment. Eth. Bd. 329, Volume **IX**, Page 13

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A member of a state board should not be the direct financial beneficiary of that board's actions.

A member of a state board should not accept a payment from an interested party to prepare a matter for review and action by the board.

Compatibility of membership on board and municipal employment discussed. Eth. Bd. 324, Volume **IX**, Page 7

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A state public official may not act or oversee others' actions affecting an agency's agreement with one of its contractors if the official's spouse is the contractor's agent for performance of services material to the agency's agreement with the contractor. Eth. Bd. 296, Volume **VIII**, Page 5

BOARDS, COMMISSIONS AND AGENCIES; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; The Ethics Code forbids a member of a part-time board to act both for the State of Wisconsin and for a corporation of which the person is an officer in the same transaction if the transaction results in the State's payment of money to the corporation. Eth. Bd. 295, Volume **VIII**, Page 3

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A state public official should not:

- a. as a representative of a firm, participate in a matter pending before or likely to be appealed to the state panel of which the official is a part;
- b. as an officer of a state agency, participate in a matter pending before or likely to be appealed to the state panel of which the official is a part if the firm with which the official is affiliated is involved;
- c. rely upon his or her title or a state agency's prestige to attempt to acquire new or additional business for a firm with which he or she is associated. Eth. Bd. 284, Volume **VII**, Page 21

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES, AND

SERVICES; The Ethics Code does not forbid a state public official to hold an office in an organization, provided:

- a. the official does not use his or her public position to obtain a substantial favor or service for the organization;
- b. the official does not, in furtherance of the official's responsibilities to or interest in the organization, rely upon the state's facilities, supplies, or services that are not generally available to all of Wisconsin's residents; and
- c. that if in the discharge of official duties the official confronts a matter in which the organization has a substantial interest, the official gives his or her superior a written statement describing the nature of the possible conflict and the superior assigns the matter to a person not subject to the conflicting interests. Eth. Bd. 270, Volume VI, Page 41

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; For the publication of works, presentation of talks, or participation in meetings undertaken in the course of official duties, a state public official may not accept compensation and may not retain a payment that exceeds the amount to which he or she would be entitled from the state as reimbursement of expenses. The remainder, if any, should be directed to the state agency.

A public official is free to retain payments received apart from his or her official responsibilities as long as the payments or work for which they are made does not conflict with his or her official responsibilities. Unless all relevant circumstances clearly show that the offer came to the official independent of his or her official duties and the official's superior concurs in that belief, the official should treat all offers to consult or speak as though they came because of his or her state position.

The public official should secure his or her superior's approval of compensated consulting work prior to undertaking it. Eth. Bd. 268, Volume VI, Page 39

JUDGES; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; The Ethics Code will not pose an obstacle to a judge's teaching a business law course for a payment that does not exceed \$5,000. Eth. Bd. 250, Volume VI, Page 5

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; LEGISLATORS; The Ethics Code will not pose an obstacle to a legislator's participation in a program in which the legislator advises the program's participants how to deal with local, state or federal officials nor the legislator's acceptance of reasonable compensation or reimbursement of expenses for that undertaking provided as long as the legislator does not prepare for or present the program with the use of the state's time or of its facilities, services or supplies not generally available to all citizens.

The Legislature should not promote these programs to prospective clients or arrange their content or fee with prospective clients.

Within 60 days of being paid for participating in the seminar, the legislator should file with the chief clerk of his or her house a statement identifying the amount of the payment, the group to which the payment was made, and the payor of the fee. Eth. Bd. 249, Volume VI, Page 1

REPRESENTATION OF CLIENTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not prohibit a state public official's continued employment with a law firm while the official is serving on a part-time board provided (a) the official does not represent the firm before that board, (b) the official does not participate in any vote or discussion concerning a legal proceeding in which the official's law firm represents interests adverse to those of the board, and (c) the

official's actions are consistent with the Supreme Court's rules. Eth. Bd. 243, Volume V, Page 93

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; BOARDS, COMMISSIONS AND AGENCIES; A person who is a state public official by virtue of his or her membership on a state board may not participate in that board's consideration of an appeal concerning a controversy involving the official or the official's partner, but the Ethics Code will not ordinarily pose an obstacle to the official's participation in the board's decisions in which the official does not have a financial stake. The Ethics Code does not pose an impediment to an official's participation in votes, deliberations, and discussions concerning the board's work and its employment of independent contractors as long as the official's action affects a large class of similarly situated people and businesses, the official's presence in the class is insignificant when compared to the number of members of the class, and the official's actions' effects upon his or her own self interest are neither significantly greater nor less than upon other members of the class.

If an agency's selection and payment of independent contractors is a ministerial function not requiring the exercise of discretion by members of the board which direct the agency, the Ethics Code does not pose an obstacle to the agency's entrance into a contract with a member of that board or with the member's partner. Eth. Bd. 242, Volume V, Page 89

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INFLUENCING OFFICIAL JUDGMENT; A special interest group should not offer a substantial fee to a legislator's spouse for personal services unless the legislator will not derive any benefit from the payment or the paying organization can clearly demonstrate that the legislator's spouse was chosen and the fee established without regard to the legislator's public position. Eth. Bd. 240, Volume V, Page 83

REPRESENTATION OF CLIENTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code discourages a state public official from representing a person in a matter over which the official or the official's colleagues or subordinates must take official action or exercise some official judgment. Eth. Bd. 239, Volume V, Page 79

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; DISQUALIFICATION; The Ethics Code bars a public official from taking any official action likely to affect a business in which he or she has a 10% or greater interest unless:

- a. his or her action affects the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class and
- c. his or her action's effect upon the business 1) is neither significantly greater nor less than upon other members of the class or 2) results from the regular process of competitive bids.

In addition the official may not intentionally use or disclose any information which could result in the receipt of anything of value for the business had the information not been communicated to the public.

The business may not enter into a contract or lease involving a payment or payments of more than \$3,000 within 12 months in whole or in part derived from the state's funds unless the official has disclosed in writing the nature and extent of his or her relationship or interest to the Ethics Board and to the department acting for the state with regard to the contract or lease. Eth. Bd. 235, Volume V, Page 65

LEGISLATORS; DISQUALIFICATION; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A legislator should not participate in votes, deliberations, discussions, or other legislative activity likely to affect a business with which he or she is associated except to the extent that:

- a. the legislator's actions affect the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class, and
- c. the effects of the legislator's actions upon the business are neither significantly greater nor less than upon other members of the class. Eth. Bd. 234, Volume V, Page 59

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code will not pose an obstacle to a commissioner's entering an agreement whereby the commissioner will act as hearing examiner for his or her commission's counterpart in another state provided:

- a. the commissioner undertakes those activities during hours for which the commissioner records a leave of absence from his or her official duties,
- b. the commissioner's work on behalf of the other government is not part of his or her regular responsibilities as a Wisconsin official,
- c. the commissioner performs his or her work for the other state without relying upon the supplies and services of Wisconsin's government except those that are generally available to all citizens of this state,
- d. the commissioner's work for the other state does not interfere with his or her performance of official duties, and
- e. the commissioner secures the Governor's approval of this venture prior to agreeing to perform this task. Eth. Bd. 229, Volume IV, Page 105

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not bar an official of the University of Wisconsin system from accepting additional employment with a private organization provided certain conditions are met. Eth. Bd. 222, Volume IV, Page 81

REPRESENTATION OF CLIENTS; LEGISLATORS; PUBLIC CONTRACTS; INTERAGENCY COOPERATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not pose an obstacle to a legislator's representing a client before a judicial officer, including a district attorney, in either a civil or criminal proceeding.

A legislator may not represent a client before the Department of Health and Social Services or before the Office of the Governor except in very limited circumstances.

The Ethics Code does not bar an attorney who is a member of the legislature from representing a defendant in a criminal or paternity case when remuneration is paid by the Office of the State Public Defender; but the legislator should notify the Ethics Board and the State Public Defender of the proposed arrangement prior to accepting that appointment if the legislator is likely to receive more than \$3,000 from the Office of the State Public Defender within 12 months. Eth. Bd. 221, Volume IV, Page 77

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code forbids a legislator's entrance into an agreement whereby the legislator would receive a percentage of revenues from business derived from the legislator's reliance upon the prestige of his or her public position. Eth. Bd. 216, Volume IV, Page 63

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; A state public official may retain compensation paid to the official for his or her publication of a work provided the undertaking is not part of the official's public duty and is completed without the official's reliance upon the state's time, facilities, services, or supplies not generally available to all citizens of Wisconsin. Eth. Bd. 215, Volume **IV**, Page 61

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; A state public official associated with a private law firm may participate neither as a state public official nor as another's legal representative in a matter before or likely to come before the state agency with which the official is associated if that law firm is involved. Eth. Bd. 214, Volume **IV**, Page 59

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislator may accept pay from a business for advising it provided the legislator does not rely upon his or her public position for the client's benefit or represent the client's interest in the Legislature or before state agencies. Eth. Bd. 209, Volume **IV**, Page 45

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INTERAGENCY COOPERATION; COMPATIBILITY OF OFFICES; JURISDICTION; § 19.56, *Wisconsin Statutes*, encourages state public officials to meet with people and organizations to discuss the legislative process and public policy. However, this section should not be read as an exception to that section of the statutes prohibiting a commissioner from holding any other position of profit or from pursuing any other business or vocation. Eth. Bd. 203, Volume **III**, Page 99

BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees would pose no impediment to a person's appointment to a board while the person is an officer of an organization with which the board transacts business. However, the person's private interests would impair his or her ability to participate in the board's actions. Eth. Bd. 197, Volume **III**, Page 83

FEES AND HONORARIUMS; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A judge should report to the Ethics Board his or her reimbursement of expenses received in connection with the judge's address to a fraternal organization.

Acting as another's agent for negotiating a business's sale will not ordinarily involve a meeting within the meaning of § 19.56; consequently reimbursement of expenses for those efforts need not be reported.

A state public official must name on his or her Statement of Economic Interests donors from whom the official has received one or more gifts--including transportation--valued together at more than \$100. Eth. Bd. 187, Volume **III**, Page 59

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; Legal counsel to a state agency may practice law for compensation in the private sector if appointing authority approves and state's time, facilities, supplies and services are not used. Eth. Bd. 180, Volume **II**, Page 115

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; An administrator of a division

of a state agency may teach a seminar in the private sector for a fee if the state's time, facilities, supplies and services are not used and appointing authority approves. Eth. Bd. 178, Volume **II**, Page 111

BOARDS, COMMISSIONS AND AGENCIES; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A person's membership on an examining board does not preclude a business regulated by that examining board or other organization with which the member is associated from offering a course to candidates for licensure by the board if the member neither prepares, administers, grades nor is privy to the board's examination and will have no direct or substantial pecuniary interest in the course if it is offered. Eth. Bd. 170, Volume **II**, Page 97

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The Code of Ethics does not bar a legislator's assisting a federal agency for compensation as long as this activity is pursued without use of the state's time, facilities, supplies and services not generally available to all citizens. Eth. Bd. 167, Volume **II**, Page 90

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Code of Ethics for Public Officials does not necessarily pose an obstacle to a person's acceptance of an appointment to state public office while on leave from the company by which he or she is regularly employed. Eth. Bd. 165, Volume **II**, Page 86

JURISDICTION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; Effective July 1, 1978, the Code of Ethics for Public Officials no longer applies to assistant chancellors, associate and assistant vice-chancellors, administrative directors or associate directors in the University of Wisconsin System. Eth. Bd. 155, Volume **II**, Page 72

ENTERTAINMENT

SEE: MEALS, LODGING, TRAVEL AND ENTERTAINMENT

EXPENSES

EXPENSES; LEGISLATORS; In connection with a legislator's participation in the regular, annual meeting of a private organization, the organization should neither reimburse the legislator for travel and lodging costs nor pay those costs directly. The legislator should meet those costs personally and then recover that portion of the expenses, if any, for which the legislator is entitled to reimbursement by submitting a travel expense claim to the chief clerk of his or her house. The organization, if it is willing to defray all or a part of those costs, should direct the organization's payment to the appropriate chief clerk for deposit in the appropriate account. Eth. Bd. 382 Volume **X**, Page 53

GIFTS, EXPENSES; Sponsors of an event should not provide door prizes for which only state officials are eligible. The Ethics Code is not an obstacle to an organization's sponsorship of an event for state officials that provides a substantive presentation or discussion of public issues and is not a mere social occasion. Eth. Bd. 343, Volume **IX**, Page 43

EXPENSES; Consistent with the Ethics Code, a state agency may reimburse its official for the reasonable costs that the official actually incurs traveling at the agency's behest. This

amount of reimbursement is not altered by the official's visiting, with the agency's approval, a personal destination en route to or from the business destination.

When an official is called upon to interrupt or to conclude a vacation to travel from his or her place of vacation to a business destination, a state agency may, consistent with the Ethics Code, reimburse the official for reasonable travel costs the official incurs to the full extent by which those costs exceed the travel costs the official would otherwise have incurred as a personal expense. Eth. Bd. 316, Volume **IX**, Page 1

EXPENSES; FEES AND HONORARIUMS; A business corporation may, consistent with the Ethics Code, provide legislators with a dinner related to a seminar about Wisconsin's government provided the event is neither lavish nor extraordinary under the circumstances and is conducive to discussion of legislative procedure or policies and issues pending before the Legislature. The application, if any, of Wisconsin's lobbying laws should be ascertained. Eth. Bd. 311, Volume **VIII**, Page 57

EXPENSES; FEES AND HONORARIUMS; Although the Ethics Code discourages officials from retaining payments or gifts offered to them because of their public positions, an organization may, consistent with the Ethics Code, pay the expenses an official accurately and reasonably incurs in connection with the official's presentation of a talk or participation in a meeting sponsored by the organization. Eth. Bd. 297, Volume **VIII**, Page 9

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Ethics Code does not pose any impediment to a business's offer to a legislator or to a legislator's acceptance of a business's invitation to participate in a conference the purpose of which is to provide candidates for election to the Legislature with information to help them deal with matters affecting the regulated industry in which the business is engaged. Eth. Bd. 208, Volume **IV**, Page 41

GIFTS; EXPENSES; STATEMENTS OF ECONOMIC INTERESTS; The provision of transportation and hotel expenses by a foreign country where no valuable consideration was given in return is a gift and must be reported as such on the recipient's Statement of Economic Interests Eth. Bd. 207, Volume **III**, Page 111

FEES AND HONORARIUMS; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A judge should report to the Ethics Board his or her reimbursement of expenses received in connection with the judge's address to a fraternal organization.

Acting as another's agent for negotiating a business's sale will not ordinarily involve a meeting within the meaning of § 19.56; consequently reimbursement of expenses for those efforts need not be reported.

A state public official must name on his or her Statement of Economic Interests donors from whom the official has received one or more gifts--including transportation--valued together at more than \$100. Eth. Bd. 187, Volume **III**, Page 59

IMPROPER USE OF OFFICE; LEGISLATORS; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Code of Ethics for Public Officials and Employees does not prohibit legislators' acceptance of a trip to a foreign country, the expenses of which are to be borne by the foreign country, if the trip's purpose and the legislators' participation will benefit primarily the state and its residents and any private benefit conferred to the legislators is merely incidental. Eth. Bd. 205, Volume **III**, Page 105

FEES AND HONORARIUMS; INTERAGENCY COOPERATION; EXPENSES; No general rule concerning an honorarium's reasonableness can be stated.

The Ethics Code is inapplicable to an official's acceptance of compensation for a speaking engagement to which state office has no relevance.

Although, in connection with a speaking engagement, a state official should not, except under extraordinary circumstances, accept compensation from a state agency, the Ethics Code does not bar an official's receipt of expenses or reasonable compensation from a governmental agency. Eth. Bd. 181, Volume **II**, Page 117

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; EXPENSES; INTERAGENCY COOPERATION; A legislator's filing of a claim for a per diem for a day on which the legislator accepted an invitation to dine with the Governor at the Executive residence is consistent with Wisconsin's Code of Ethics for Public Officials. Eth. Bd. 179, Volume **II**, Page 113

FEES AND HONORARIUMS; EXPENSES; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; BOARDS, COMMISSIONS AND AGENCIES; In connection with its sponsorship of a bonafide meeting, a professional association may appropriately offer a modest honorarium to each participating state public official other than a member or employe of a board or agency that regulates the profession practiced by the association's members and may appropriately reimburse all state public officials for actual and necessary expenses they incur as a result of their participation in the meeting and invite the participants to be the association's guests at a luncheon held in connection with the meeting. Eth. Bd. 172, Volume **II**, Page 101

FEES AND HONORARIUMS; EXPENSES; A chancellor is the representative of his or her campus and should neither profit personally from the prestige which accompanies the office nor suffer personal expenses because of official responsibilities. Eth. Bd. 150, Volume **II**, Page 64

FEES AND HONORARIUMS; EXPENSES; A state public official need not report to the Ethics Board receipt of money reimbursing the official for expenses if the reimbursement is turned over to the state agency with which the official is associated. Eth. Bd. 143, Volume **II**, Page 53

FEES AND HONORARIUMS

FEES AND HONORARIUMS; LEGISLATORS; A legislator may not accept an honorarium for a talk to a class at the University of Wisconsin. Eth. Bd. 379, Volume **X**, Page 43

DUAL EMPLOYMENT; FEES AND HONORARIUMS; LEGISLATORS; The Ethics Board recommends that legislators not retain compensation from state agencies. Eth. Bd. 352, Volume **IX**, Page 55

FEES AND HONORARIUMS; A legislator could retain compensation of as much as \$2,500 for presenting a talk if the legislator prepared and presented the talk without reliance upon the state's time, facilities, supplies, and services when the talk was outside Wisconsin, the program's organizer was not directly involved in issues before Wisconsin's Legislature, other participants who were not officials of Wisconsin were offered the same fee, and the presentation was likely to require substantial participation. Eth. Bd. 334, Volume **IX**, Page 27

FEES AND HONORARIUMS; If a state public official undertakes the preparation and presentation of a talk or preparation and publication of a work without reliance on the

state's time, facilities, supplies or services, then the official may retain reasonable expenses as well as reasonable compensation for his or her efforts and, if the official chooses, redirect those payments to a private foundation or other entity. If, on the other hand, the official undertakes those activities with reliance upon the state's resources not readily available to all Wisconsin's citizens, then the official must direct the entire payment or payments he or she receives for those undertakings to the State of Wisconsin. Eth. Bd. 332, Volume **IX**, Page 21

FEES AND HONORARIUMS; A state public official's evaluation of organizations, as part of official duties and under the auspices of an association of which the official's agency is a member, and deposit of cash the official receives from the association to an appropriate account of the agency of which his or her position is a part is consistent with the Ethics Code. Alternatively, the official may, if the official does not undertake the evaluation within his or her official role, continue to participate in those activities as a private endeavor without reliance on the state's time, facilities, or services. Eth. Bd. 319, Volume **IX**, Page 5

EXPENSES; FEES AND HONORARIUMS; A business corporation may, consistent with the Ethics Code, provide legislators with a dinner related to a seminar about Wisconsin's government provided the event is neither lavish nor extraordinary under the circumstances and is conducive to discussion of legislative procedure or policies and issues pending before the Legislature. The application, if any, of Wisconsin's lobbying laws should be ascertained. Eth. Bd. 311, Volume **VIII**, Page 57

FEES AND HONORARIUMS; Reasonableness of compensation for the presentation of a talk is discussed. Eth. Bd. 309, Volume **VIII**, Page 51

FEES AND HONORARIUMS; Reasonableness of compensation for the presentation of a talk is discussed. Eth. Bd. 306, Volume **VIII**, Page 43

FEES AND HONORARIUMS; A state public official may, consistent with Wisconsin's Ethics Code, retain payments to reimburse expenses that the official actually and necessarily incurs for the presentation of a talk or participation in a meeting as long as the official undertakes the activity without reliance on the state's time, facilities, supplies or services not generally available to all Wisconsin's residents and the official reports those reimbursements to the Ethics Board in conformity with § 19.56(2), *Wisconsin Statutes*. No special form is required for that report. The official may merely send a brief note of a reimbursement's receipt to the Ethics Board when a payment is received or note the payments on the Statement of Economic Interests the official files annually. Eth. Bd. 302, Volume **VIII**, Page 27

EXPENSES; FEES AND HONORARIUMS; Although the Ethics Code discourages officials from retaining payments or gifts offered to them because of their public positions, an organization may, consistent with the Ethics Code, pay the expenses an official accurately and reasonably incurs in connection with the official's presentation of a talk or participation in a meeting sponsored by the organization. Eth. Bd. 297, Volume **VIII**, Page 9

FEES AND HONORARIUMS; An appointed state public official may retain reasonable compensation for the presentation of a talk if the official accomplishes the activity without use of the state's time, facilities, services, or supplies not generally available to all citizens of the state and outside the course of his or her official duties. Eth. Bd. 287, Volume **VII**, Page 31

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; For the publication of works, presentation of talks, or participation in meetings undertaken in the course of official duties, a state public official may not accept compensation and may not retain a payment that exceeds the amount to which he or she would be entitled from the state as reimbursement of expenses. The remainder, if any, should be directed to the state agency.

A public official is free to retain payments received apart from his or her official responsibilities as long as the payments or work for which they are made does not conflict with his or her official responsibilities. Unless all relevant circumstances clearly show that the offer came to the official independent of his or her official duties and the official's superior concurs in that belief, the official should treat all offers to consult or speak as though they came because of his or her state position.

The public official should secure his or her superior's approval of compensated consulting work prior to undertaking it. Eth. Bd. 268, Volume VI, Page 39

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; LEGISLATORS; The Ethics Code will not pose an obstacle to a legislator's participation in a program in which the legislator advises the program's participants how to deal with local, state or federal officials nor the legislator's acceptance of reasonable compensation or reimbursement of expenses for that undertaking provided as long as the legislator does not prepare for or present the program with the use of the state's time or of its facilities, services or supplies not generally available to all citizens.

The Legislature should not promote these programs to prospective clients or arrange their content or fee with prospective clients.

Within 60 days of being paid for participating in the seminar, the legislator should file with the chief clerk of his or her house a statement identifying the amount of the payment, the group to which the payment was made, and the payor of the fee. Eth. Bd. 249, Volume VI, Page 1

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INFLUENCING OFFICIAL JUDGMENT; A special interest group should not offer a substantial fee to a legislator's spouse for personal services unless the legislator will not derive any benefit from the payment or the paying organization can clearly demonstrate that the legislator's spouse was chosen and the fee established without regard to the legislator's public position. Eth. Bd. 240, Volume V, Page 83

JUDGES; FEES AND HONORARIUMS; Although the Ethics Code does not bar a judge from accepting an honorarium for officiating at a wedding at a courthouse if the judge contributes the payment to a charitable organization other than one with which he or she is associated, the Board recommends that a judge transmit a payment pressed upon the judge for officiating in a marriage at a courthouse to the appropriate county treasurer or to the director of state courts for deposit to the public account from which maintenance of the courthouse or judicial salaries is met. Eth. Bd. 224, Volume IV, Page 85

FEES AND HONORARIUMS; A state public official must report his or her retention of expenses or compensation valued in excess of \$10 received in connection with the official's participation in a meeting by a private business or state agency other than the agency with which he or she is primarily associated.

The Ethics Board recommends that a state public official forego attending an annual dinner sponsored by a private business with which the official must deal as a state public official. Eth. Bd. 218, Volume IV, Page 69

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; A state public official may retain compensation paid to the official for his or her publication of a work provided the undertaking is not part of the official's public duty and is completed without the official's reliance upon the state's time, facilities, services, or supplies not generally available to all citizens of Wisconsin. Eth. Bd. 215, Volume **IV**, Page 61

FEES AND HONORARIUMS; LEGISLATORS; A legislator is not prohibited from accepting a reasonable honorarium for a speaking engagement if the activity was accomplished without the use of the State's time, facilities, services, or supplies not generally available to all Wisconsin's citizens. If the legislator retains the honorarium or any portion of it, the legislator must report to the chief clerk of his or her house the amount of the payment retained together with a brief description of the circumstances for which the payment was received. Eth. Bd. 212, Volume **IV**, Page 55

JUDGES; DISQUALIFICATION; FEES AND HONORARIUMS; The public's perception of an impartial judiciary would best be served by a judge's withdrawal from officiating in matters involving the judge's business associates, even though the Ethics Code does not require that result in all cases. Eth. Bd. 210, Volume **IV**, Page 49

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INTERAGENCY COOPERATION; COMPATIBILITY OF OFFICES; JURISDICTION; § 19.56, *Wisconsin Statutes*, encourages state public officials to meet with people and organizations to discuss the legislative process and public policy. However, this section should not be read as an exception to that section of the statutes prohibiting a commissioner from holding any other position of profit or from pursuing any other business or vocation. Eth. Bd. 203, Volume **III**, Page 99

FEES AND HONORARIUMS; INTERAGENCY COOPERATION; EXPENSES; No general rule concerning an honorarium's reasonableness can be stated.

The Ethics Code is inapplicable to an official's acceptance of compensation for a speaking engagement to which state office has no relevance.

Although a state official should not, except under extraordinary circumstances, accept compensation from a state agency in connection with a speaking engagement, the Ethics Code does not bar an official's receipt of expenses or reasonable compensation from a governmental agency. Eth. Bd. 181, Volume **II**, Page 117

FEES AND HONORARIUMS; EXPENSES; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; BOARDS, COMMISSIONS AND AGENCIES; In connection with its sponsorship of a bonafide meeting, a professional association may appropriately offer a modest honorarium to each participating state public official other than a member or employe of a board or agency that regulates the profession practiced by the association's members and may appropriately reimburse all state public officials for actual and necessary expenses they incur as a result of their participation in the meeting and invite the participants to be the association's guests at a luncheon held in connection with the meeting. Eth. Bd. 172, Volume **II**, Page 101

GIFTS; FEES AND HONORARIUMS; If in connection with official duties a state public official is offered a gift, the official should ordinarily put the gift to use by his or her state agency or by another public agency. When, however, the gift is of nominal value and of a personal nature, the official may appropriately retain it.

In most cases an official need not report a gift's receipt but must do so when a gift is received in connection with a speaking engagement or a published work or when gifts valued

at more than \$100 are received from one donor within a year. Eth. Bd. 168, Volume **II**, Page 92

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The Code of Ethics does not bar a legislator's assisting a federal agency for compensation as long as this activity is pursued without use of the state's time, facilities, supplies and services not generally available to all citizens. Eth. Bd. 167, Volume **II**, Page 90

FEES AND HONORARIUMS; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislator should not accept a fee for delivery of a talk prepared by legislative employees. A legislator should not accept an honorarium exceeding \$100 from an organization with a special interest in actions of the committee chaired by the legislator. An honorarium received by a legislator should be reported to the chief clerk. Eth. Bd. 164, Volume **II**, Page 84

FEES AND HONORARIUMS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official may accept an honorarium from the United States for participating in a meeting if, in connection therewith, the official does not use the state's time, facilities, supplies or services not generally available to all citizens and attendance is not an official responsibility. Eth. Bd. 160, Volume **II**, Page 78

BOARDS COMMISSIONS AND AGENCIES; DISQUALIFICATION; FEES AND HONORARIUMS; Where a member of an examining board did not participate in preparation of the board's examination for licensure, he or she may accept an honorarium from a college in appreciation of his or her providing instruction to a student of a field regulated by the examining board; but a member of the examining board who prepares or administers or is privy to the board's examination should not instruct students preparing themselves for the examination regardless of whether compensation is offered. Eth. Bd. 157, Volume **II**, Page 75

FEES AND HONORARIUMS; GIFTS; In fulfilling official duties, state public officials should not have to sustain personally any expenses nor should the official profit personally. When attending a meeting in connection with official duties it is generally appropriate for a state public official to accept expenses from the sponsoring organization.

When offered a gift in appreciation of official duties performed, a state public official should, if feasible, dedicate it to a public use; but when the gift is of nominal value and of a personal nature it may be retained. Eth. Bd. 154, Volume **II**, Page 70

JUDGES; FEES AND HONORARIUMS; A judge may appropriately accept an honorarium of \$50 for officiating at a wedding elsewhere than at the courthouse, and need not report the honorarium's receipt to the Ethics Board. Eth. Bd. 151, Volume **II**, Page 66

FEES AND HONORARIUMS; EXPENSES; A chancellor is the representative of his or her campus and should neither profit personally from the prestige which accompanies the office nor suffer personal expenses because of official responsibilities. Eth. Bd. 150, Volume **II**, Page 64

FEES AND HONORARIUMS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; If a state public official is compensated by an organization for work performed with reliance on the state's supplies and postage and the work is related to but not a part of

official responsibilities, a sufficient portion of the compensation should be turned over to the official's agency to defray costs incurred by it. Eth. Bd. 149, Volume **II**, Page 62

JUDGES; FEES AND HONORARIUMS; § 19.56, *Wisconsin Statutes*, does not require a judge to report to the Ethics Board compensation or reimbursement of expenses received in connection with the judge's solemnization of a marriage. Eth. Bd. 147, Volume **II**, Page 60

FEES AND HONORARIUMS; JUDGES; A judge may accept a reasonable fee for officiating at a wedding elsewhere than at the courthouse and usually need not report the fee to the Ethics Board. Fees received in connection with marriages at the courthouse should be turned over to the appropriate account. Eth. Bd. 146, Volume **II**, Page 58

FEES AND HONORARIUMS; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; A state public official may retain compensation offered to him or her by a professional organization for participation in its activities only if the official's participation is not part of his or her official responsibilities and the official participates during hours for which he or she is not compensated by the state. Eth. Bd. 144, Volume **II**, Page 54

FEES AND HONORARIUMS; EXPENSES; A state public official need not report to the Ethics Board receipt of money reimbursing the official for expenses if the reimbursement is turned over to the state agency with which the official is associated. Eth. Bd. 143, Volume **II**, Page 53

GIFTS

REWARD FOR OFFICIAL ACTION; GIFTS; A state official may not retain a cash prize offered to the official as a reward for achievements as a state official, but an official may retain a commemorative token of recognition, plaque, or certificate of limited pecuniary value. Eth. Bd. 521, Volume **XI**, Page 3

GIFTS; An official should not retain gifts of more than nominal value given to the official because of the official's public position. Eth. Bd. 518, Volume **XI**, Page 1

LEGISLATORS; GIFTS; INFLUENCING OFFICIAL JUDGMENT; A legislator may not accept an organization's offer of a personal benefit when the benefit is linked to the legislator's official action concerning the state's relationship with the organization. Eth. Bd. 377, Volume **X**, Page 39

GIFTS, EXPENSES; Sponsors of an event should not provide door prizes for which only state officials are eligible. The Ethics Code is not an obstacle to an organization's sponsorship of an event for state officials that provides a substantive presentation or discussion of public issues and is not a mere social occasion. Eth. Bd. 343, Volume **IX**, Page 43

UNLAWFUL BENEFITS; LEGISLATORS; GIFTS; A state public official may not, consistent with Wisconsin's Code of Ethics for Public Officials, accept for the official's personal benefit a retailer's discount on equipment and supplies if the retailer limits the discount to state officials and employees. Eth. Bd. 330, Volume **IX**, Page 17

INFLUENCING OFFICIAL JUDGMENT; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; A member of a state board with responsibilities concerning

recreational equipment and activities should not retain the use of equipment and other benefits offered to the member by a manufacturer and seller of that equipment. Eth. Bd. 329, Volume **IX**, Page 13

LOBBYING AND LOBBYISTS; LEGISLATORS; GIFTS; The Ethics Code will not be an obstacle to an organization's providing a video recording service for state public officials as long as state officials represent only a small number of the people to whom the organization extends its offer. Eth. Bd. 291, Volume **VII**, Page 33

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; INFLUENCING OFFICIAL JUDGMENT; GIFTS; Contributions of cash that help meet the ordinary expenses that an association of state governments incurs in connection with a meeting of its members and contributions of food and beverage which are not lavish or extraordinary but help to create a setting conducive to discussion of government and public policy are unlikely to be expected to influence judgments or to be rewards for past actions and are consistent with Wisconsin's Ethics Code.

A business should not furnish a gift for a state official's private benefit unless the thing conveyed is clearly a mere token of good will of only nominal value. Eth. Bd. 246, Volume **V**, Page 107

INFLUENCING OFFICIAL JUDGMENT; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; An official of a state agency with responsibilities related to support and supervision of certain recreational or leisure activities should not accept an offer from a sport club to participate in a recreational outing or accept equipment, food or beverage in connection with the outing. Eth. Bd. 245, Volume **V**, Page 103

GIFTS; IMPROPER USE OF OFFICE; LEGISLATORS; A legislator may not retain a gift conferred upon the legislator because of his or her public office unless the gift is not of substantial value and not likely to influence his or her official judgment. Eth. Bd. 236, Volume **V**, Page 71

GIFTS; A state official's acceptance of a business's gift worth \$80 would violate the Ethics Code's proscription of an official's use of public position to obtain anything of substantial value if the business's only association with the official is because of the latter's public position and the gift is not a payment for a talk or publication authorized by the Ethics Code. Eth. Bd. 233, Volume **V**, Page 57

GIFTS; LEGISLATORS; The Ethics Code forbids a legislator from accepting hospitality from a hotel in appreciation for personal services rendered. Eth. Bd. 232, Volume **V**, Page 55

GIFTS; IMPROPER USE OF OFFICE; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; A state public official should not use his or her name, letterhead, office, or title or prestige of office or permit another to do so, to solicit money or payments or services or other things of value from a person or organization for a meeting of public officials of various states or for the benefit of participants in the meeting unless the official is insulated from knowledge of responses to the solicitation and this insulation is made clear in the solicitation. Eth. Bd. 226, Volume **IV**, Page 93

GIFTS; EXPENSES; STATEMENTS OF ECONOMIC INTERESTS; The provision of transportation and hotel expenses by a foreign country where no valuable consideration was given in return is a gift and must be reported as such on the recipient's Statement of Economic Interests Eth. Bd. 207, Volume **III**, Page 111

GIFTS; STATEMENTS OF ECONOMIC INTERESTS; Transportation provided by a business need not be reported as a gift under extraordinary circumstances. Eth. Bd. 199, Volume **III**, Page 89

GIFTS; A legislator may retain a gift offered him or her if the donor does not have a special interest in the policies or practices of the Legislature, the gift cannot be applied readily to the state's use, and the gift's personal value is likely to exceed both its market and historic value. An official need not have a gift appraised to determine whether the official must identify the donor on the official's Statement of Economic Interests. Eth. Bd. 192, Volume **III**, Page 73

STATEMENTS OF ECONOMIC INTERESTS; GIFTS; Unless received for valuable consideration, a person's membership in a private social club is a gift. A person required to file a Statement of Economic Interests must identify on his or her Statement donors (except certain relatives) from whom he or she received gifts valued at more than \$100 during his or her preceding tax year. Eth. Bd. 191, Volume **III**, Page 71

FEES AND HONORARIUMS; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A judge should report to the Ethics Board his or her reimbursement of expenses received in connection with the judge's address to a fraternal organization.

Acting as another's agent for negotiating a business's sale will not ordinarily involve a meeting within the meaning of § 19.56; consequently reimbursement of expenses for those efforts need not be reported.

A state public official must name on his or her Statement of Economic Interests donors from whom the official has received one or more gifts--including transportation--valued together at more than \$100. Eth. Bd. 187, Volume **III**, Page 59

GIFTS; STATEMENTS OF ECONOMIC INTERESTS; Upon learning that a Statement of Economic Interests filed with the Ethics Board is not complete, a state public official should amend his or her Statement.

State public official's acceptance of a vacation paid for by a corporation should be reported on Statement of Economic Interests. Eth. Bd. 152, Volume **II**, Page 67

GIFTS; LEGISLATORS; A legislator may appropriately accept a gift valued at about \$100 from his or her former employer provided this transaction is identified on the legislator's Statement of Economic Interests. Eth. Bd. 148, Volume **II**, Page 61

JUDGES; GIFTS; A judicial order providing that books presented to judges by publishers of law books are property of court and not the property of the individual judge is consistent with the Code of Ethics for Public Officials. Eth. Bd. 142, Volume **II**, Page 52

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; LOBBYING AND LOBBYISTS; Although an ethics code should not discourage citizens from sharing ideas with their elected representatives, a legislator should not accept entertainment of substantial value from an association with a special interest in Legislature's activities when the legislator is invited because of his or her official position and the event is not conducive to discussion of competing policies affecting the public. Eth. Bd. 183, Volume **II**, Page 125

GIFTS; FEES AND HONORARIUMS; If in connection with official duties a state public official is offered a gift, the official should ordinarily put the gift to use by his or her state

agency or by another public agency. When, however, the gift is of nominal value and of a personal nature, the official may appropriately retain it.

In most cases an official need not report a gift's receipt but must do so when a gift is received in connection with a speaking engagement or a published work or when gifts valued at more than \$100 are received from one donor within a year. Eth. Bd. 168, Volume **II**, Page 92

FEES AND HONORARIUMS; GIFTS: In fulfilling official duties, state public officials should not have to sustain personally any expenses nor should the official profit personally. When attending a meeting in connection with official duties it is generally appropriate for a state public official to accept expenses from the sponsoring organization.

When offered a gift in appreciation of official duties performed, a state public official should, if feasible, dedicate it to a public use; but when the gift is of nominal value and of a personal nature it may be retained. Eth. Bd. 154, Volume **II**, Page 70

GRANTS

GRANTS; DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES: A member of a panel which advises a state agency on the distribution of money should not benefit directly from the panel's actions and should not participate in official activities from which he or she may benefit even indirectly. Eth. Bd. 141, Volume **II**, Page 49

HONORARIUMS

SEE: FEES AND HONORARIUMS

IMPROPER USE OF OFFICE

IMPROPER USE OF OFFICE; LEGISLATORS; UNLAWFUL BENEFITS; GIFTS: The Ethics Code prohibits a legislator from using state resources in his legal representation of a pro bono client in private litigation. It does not bar the legislator's receipt of a gift in token of appreciation from the client. Eth. Bd. 584, Volume **XII**, Page 1

IMPROPER USE OF OFFICE; INFLUENCING OFFICIAL JUDGMENT: A legislator should not rely upon the title, prestige, or resources of his or her office to solicit financial contributions unless the solicitation is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions, or judgment. Eth. Bd. 281, Volume **VII**, Page 19

IMPROPER USE OF OFFICE: A state official's use of the state's equipment does not violate Wisconsin's Ethics Code just because the official obtains a personal benefit from the equipment's use as long as the use is for a public purpose and the personal benefit is merely incidental. Eth. Bd. 252, Volume **VI**, Page 11

IMPROPER USE OF OFFICE; LEGISLATOR; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; INFLUENCING OFFICIAL JUDGMENT: A legislator who is a member of a legislative campaign committee may not invoke the title or prestige of his or her position or office to solicit contributions other than publicly reported political contributions for his or her own benefit or for the benefit of the committee; nor may a legislator rely on the state's supplies, services or facilities not generally available to Wisconsin residents to solicit contributions for a private purpose.

A legislator may solicit financial assistance for an individual person other than himself or herself or a member of his or her immediate family provided the solicitation and acceptance is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions or judgment and cannot reasonably be considered a reward for his or her official action or inaction. Eth. Bd. 244, Volume V, Page 97

LOBBYING AND LOBBYISTS; IMPROPER USE OF OFFICE; The Wisconsin Code of Ethics does not prohibit a legislator from entering into a business arrangement involving the acquisition and operation of a restaurant with other legislators and lobbyists. Eth. Bd. 241, Volume V, Page 87

GIFTS; IMPROPER USE OF OFFICE; LEGISLATORS; A legislator may not retain a gift conferred upon the legislator because of his or her public office unless the gift is not of substantial value and not likely to influence his or her official judgment. Eth. Bd. 236, Volume V, Page 71

IMPROPER USE OF OFFICE; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code bars a public official from taking any official action likely to affect a business in which he or she has a 10% or greater interest unless:

- a. his or her action affects the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class and
- c. his or her action's effect upon the business 1) is neither significantly greater nor less than upon other members of the class or 2) results from the regular process of competitive bids.

In addition the official may not intentionally use or disclose any information which could result in the receipt of anything of value for the business had the information not been communicated to the public.

The business may not enter into a contract or lease involving a payment or payments of more than \$3,000 within 12 months in whole or in part derived from the state's funds unless the official has disclosed in writing the nature and extent of his or her relationship or interest to the Ethics Board and to the department acting for the state with regard to the contract or lease. Eth. Bd. 235, Volume V, Page 65

GIFTS; IMPROPER USE OF OFFICE; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; A state public official should not use his or her name, letterhead, office, or title or prestige of office or permit another to do so, to solicit money or payments or services or other things of value from a person or organization for a meeting of public officials of various states or for the benefit of participants in the meeting unless the official is insulated from knowledge of responses to the solicitation and this insulation is made clear in the solicitation. Eth. Bd. 226, Volume IV, Page 93

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; IMPROPER USE OF OFFICE; A state public official should not use his or her name, letterhead, office or title or prestige of office to solicit money or payments or services or other things of value from another person or organization over whose activities the official must exercise substantial discretion. Eth. Bd. 211, Volume IV, Page 51

IMPROPER USE OF OFFICE; LEGISLATORS; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Code of Ethics for Public Officials and Employees does not prohibit legislators' acceptance of a trip to a foreign country, the expenses of which

are to be borne by the foreign country, if the trip's purpose and the legislators' participation will benefit primarily the state and its residents and any private benefit conferred to the legislators is merely incidental. Eth. Bd. 205, Volume **III**, Page 105

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; PUBLIC CONTRACTS; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees does not necessarily prohibit a full-time, salaried state public official from serving as a director of an organization which has a contract with the state. However, the state public official may not participate in any action (including discussion) which could result in a material conflict of interests. Eth. Bd. 204, Volume **III**, Page 101

BOARDS, COMMISSIONS AND AGENCIES; DISQUALIFICATION; COMPATIBILITY OF OFFICES; IMPROPER USE OF OFFICE; Wisconsin's Code of Ethics for Public Officials and Employees does not require a member of a board, whose members by statute are required to be representatives of local governments, to withdraw from participating in decisions of the board simply because the official is an officer of a local government potentially affected by the Board's actions. However, it would be inappropriate for a member of the board to benefit personally, as opposed to officially, from any action of the board. Eth. Bd. 201, Volume **III**, Page 93

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

BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees would pose no impediment to a person's appointment to a board while the person is an officer of an organization with which the board transacts business. However, the person's private interests would impair his or her ability to participate in the board's actions. Eth. Bd. 197, Volume **III**, Page 83

IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not solicit funds for any organization with which he or she is associated--including a charitable organization of which the official is a director--if the solicitation involves the prestige or other use of the official's public position or office. Eth. Bd. 185, Volume **III**, Page 53

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; In connection with a meeting in Wisconsin of representatives of state governments a state public official may:

- a. Attempt to negotiate a bargain on room rates at local hotels for the benefit of governments sending delegates to this convention;
- b. Arrange an exhibition of office equipment and related products or supplies of special interest to the governments represented at the Association's meetings; and
- c. Facilitate an organization's offer to furnish Wisconsin's customary hospitality to the Association's delegates, provided the event is conducive to discussion of policies, practices, or issues of concern to the Association and the public or representatives of the press are also invited. Eth. Bd. 186, Volume **III**, Page 55

LEGISLATORS; IMPROPER USE OF OFFICE; Wisconsin's Code of Ethics for Public Officials poses no obstacle to a legislator's using the Legislature's word processing center to prepare letters inviting the legislator's constituents to discuss state government and pending legislation at a time the legislator is not a candidate for election to any public office; however, election laws and the Legislature's own guidelines may have some application. Eth. Bd. 174, Volume **II**, Page 105

JURISDICTION; LEGISLATORS; IMPROPER USE OF OFFICE; Establishment of guidelines concerning use of legislative supplies and services is a matter for the Legislature, not the Ethics Board, where conflict between legislator's private interests and public responsibilities is not present. Eth. Bd. 145, Volume **II**, Page 57

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's immediate family is inappropriate. Eth. Bd. 140, Volume **II**, Page 47

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's immediate family is inappropriate. Eth. Bd. 139, Volume **II**, Page 44

INFLUENCING OFFICIAL JUDGMENT

LEGISLATORS; GIFTS; INFLUENCING OFFICIAL JUDGMENT; A legislator may not accept an organization's offer of a personal benefit when the benefit is linked to the legislator's official action concerning the state's relationship with the organization. Eth. Bd. 377, Volume **X**, Page 39

INFLUENCING OFFICIAL JUDGMENT; An agency should not grant a favor to a member of the agency's governing board outside the usual procedure. Eth. Bd. 368, Volume **X**, Page 25

INFLUENCING OFFICIAL JUDGMENT; GIFTS; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; A member of a state board with responsibilities concerning recreational equipment and activities should not retain the use of equipment and other benefits offered to the member by a manufacturer and seller of that equipment. Eth. Bd. 329, Volume **IX**, Page 13

IMPROPER USE OF OFFICE; INFLUENCING OFFICIAL JUDGMENT; A legislator should not rely upon the title, prestige, or resources of his or her office to solicit financial contributions unless the solicitation is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions, or judgment. Eth. Bd. 281, Volume **VII**, Page 19

INFLUENCING OFFICIAL JUDGMENT; BOARDS, COMMISSIONS AND AGENCIES; The Ethics Code will not bar a member of an advisory council from soliciting contributions to further the council's purposes. Eth. Bd. 279, Volume **VII**, Page 9

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; INFLUENCING OFFICIAL JUDGMENT; GIFTS; Contributions of cash that help meet the ordinary expenses that an association of state governments incurs in connection with a meeting of its members and contributions of food and beverage which are not lavish or extraordinary but help to create a setting conducive to discussion of government and public policy are unlikely to be expected to influence judgments or to be rewards for past actions and are consistent with Wisconsin's Ethics Code.

A business should not furnish a gift for a state official's private benefit unless the thing conveyed is clearly a mere token of good will of only nominal value. Eth. Bd. 246, Volume V, Page 107

INFLUENCING OFFICIAL JUDGMENT; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; An official of a state agency with responsibilities related to support and supervision of certain recreational or leisure activities should not accept an offer from a sport club to participate in a recreational outing or accept equipment, food or beverage in connection with the outing. Eth. Bd. 245, Volume V, Page 103

IMPROPER USE OF OFFICE; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; INFLUENCING OFFICIAL JUDGMENT; A legislator who is a member of a legislative campaign committee may not invoke the title or prestige of his or her position or office to solicit contributions other than publicly reported political contributions for his or her own benefit or for the benefit of the committee; nor may a legislator rely on the state's supplies, services or facilities not generally available to Wisconsin residents to solicit contributions for a private purpose.

A legislator may solicit financial assistance for an individual person other than himself or herself or a member of his or her immediate family provided the solicitation and acceptance is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions or judgment and cannot reasonably be considered a reward for his or her official action or inaction. Eth. Bd. 244, Volume V, Page 97

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; FEES AND HONORARIUMS; INFLUENCING OFFICIAL JUDGMENT; A special interest group should not offer a substantial fee to a legislator's spouse for personal services unless the legislator will not derive any benefit from the payment or the paying organization can clearly demonstrate that the legislator's spouse was chosen and the fee established without regard to the legislator's public position. Eth. Bd. 240, Volume V, Page 83

INTERAGENCY COOPERATION

INTERAGENCY COOPERATION; The Ethics Code does not impede participation by a faculty member of the University of Wisconsin in an employment interchange with another state agency. The Code of Ethics for Public Officials and Employees applies to a person who holds a state public office because of such an interchange. Eth. Bd. 231, Volume V, Page 51

REPRESENTATION OF CLIENTS; LEGISLATORS; INTERAGENCY COOPERATION; PUBLIC CONTRACTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not pose an obstacle to a legislator's representing a client before a judicial officer, including a district attorney, in either a civil or criminal proceeding.

A legislator may not represent a client before the Department of Health and Social Services or before the Office of the Governor except in very limited circumstances.

The Ethics Code does not bar an attorney who is a member of the legislature from representing a defendant in a criminal or paternity case when remuneration is paid by the Office of the State Public Defender; but the legislator should notify the Ethics Board and the State Public Defender of the proposed arrangement prior to accepting that appointment if the legislator is likely to receive more than \$3,000 from the Office of the State Public Defender within 12 months. Eth. Bd. 221, Volume **IV**, Page 77

INTERAGENCY COOPERATION; A judicial officer may teach a course, for modest compensation, at the University of Wisconsin provided this undertaking does not interfere with his or her official responsibilities. Eth. Bd. 213, Volume **IV**, Page 57

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; INTERAGENCY COOPERATION; FEES AND HONORARIUMS; COMPATIBILITY OF OFFICES; JURISDICTION; § 19.56, *Wisconsin Statutes*, encourages state public officials to meet with people and organizations to discuss the legislative process and public policy. However, this section should not be read as an exception to that section of the statutes prohibiting a commissioner from holding any other position of profit or from pursuing any other business or vocation. Eth. Bd. 203, Volume **III**, Page 99

INTERAGENCY COOPERATION; LEGISLATORS; A legislator should not accept compensation for teaching a course at the University of Wisconsin. Eth. Bd. 182, Volume **II**, Page 44

FEES AND HONORARIUMS; INTERAGENCY COOPERATION; EXPENSES; No general rule concerning an honorarium's reasonableness can be stated.

The Ethics Code is inapplicable to an official's acceptance of compensation for a speaking engagement to which state office has no relevance.

Although a state official should not, except under extraordinary circumstances, accept compensation from a state agency in connection with a speaking engagement, the Ethics Code does not bar an official's receipt of expenses or reasonable compensation from a governmental agency. Eth. Bd. 181, Volume **II**, Page 117

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; LEGISLATORS; INTERAGENCY COOPERATION; A legislator's filing of a claim for a per diem for a day on which the legislator accepted an invitation to dine with the Governor at the Executive residence is consistent with Wisconsin's Code of Ethics for Public Officials. Eth. Bd. 179, Volume **II**, Page 113

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's immediate family is inappropriate. Eth. Bd. 140, Volume **II**, Page 47

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's immediate family is inappropriate. Eth. Bd. 139, Volume **II**, Page 44

JUDGES

JUDGES; A judge should not retain even an unsolicited gratuity for officiating in a marriage at a courthouse regardless of the hour in which the marriage is performed. Eth. Bd. 257, Volume **VI**, Page 23

JUDGES; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; The Ethics Code will not pose an obstacle to a judge's teaching a business law course for a payment that does not exceed \$5,000. Eth. Bd. 250, Volume **VI**, Page 5

JUDGES; FEES AND HONORARIUMS; Although the Ethics Code does not bar a judge from accepting an honorarium for officiating at a wedding at a courthouse if the judge contributes the payment to a charitable organization other than one with which he or she is associated, the Board recommends that a judge transmit a payment pressed upon the judge for officiating in a marriage at a courthouse to the appropriate county treasurer or to the director of state courts for deposit to the public account from which maintenance of the courthouse or judicial salaries is met. Eth. Bd. 224, Volume **IV**, Page 85

JUDGES; DISQUALIFICATION; FEES AND HONORARIUMS; The public's perception of an impartial judiciary would best be served by a judge's withdrawal from officiating in matters involving the judge's business associates, even though the Ethics Code does not require that result in all cases. Eth. Bd. 210, Volume **IV**, Page 49

JUDGES; Judge may maintain real estate broker's license on inactive basis. Eth. Bd. 158, Volume **II**, Page 76

JUDGES; FEES AND HONORARIUMS;..A judge may appropriately accept an honorarium of \$50 for officiating at a wedding elsewhere than at the courthouse, and need not report the honorarium's receipt to the Ethics Board. Eth. Bd. 151, Volume **II**, Page 66

JUDGES; FEES AND HONORARIUMS; § 19.56, *Wisconsin Statutes*, does not require a judge to report to the Ethics Board compensation or reimbursement of expenses received in connection with the judge's solemnization of a marriage. Eth. Bd. 147, Volume **II**, Page 60

FEES AND HONORARIUMS; JUDGES; A judge may accept a reasonable fee for officiating at a wedding elsewhere than at the courthouse and usually need not report the fee to the Ethics Board. Fees received in connection with marriages at the courthouse should be turned over to the appropriate account. Eth. Bd. 146, Volume **II**, Page 58

JUDGES; GIFTS; A judicial order providing that books presented to judges by publishers of law books are property of court and not the property of individual judge is consistent with the Code of Ethics for Public Officials. Eth. Bd. 142, Volume **II**, Page 52

JURISDICTION

JURISDICTION; A state official should consult the Department of Justice, not the Ethics Board, about the meaning of a statute not a part of the Ethics Code. Eth. Bd. 331, Volume **IX**, Page 19

JURISDICTION; The Ethics Code does not advise one party concerning another's conduct. Eth. Bd. 286, Volume **VII**, Page 29

JURISDICTION; Questions concerning potential conflicts between the public responsibilities and the private interests of an employe of the State of Wisconsin who holds a position in the classified civil services should be directed to the Administrator of the Division of Merit Recruitment and Selection in the Department of Employment Relations. Eth. Bd. 285, Volume **VII**, Page 27

JURISDICTION; A question concerning the public responsibilities of a state employe not subject to Wisconsin's Ethics Code should be directed to the Administrator of the Division of Personnel in the Department of Employment Relations. Eth. Bd. 255, Volume **VI**, Page 21

JURISDICTION; Although the Ethics Code may advise anyone about the propriety of a matter to which the person is a party, a classified state employe should ordinarily look to the Administrator of the Division of Personnel rather than to the Ethics Board for guidance concerning potential conflicts between the employe's public responsibilities and private interests. Eth. Bd. 217, Volume **IV**, Page 67

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; INTERAGENCY COOPERATION; FEES AND HONORARIUMS; COMPATIBILITY OF OFFICES; JURISDICTION; § 19.56, *Wisconsin Statutes*, encourages state public officials to meet with people and organizations to discuss the legislative process and public policy. However, this section should not be read as an exception to that section of the statutes prohibiting a commissioner from holding any other position of profit or from pursuing any other business or vocation. Eth. Bd. 203, Volume **III**, Page 99

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

JURISDICTION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; Effective July 1, 1978, the Code of Ethics for Public Officials no longer applies to assistant chancellors, associate and assistant vice-chancellors, administrative directors or associate directors in the University of Wisconsin System. Eth. Bd. 155, Volume **II**, Page 72

JURISDICTION; LEGISLATORS; IMPROPER USE OF OFFICE; Establishment of guidelines concerning use of legislative supplies and services is a matter for the Legislature, not the Ethics Board, where conflict between legislator's private interests and public responsibilities is not present. Eth. Bd. 145, Volume **II**, Page 57

LAWYERS

SEE: REPRESENTATION OF CLIENTS

LEASES

SEE: REAL PROPERTY

LEGISLATIVE EMPLOYES

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; LEGISLATIVE EMPLOYEES; LEGISLATORS; The Ethics Code will not be an obstacle to a legislator's affixing or causing legislative employees to affix to highway maps of Wisconsin information that furthers a public purpose including information that informs the maps' recipients of the name and mailing address of the legislator elected from the recipient's legislative district and the telephone numbers by which they may call state officials toll free to express their concerns about the state's actions and their support for or opposition to proposals pending before the Legislature. The greater the label's content of public information and the further the distribution from a campaign at which the distributor will stand for election, the more clearly it fulfills a public purpose. In this instance, the action about which you have asked is consistent with the Ethics Code. Eth. Bd. 308, Volume VIII, Page 49

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

LEGISLATORS

IMPROPER USE OF OFFICE; LEGISLATORS; UNLAWFUL BENEFITS; GIFTS; The Ethics Code prohibits a legislator from using state resources in his legal representation of a pro bono client in private litigation. It does not bar the legislator's receipt of a gift in token of appreciation from the client. Eth. Bd. 584, Volume XII, Page 1

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with which he or she is associated but prohibits retaining compensation for referral of clients for whom the legislator has not previously provided legal services unless the legislator's relationship with the client arises and remains manifestly independent of the legislator's public position. Supreme Court Rules may also apply. Eth. Bd. 383, Volume X, Page 57

EXPENSES; LEGISLATORS; In connection with a legislator's participation in the regular, annual meeting of a private organization, the organization should neither reimburse the legislator for travel and lodging costs nor pay those costs directly. The legislator should meet those costs personally and then recover that portion of the expenses, if any, for which the legislator is entitled to reimbursement by submitting a travel expense claim to the chief clerk of his or her house. The organization, if it is willing to defray all or a part of those costs, should direct the organization's payment to the appropriate chief clerk for deposit in the appropriate account. Eth. Bd. 382, Volume X, Page 53

SOLICITATION OF FUNDS; LEGISLATORS; A legislator may not solicit funds for an organization with which he or she is associated. A legislator may retain reimbursement or direct payment of expenses for presentation of a talk or participation in a meeting, regardless of whether the travel costs are paid directly by the organization or paid by the organization with funds derived from Wisconsin-based corporations. A legislator may retain research and other services provided by the organization in furtherance of the legislator's official duties. Eth. Bd. 380, Volume X, Page 47

FEES AND HONORARIUMS; LEGISLATORS; A legislator may not accept an honorarium for a talk to a class at the University of Wisconsin. Eth. Bd. 379, Volume **X**, Page 43

LEGISLATORS; GIFTS; INFLUENCING OFFICIAL JUDGMENT; A legislator may not accept an organization's offer of a personal benefit when the benefit is linked to the legislator's official action concerning the state's relationship with the organization. Eth. Bd. 377, Volume **X**, Page 39

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with which he or she is associated but prohibits retaining compensation for referral of clients for whom the legislator has not previously provided legal services. Supreme Court Rules may also apply. Eth. Bd. 375, Volume **X**, Page 35

DUAL EMPLOYMENT; FEES AND HONORARIUMS; LEGISLATORS; The Ethics Board recommends that legislators not retain compensation from state agencies. Eth. Bd. 352, Volume **IX**, Page 55

UNLAWFUL BENEFITS; LEGISLATORS; GIFTS; A state public official may not, consistent with Wisconsin's Code of Ethics for Public Officials, accept for the official's personal benefit a retailer's discount on equipment and supplies if the retailer limits the discount to state officials and employees. Eth. Bd. 330, Volume **IX**, Page 17

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; LEGISLATIVE EMPLOYEES; LEGISLATORS; The Ethics Code will not be an obstacle to a legislator's affixing or causing legislative employees to affix to highway maps of Wisconsin information that furthers a public purpose including information that informs the maps' recipients of the name and mailing address of the legislator elected from the recipient's legislative district and the telephone numbers by which they may call state officials toll free to express their concerns about the state's actions and their support for or opposition to proposals pending before the Legislature. The greater the label's content of public information and the further the distribution from a campaign at which the distributor will stand for election, the more clearly it fulfills a public purpose. In this instance, the action about which you have asked is consistent with the Ethics Code. Eth. Bd. 308, Volume **VIII**, Page 49

LEGISLATORS; DISQUALIFICATION; A legislator who practices a trade or profession may participate in votes, deliberations, discussions and other legislative activities likely to affect that trade or profession as long as:

- a. The legislator's presence in the class of people affected by the legislator's action is insignificant when compared to the number of similarly situated people in the affected class, and
- b. The legislator's actions' effects upon himself or herself are neither significantly greater nor less than upon other members of the class. Eth. Bd. 300, Volume **VIII**, Page 21

LOBBYING AND LOBBYISTS; LEGISLATORS; GIFTS; The Ethics Code will not be an obstacle to an organization's providing a video recording service for state public officials as long as state officials represent only a small number of the people to whom the organization extends its offer. Eth. Bd. 291, Volume **VII**, Page 33

LOBBYING AND LOBBYISTS; LEGISLATORS; A legislator should not accept an association's offer to furnish the legislator with a video recording service that permits the official to record without cost to the official a message of the official's choice for use by television operators. Eth. Bd. 277, Volume VII, Page 1

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; A hotel should not offer legislators a better rate for rooms or other services than it offers other people similarly situated, and the group of people to which a special rate is offered should not be so narrowly defined as to preclude anyone other than a legislator from qualifying for the discount. The Board discourages the hotel's offering legislators a 10% discount on food and beverages charged to their rooms. Eth. Bd. 258, Volume VI, Page 25

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; LEGISLATORS; The Ethics Code will not pose an obstacle to a legislator's participation in a program in which the legislator advises the program's participants how to deal with local, state or federal officials nor the legislator's acceptance of reasonable compensation or reimbursement of expenses for that undertaking provided as long as the legislator does not prepare for or present the program with the use of the state's time or of its facilities, services or supplies not generally available to all citizens.

The Legislature should not promote these programs to prospective clients or arrange their content or fee with prospective clients.

Within 60 days of being paid for participating in the seminar, the legislator should file with the chief clerk of his or her house a statement identifying the amount of the payment, the group to which the payment was made, and the payor of the fee. Eth. Bd. 249, Volume VI, Page 1

LEGISLATORS; CAMPAIGN ACTIVITIES; The Ethics Code does not prohibit a legislator's preparation and distribution of a newsletter that mentions the reason the legislator is not seeking reelection as long as the information is presented as an unadorned statement of fact that could not reasonably be considered an attempt to solicit support for his or her election to another elective office. Eth. Bd. 247, Volume V, Page 111

IMPROPER USE OF OFFICE; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; INFLUENCING OFFICIAL JUDGMENT; A legislator who is a member of a legislative campaign committee may not invoke the title or prestige of his or her position or office to solicit contributions other than publicly reported political contributions for his or her own benefit or for the benefit of the committee; nor may a legislator rely on the state's supplies, services or facilities not generally available to Wisconsin residents to solicit contributions for a private purpose.

A legislator may solicit financial assistance for an individual person other than himself or herself or a member of his or her immediate family provided the solicitation and acceptance is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions or judgment and cannot reasonably be considered a reward for his or her official action or inaction. Eth. Bd. 244, Volume V, Page 97

GIFTS; IMPROPER USE OF OFFICE; LEGISLATORS; A legislator may not retain a gift conferred upon the legislator because of his or her public office unless the gift is not of substantial value and not likely to influence his or her official judgment. Eth. Bd. 236, Volume V, Page 71

LEGISLATORS; DISQUALIFICATION; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; EMPLOYMENT CONFLICTING WITH OFFICIAL

RESPONSIBILITIES; A legislator should not participate in votes, deliberations, discussions, or other legislative activity likely to affect a business with which he or she is associated except to the extent that:

- a. the legislator's actions affect the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class, and
- c. the legislator's actions' effects upon the business are neither significantly greater nor less than upon other members of the class. Eth. Bd. 234, Volume V, Page 59

GIFTS; LEGISLATORS; The Ethics Code forbids a legislator from accepting hospitality from a hotel in appreciation for personal services rendered. Eth. Bd. 232, Volume V, Page 55

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

REPRESENTATION OF CLIENTS; LEGISLATORS; INTERAGENCY COOPERATION; PUBLIC CONTRACTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not pose an obstacle to a legislator's representing a client before a judicial officer, including a district attorney, in either a civil or criminal proceeding.

A legislator may not represent a client before the Department of Health and Social Services or before the Office of the Governor except in very limited circumstances.

The Ethics Code does not bar an attorney who is a member of the legislature from representing a defendant in a criminal or paternity case when remuneration is paid by the Office of the State Public Defender; but the legislator should notify the Ethics Board and the State Public Defender of the proposed arrangement prior to accepting that appointment if the legislator is likely to receive more than \$3,000 from the Office of the State Public Defender within 12 months. Eth. Bd. 221, Volume IV, Page 77

FEES AND HONORARIUMS; LEGISLATORS; A legislator is not prohibited from accepting a reasonable honorarium for a speaking engagement if the activity was accomplished without the use of the State's time, facilities, services, or supplies not generally available to all Wisconsin's citizens. If the legislator retains the honorarium or any portion of it, the legislator must report to the chief clerk of his or her house the amount of the payment retained together with a brief description of the circumstances for which the payment was received. Eth. Bd. 212, Volume IV, Page 55

IMPROPER USE OF OFFICE; LEGISLATORS; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Code of Ethics for Public Officials and Employees does not prohibit legislators' acceptance of a trip to a foreign country, the expenses of which are to be borne by the foreign country, if the trip's purpose and the legislators' participation will benefit primarily the state and its residents and any private benefit conferred to the legislators is merely incidental. Eth. Bd. 205, Volume III, Page 105

DISQUALIFICATION; LEGISLATORS; The Ethics Code does not require a legislator to withdraw from votes, deliberations, or other actions concerning legislation that might affect organizations of the type with which his or her spouse is associated.

A legislator must give the Ethics Board and the presiding officer of his or her house written statement describing the legislator's substantial interest in a matter before the house of the Legislature. The presiding officer must have the statement published in the legislative journal. A legislator may satisfy this requirement by filing a blanket statement of matters in which the legislator and his or her immediate family are substantially interested. Eth. Bd. 190, Volume III, Page 67

INTERAGENCY COOPERATION; LEGISLATORS; A legislator should not accept compensation for teaching a course at the University of Wisconsin. Eth. Bd. 182, Volume II, Page 122

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; LEGISLATORS; INTERAGENCY COOPERATION; A legislator's filing of a claim for a per diem for a day on which the legislator accepted an invitation to dine with the Governor at the Executive residence is consistent with Wisconsin's Code of Ethics for Public Officials. Eth. Bd. 179, Volume II, Page 113

LEGISLATORS; IMPROPER USE OF OFFICE; Wisconsin's Code of Ethics for Public Officials poses no obstacle to a legislator's using the Legislature's word processing center to prepare letters inviting the legislator's constituents to discuss state government and pending legislation at a time the legislator is not a candidate for election to any public office; however, election laws and the Legislature's own guidelines may have some application. Eth. Bd. 174, Volume II, Page 105

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for Public Officials and Employes poses no obstacle to an agency's chief executive's service on a policy making board of another agency when the duties and activities of the two agencies are unrelated. Nor does the Ethics Code bar an official of a state agency from providing lodging to a legislator under the circumstances described. Eth. Bd. 173, Volume II, Page 103

FEES AND HONORARIUMS; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislator should not accept a fee for delivery of a talk prepared by legislative employes. A legislator should not accept an honorarium exceeding \$100 from an organization with a special interest in actions of the committee chaired by the legislator. An honorarium received by a legislator should be reported to the chief clerk. Eth. Bd. 164, Volume II, Page 84

GIFTS; LEGISLATORS; A legislator may appropriately accept a gift valued at about \$100 from his or her former employer provided this transaction is identified on the legislator's Statement of Economic Interests. Eth. Bd. 148, Volume II, Page 61

JURISDICTION; LEGISLATORS; IMPROPER USE OF OFFICE; Establishment of guidelines concerning use of legislative supplies and services is a matter for the Legislature, not the Ethics Board, where conflict between legislator's private interests and public responsibilities is not present. Eth. Bd. 145, Volume II, Page 57

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's family is inappropriate. Eth. Bd. 140, Volume **II**, Page 47

IMPROPER USE OF OFFICE; INTERAGENCY COOPERATION; LEGISLATORS; A legislator's use of a pass given the legislator by a state agency for the legislator's use in reviewing the agency's programs is consistent with the Code of Ethics for Public Officials; but a legislator's use of such a pass for other purposes including the private benefit of members of the legislator's family is inappropriate. Eth. Bd. 139, Volume **II**, Page 47

LOBBYING AND LOBBYISTS

LOBBYING AND LOBBYISTS; Consistent with Wisconsin's Ethics Code a trade association could sponsor a golf outing for state officials and employees, lobbyists and their principals, and for others when the event's costs were met by each participant's payment of a uniform fee; but the event's sponsor should not proceed without consulting the administrator of Wisconsin's lobbying laws. Eth. Bd. 355, Volume **IX**, Page 59

LOBBYING AND LOBBYISTS; A member of a state board's being a lobbyist is discussed. Eth. Bd. 313, Volume **VIII**, Page 61

LOBBYING AND LOBBYISTS; LEGISLATORS; GIFTS; The Ethics Code will not be an obstacle to an organization's providing a video recording service for state public officials as long as state officials represent only a small number of the people to whom the organization extends its offer. Eth. Bd. 291, Volume **VII**, Page 33

LOBBYING AND LOBBYISTS; LEGISLATORS; A legislator should not accept an association's offer to furnish the legislator with a video recording service that permits the official to record without cost to the official a message of the official's choice for use by television operators. Eth. Bd. 277, Volume **VII**, Page 1

LOBBYING AND LOBBYISTS; IMPROPER USE OF OFFICE; The Wisconsin Code of Ethics does not prohibit a legislator from entering into a business arrangement involving the acquisition and operation of a restaurant with other legislators and lobbyists. Eth. Bd. 241, Volume **V**, Page 87

LOBBYING AND LOBBYISTS; A lobbyist should not undertake legal work for a state public official under circumstances that will permit a person to reasonably conclude that the work will influence the official or that it will be perceived as a reward for official action or inaction. Eth. Bd. 220, Volume **IV**, page 75

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LOBBYING AND LOBBYISTS; The Wisconsin Code of Ethics for Public Officials and Employees does not prohibit a legislator and a lobbyist from entering into a business arrangement involving the purchase of a duplex whereby they would reside in one half and rent the other half to a tenant. Eth. Bd. 219, Volume **IV**, Page 73

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; LOBBYING AND LOBBYISTS; Although an ethics code should not discourage citizens from sharing ideas

with their elected representatives, a legislator should not accept entertainment of substantial value from an association with a special interest in Legislature's activities when the legislator is invited because of his or her official position and the event is not conducive to discussion of competing policies affecting the public. Eth. Bd. 183, Volume II, Page 125

MEALS, LODGING, TRAVEL AND ENTERTAINMENT

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; SOLICITATION OF FUNDS; A state public official should neither solicit nor retain contributions from businesses regulated by the state agency of which the official is chief executive. Eth. Bd. 325, Volume IX, Page 9

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; The Ethics Code does not require a state official to account publicly for his or her receipt of transportation if the benefit derived redounds to the State of Wisconsin rather than to the official. Eth. Bd. 267, Volume VI, Page 37

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; A hotel should not offer legislators a better rate for rooms or other services than it offers other people similarly situated, and the group of people to which a special rate is offered should not be so narrowly defined as to preclude anyone other than a legislator from qualifying for the discount. The Board discourages the hotel's offering legislators a 10% discount on food and beverages charged to their rooms. Eth. Bd. 258, Volume VI, Page 25

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; When an invitation to a social event comes to a state public official because of his or her public position, the official may, consistent with the Ethics Code, accept the invitation if it is appropriate for the official to accept it as a representative of the State of Wisconsin. An official should not accept an invitation extended because of his or her public position if the event is not one at which it is appropriate for the official to appear as an official representative of the State of Wisconsin. Eth. Bd. 253, Volume VI, Page 13

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; INFLUENCING OFFICIAL JUDGMENT; GIFTS; Contributions of cash that help meet the ordinary expenses that an association of state governments incurs in connection with a meeting of its members and contributions of food and beverage which are not lavish or extraordinary but help to create a setting conducive to discussion of government and public policy are unlikely to be expected to influence judgments or to be rewards for past actions and are consistent with Wisconsin's Ethics Code.

A business should not furnish a gift for a state official's private benefit unless the thing conveyed is clearly a mere token of good will of only nominal value. Eth. Bd. 246, Volume V, Page 107

INFLUENCING OFFICIAL JUDGMENT; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; An official of a state agency with responsibilities related to support and supervision of certain recreational or leisure activities should not accept an offer from a sport club to participate in a recreational outing or accept equipment, food or beverage in connection with the outing. Eth. Bd. 245, Volume V, Page 103

GIFTS; IMPROPER USE OF OFFICE; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; A state public official should not use his or her name, letterhead, office, or title or prestige of office or permit another to do so, to solicit money or payments or services or other things of value from a person or organization for a meeting of public

officials of various states or for the benefit of participants in the meeting unless the official is insulated from knowledge of responses to the solicitation and this insulation is made clear in the solicitation. Eth. Bd. 226, Volume **IV**, Page 93

LOBBYING AND LOBBYISTS; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; The Wisconsin Code of Ethics for Public Officials and Employees does not prohibit a legislator and a lobbyist from entering into a business arrangement involving the purchase of a duplex whereby they would reside in one half and rent the other half to a tenant. Eth. Bd. 219, Volume **IV**, Page 73

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not use his or her name, letterhead, office or title or prestige of office to solicit money or payments or services or other things of value from another person or organization over whose activities the official must exercise substantial discretion. Eth. Bd. 211, Volume **IV**, Page 51

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Ethics Code does not pose any impediment to a business's offer to a legislator or to a legislator's acceptance of a business's invitation to participate in a conference the purpose of which is to provide candidates for election to the Legislature with information to help them deal with matters affecting the regulated industry in which the business is engaged. Eth. Bd. 208, Volume **IV**, Page 41

IMPROPER USE OF OFFICE; LEGISLATORS; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; The Code of Ethics for Public Officials and Employees does not prohibit legislators' acceptance of a trip to a foreign country, the expenses of which are to be borne by the foreign country, if the trip's purpose and the legislators' participation will benefit primarily the state and its residents and any private benefit conferred to the legislators is merely incidental. Eth. Bd. 205, Volume **III**, Page 105

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; In connection with a meeting in Wisconsin of representatives of state governments a state public official may:

- a. Attempt to negotiate a bargain on room rates at local hotels for the benefit of governments sending delegates to this convention;
- b. Arrange an exhibition of office equipment and related products or supplies of special interest to the governments represented at the Association's meetings; and
- c. Facilitate an organization's offer to furnish Wisconsin's customary hospitality to the Association's delegates, provided the event is conducive to discussion of policies, practices, or issues of concern to the Association and the public or representatives of the press are also invited. Eth. Bd. 186, Volume **III**, Page 55

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; GIFTS; LOBBYING AND LOBBYISTS; Although an ethics code should not discourage citizens from sharing ideas with their elected representatives, a legislator should not accept entertainment of substantial value from an association with a special interest in Legislature's activities when the legislator is invited because of his or her official position and the event is not conducive to discussion of competing policies affecting the public. Eth. Bd. 183, Volume **II**, Page 125

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; EXPENSES; LEGISLATORS; INTERAGENCY COOPERATION; A legislator's filing of a claim for a per diem for a day on which the legislator accepted an invitation to dine with the Governor at the Executive residence is consistent with Wisconsin's Code of Ethics for Public Officials. Eth. Bd. 179, Volume **II**, Page 113

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; Breweries may contribute beer to social event to which state officials, lobbyists and representatives of news media are invited. Eth. Bd. 176, Volume **II**, Page 109

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; LEGISLATORS; COMPATIBILITY OF OFFICES; Wisconsin's Code of Ethics for Public Officials and Employes poses no obstacle to an agency's chief executive's service on a policy making board of another agency when the duties and activities of the two agencies are unrelated. Nor does the Ethics Code bar an official of a state agency from providing lodging to a legislator under the circumstances described. Eth. Bd. 173, Volume **II**, Page 103

FEES AND HONORARIUMS; EXPENSES; MEALS, LODGING, TRAVEL AND ENTERTAINMENT; BOARDS, COMMISSIONS AND AGENCIES; In connection with its sponsorship of a bonafide meeting, a professional association may appropriately offer a modest honorarium to each participating state public official other than a member or employe of a board or agency that regulates the profession practiced by the association's members and may appropriately reimburse all state public officials for actual and necessary expenses they incur as a result of their participation in the meeting and invite the participants to be the association's guests at a luncheon held in connection with the meeting. Eth. Bd. 172, Volume **II**, Page 101

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; The Code of Ethics does not bar an organization's sponsorship at the Capitol of small reception conducive to discussion of policies, practices or issues of concern to the organization or to the Legislature to which legislators and representatives of the press are invited. Eth. Bd. 166, Volume **II**, Page 88

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; PUBLIC CONTRACTS; State public officials may partake of refreshments offered by a distributor of office equipment insofar as their value is clearly nominal and the circumstances are conducive to review and discussion of the equipment marketed. Eth. Bd. 153, Volume **II**, Page 68

MOONLIGHTING

SEE: EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES

NEPOTISM

NEPOTISM; A state public official in the official's public capacity should not exercise jurisdiction, supervision, or direction over a person to whom he or she is related as a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, or spouse. Eth. Bd. 533, Volume **XI**, Page 15

NEPOTISM; A person's membership on a state board is not an obstacle to his or her spouse's employment by a private foundation that operates independently of the state board

and for which the state board lacks authority to approve, disapprove or act with respect to the foundation's employment of staff. Eth. Bd. 337, Volume IX, Page 33

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; An official of a state agency may serve as director of a private corporation that provides services to the agency and whose parent company has granted funds to the agency as long as the person (a) does not rely upon the state's time, facilities, supplies, and services not generally available to anyone and (b) the person's membership on the corporation's board does not pose an unavoidable conflict of substance between the person's responsibilities to the agency and the person's fiduciary responsibilities to the corporation.

The official should not accept the private position unless and until the official has obtained (a) the agreement of his or her appointing authority that this activity will not conflict with the official's responsibilities to the agency and (b) verification that the action is consistent with Wisconsin's lobbying laws. Eth. Bd. 369, Volume X, Page 27

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; A state public official may not use his or her public office or position to obtain financial gain or anything of substantial value for an organization of which the official or the official's spouse is an officer or director or otherwise associated nor may the official act officially with respect to a matter in which an organization has a substantial financial interest if the official or the official's spouse is associated with the organization. However, Wisconsin's Ethics Code does not pose an obstacle to an official's being a director of an organization merely because the official's spouse is associated with the same organization. Eth. Bd. 301, Volume VIII, Page 23

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; A state official should not be a director of an organization that has a substantial, indirect, financial interest in the agency's actions. Eth. Bd. 299, Volume VIII, Page 17

BOARDS, COMMISSIONS AND AGENCIES; EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; The Ethics Code forbids a member of a part-time board to act both for the State of Wisconsin and for a corporation of which the person is an officer in the same transaction if the transaction results in the State's payment of money to the corporation. Eth. Bd. 295, Volume VIII, Page 3

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

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; STATEMENTS OF ECONOMIC INTERESTS; A member of the State Building Commission is not obliged to mention on his or her Statement of Economic Interests that the member is a director of the Wisconsin State Building Corporation or the Wisconsin State Agencies Building Corporation. Eth. Bd. 237, Volume V, Page 75

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; DISQUALIFICATION; LEGISLATORS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; A legislator should not participate in votes, deliberations, discussions, or other legislative activity likely to affect a business with which he or she is associated except to the extent that:

- a. the legislator's actions affect the whole class of similarly situated businesses,
- b. the business's presence in the class is insignificant when compared to the number of members of the class, and
- c. the effects of the legislator's actions upon the business are neither significantly greater nor less than upon other members of the class. Eth. Bd. 234, Volume V, Page 59

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not use his or her name, letterhead, office or title or prestige of office to solicit money or payments or services or other things of value from another person or organization over whose activities the official must exercise substantial discretion. Eth. Bd. 211, Volume IV, Page 51

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; PUBLIC CONTRACTS; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees does not necessarily prohibit a full-time, salaried state public official from serving as a director of an organization which has a contract with the state. However, the state public official may not participate in any action (including discussion) which could result in a material conflict of interests. Eth. Bd. 204, Volume III, Page 101

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; BOARDS, COMMISSIONS AND AGENCIES; COMPATIBILITY OF OFFICES; The Ethics Board continues to recommend that no member of a regulatory board be an officer, director, trustee, employe, or authorized representative of or a paid consultant to a trade or professional organization which is organized to promote or affect the practice of the occupation or profession regulated by that board.

A state public official's membership on an examining board does not necessarily preclude holding an office or directorship in an association which is involved in issues of public policies if the association is not organized to promote or affect the practice of the occupation or profession regulated by the examining board. Eth. Bd. 196, Volume III, Page 81

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; In connection with a meeting in Wisconsin of representatives of state governments a state public official may:

- a. Attempt to negotiate a bargain on room rates at local hotels for the benefit of governments sending delegates to this convention;
- b. Arrange an exhibition of office equipment and related products or supplies of special interest to the governments represented at the Association's meetings; and
- c. Facilitate an organization's offer to furnish Wisconsin's customary hospitality to the Association's delegates, provided the event is conducive to discussion of policies, practices, or issues of concern to the Association and the public or representatives of the press are also invited. Eth. Bd. 186, Volume III, Page 55

IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not solicit funds for any organization with which he or she is associated--including a charitable organization of which the official is a director--if the solicitation involves the prestige or other use of the official's public position or office. Eth. Bd. 185, Volume **III**, Page 53

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; BOARDS, COMMISSIONS AND AGENCIES; Although the Ethics Board continues to recommend that no member of a regulatory board be an officer, director, trustee, employe, or authorized representative of or a paid consultant to a trade or professional organization which is organized to promote or affect the practice of the occupation or profession regulated by that board, the Ethics Code does not pose any obstacle to a person's holding an office in a social organization unaffected by the regulatory board of which the person is a member. Eth. Bd. 175, Volume **II**, Page 107

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; The Code of Ethics does not pose any difficulty to a state public official's accepting an appointment as a director of a charitable organization created to pursue medical research and education when the official's public responsibilities are unrelated to the organization's interests. Eth. Bd. 159, Volume **II**, Page 77

FEES AND HONORARIUMS; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; A state public official may retain compensation offered to him or her by a professional organization for participation in its activities only if the official's participation is not part of his or her official responsibilities and the official participates during hours for which he or she is not compensated by the state. Eth. Bd. 144, Volume **II**, Page 54

OUTSIDE EMPLOYMENT

SEE: EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES

POST EMPLOYMENT

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with which he or she is associated but prohibits retaining compensation for referral of clients for whom the legislator has not previously provided legal services unless the legislator's relationship with the client arises and remains manifestly independent of the legislator's public position. Supreme Court Rules may also apply. Eth. Bd. 383, Volume **X**, Page 57

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; The Ethics Code does not forbid a legislator from retaining compensation for legal services he or she performs for a law firm with a referral of clients for whom the legislator has not previously provided legal services. Supreme Court Rules may also apply. Eth. Bd. 375, Volume **X**, Page 35

DISQUALIFICATION; REPRESENTATION OF CLIENTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; With respect to a member of a state board, the Ethics Code's application to these circumstances is discussed:

- a. Official action directly affecting the official's personal interest;
- b. Official action directly affecting a client of the official's firm;
- c. Action the official, in a public capacity, may take involving a matter in which the official personally or a client of the official's firm is interested; and
- d. Action the official, in a private capacity, or a member or employe of the official's firm may take involving a matter about which the official, as a public officer, is authorized to take some discretionary action. Eth. Bd. 365, Volume X, Page 13

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; A state official may represent a firm for pay before representatives of various organizations provided the official (a) pursues the activity without reliance upon the state's time, facilities, supplies, and services not generally available to anyone, (b) obtains his appointing authority's concurrence that the official's work for the firm will not effect the official's work for the state, (c) does not represent the firm before any institution for which the official's agency may have occasion to award a grant or a contract with respect to which the official or the official's agency is authorized to undertake some discretionary act, and (d) does not represent the firm before a state agency. Eth. Bd. 364, Volume X, Page 9

POST EMPLOYMENT; For 12 months after leaving government service, a former state public official should not, as a paid representative of anyone other than a governmental entity, either appear before or try to settle or arrange a matter by calling, writing, or conferring with an officer or employe of the agency with which the official was formerly associated; but the Ethics Code is not an obstacle to the former official's communications with officers or employes of other arms or agencies of the State of Wisconsin except that with respect to judicial or quasi-judicial proceedings and applications, contracts, claims, and charges in which the former official participated personally and substantially as a state official the former official may not act as a paid representative of anyone other than the State of Wisconsin. Eth. Bd. 349, Volume IX, Page 51

POST EMPLOYMENT; The Ethics Code's limitations on employment after leaving state service are discussed. Eth. Bd. 327, Volume IX, Page 11

POST EMPLOYMENT; A former state public official, now employed by a consulting firm, may not, as the consulting firm's representative, discuss a state agency's procedures with the agency's officials if within 12 months the consultant was formerly an official of the state agency arranging the meeting. The consulting firm may, consistent with the Ethics Code, send a different representative to meet with the agency's officials. Eth. Bd. 251, Volume VI, Page 7

PUBLIC CONTRACTS

PUBLIC CONTRACTS; It would be inappropriate for a state public official to benefit from the sale of land to the state while the official was authorized to review or approve the conveyance. Eth. Bd. 339, Volume IX, Page 37

PUBLIC CONTRACTS;

1. A state public official may not, as a member of a state board, participate in discussions, deliberations, or votes or perform any discretionary function regarding the board's lease of a building owned by the official.
2. Even if the official is physically absent from the board's discussions, deliberations, and votes concerning the lease, purchase, or construction of a building while the official

maintains a personal, financial interest in the board's action and even though the official scrupulously avoids the performance of all discretionary acts regarding the board's lease of the building:

- a. It appears to us that the official may not lease the building to the board if the terms of the lease require the state's disbursement of more than \$5,000 annually even if not more than \$5,000 is paid to the official directly. The official should proceed with this transaction only with the appropriate district attorney's concurrence that the arrangement is consistent with § 946.13, *Wisconsin Statutes*.
- b. The official's proposal to sell the building on land contract to a buyer who will lease the building to the board is not a solution for the problems otherwise present.
- c. If the official is able to enter into a lease consistent with § 946.13, *Wisconsin Statutes*, and the lease involves the payment of more than \$3,000 within 12 months, the official must notify both the Ethics Board and the state agency acting for the state in regard to the lease of the nature and extent of the official's interest in the lease. Eth. Bd. 310, Volume VIII, Page 53

DISQUALIFICATION; BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; As long as a nominee to a state board retains a 10% or greater interest in a private business, he or she may not use his or her public position to obtain financial gain or anything of substantial value for that business except under certain conditions.

The nominee's private company may not enter into a state contract or lease involving a payment exceeding \$3,000 within 12 months unless the nominee's relationship to the private business is disclosed to the Ethics Board and the agency acting for the state with regard to its contract. Further the nominee should disqualify himself or herself from any matter coming before the board which involves the nominee's private business, and the board's minutes should reflect the nominee's absence from the discussion and voting upon the issue. Eth. Bd. 266, Volume VI, Page 33

PUBLIC CONTRACTS; If a state public official has a 10% or greater interest in a business that wishes to enter into a contract involving the payment of more than \$3,000 any portion of which is derived from state funds, then prior to entering the contract, the official must notify the Ethics Board and the agency acting for the state in regard to the contract of the nature and extent of the official's interest in the contract. Eth. Bd. 260, Volume VI, Page 29

REPRESENTATION OF CLIENTS; LEGISLATORS; INTERAGENCY COOPERATION; PUBLIC CONTRACTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not pose an obstacle to a legislator's representing a client before a judicial officer, including a district attorney, in either a civil or criminal proceeding.

A legislator may not represent a client before the Department of Health and Social Services or before the Office of the Governor except in very limited circumstances.

The Ethics Code does not bar an attorney, who is a member of the legislature, from representing a defendant in a criminal or paternity case when remuneration is paid by the Office of the State Public Defender; but the legislator should notify the Ethics Board and the State Public Defender of the proposed arrangement prior to accepting that appointment if the legislator is likely to receive more than \$3,000 from the Office of the State Public Defender within 12 months. Eth. Bd. 221, Volume IV, Page 77

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; PUBLIC CONTRACTS; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees does not necessarily prohibit a full-time, salaried state public official from serving as a director of an organization which has a contract with the state. However, the state public official may

not participate in any action (including discussion) which could result in a material conflict of interests. Eth. Bd. 204, Volume **III**, Page 101

BOARDS, COMMISSIONS AND AGENCIES; PUBLIC CONTRACTS; DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; IMPROPER USE OF OFFICE; The Code of Ethics for Public Officials and Employees would pose no impediment to a person's appointment to a board while the person is an officer of an organization with which the board transacts business. However, the person's private interests would impair his or her ability to participate in the board's actions. Eth. Bd. 197, Volume **III**, Page 83

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; PUBLIC CONTRACTS; State public officials may partake of refreshments offered by a distributor of office equipment insofar as their value is clearly nominal and the circumstances are conducive to review and discussion of the equipment marketed. Eth. Bd. 153, Volume **II**, Page 68

REPRESENTATION OF CLIENTS

EMPLOYMENT CONFLICTING WITH OFFICIAL DUTIES; REPRESENTATION OF CLIENTS; LEGISLATORS; DISQUALIFICATION; A state legislator should not, in connection with his business, refer to his official position except in a limited circumstance. A state official should not, except in narrow circumstances, communicate with a state official or employe on behalf of the official's business. A state official must give notice of his interest in contract before official's business enters into contract paid for state funds. A legislator should not act officially in a way likely to affect legislator's business unless business is insignificant member of larger class affected by legislation. Eth. Bd. 346, Volume **IX**, Page 45

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; The Ethics Code does not prohibit a state public official's continued employment with a law firm while the official is serving on a part-time board provided (a) the official does not represent the firm before that board, (b) the official does not participate in any vote or discussion concerning a legal proceeding in which the official's law firm represents interests adverse to those of the board, and (c) the official's actions are consistent with the Supreme Court's rules. Eth. Bd. 243, Volume **V**, Page 93

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; The Ethics Code discourages a state public official from representing a person in a matter over which the official or the official's colleagues or subordinates must take official action or exercise some official judgment. Eth. Bd. 239, Volume **V**, Page 79

REPRESENTATION OF CLIENTS; Wisconsin's Code of Ethics does not pose an obstacle to a legislator's representing a client before a circuit or appellate court in a civil proceeding regardless of whether the legislator is compensated by the client directly or by a nonprofit organization that makes legal services available to all people and which derives no payments from the State of Wisconsin. A legislator may not represent a client before a state agency other than a court except in the very limited circumstances sanctioned by § 19.45(7), *Wisconsin Statutes*. Eth. Bd. 225, Volume **IV**, Page 89

REPRESENTATION OF CLIENTS; LEGISLATORS; INTERAGENCY COOPERATION; PUBLIC CONTRACTS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; The Ethics Code does not pose an obstacle to a legislator's representing a client before a judicial officer, including a district attorney, in either a civil or criminal proceeding.

A legislator may not represent a client before the Department of Health and Social Services or before the Office of the Governor except in very limited circumstances.

The Ethics Code does not bar an attorney, who is a member of the legislature, from representing a defendant in a criminal or paternity case when remuneration is paid by the Office of the State Public Defender; but the legislator should notify the Ethics Board and the State Public Defender of the proposed arrangement prior to accepting that appointment if the legislator is likely to receive more than \$3,000 from the Office of the State Public Defender within 12 months. Eth. Bd. 221, Volume **IV**, Page 77

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; REPRESENTATION OF CLIENTS; A state public official associated with a private law firm may participate neither as a state public official nor as another's legal representative in a matter before or likely to come before the state agency with which the official is associated if that law firm is involved. Eth. Bd. 214, Volume **IV**, Page 59

REPRESENTATION OF CLIENTS; Wisconsin's Code of Ethics for Public Officials and Employees does not bar a state public official from representing a client in a contested case before a state agency involving a party other than the state with interests adverse to those represented by the state public official. Eth. Bd. 188, Volume **III**, Page 63

REPRESENTATION OF CLIENTS; § 19.45(7), *Wisconsin Statutes*, prohibits a legislator from representing, for compensation, the interests of a business before any state agency or department. Eth. Bd. 200, Volume **III**, Page 91

REPRESENTATION OF CLIENTS; A state public official who is required to file a Statement of Economic Interests may represent a client for compensation in a contested case before a state agency (1) if and so long as a party other than the state, with interests adverse to the official's client's interests, is a party to the proceedings, or (2) at any open hearing at which a stenographic record is kept. Otherwise, the official's representation must be limited to matters that involve only ministerial action by the state agency. Eth. Bd. 161, Volume **II**, Page 80

REPRESENTATION OF CLIENTS; The Code of Ethics for Public Officials does not prohibit an unsalaried, part-time official from representing a client before a state agency in an open hearing of which a transcript is made. Eth. Bd. 156, Volume **II**, Page 73

REWARD FOR OFFICIAL ACTION

REWARD FOR OFFICIAL ACTION; GIFTS; A state official may not retain a cash prize offered to the official as a reward for achievements as a state official, but an official may retain a commemorative token of recognition, plaque, or certificate of limited pecuniary value. Eth. Bd. 521, Volume **XI**, Page 3

SOLICITATION

SOLICITATION OF FUNDS; LEGISLATORS; A legislator may not solicit funds for an organization with which he or she is associated. A legislator may retain reimbursement or direct payment of expenses for presentation of a talk or participation in a meeting, regardless of whether the travel costs are paid directly by the organization or paid by the organization with funds derived from Wisconsin-based corporations. A legislator may retain research and other services provided by the organization in furtherance of the legislator's official duties. Eth. Bd. 380, Volume **X**, Page 47

SOLICITATION OF MONEY, GOODS, AND SERVICES; An official of a state agency, acting in his or her public capacity, may solicit and accept research and other funds if such a course of action is pursuant to a plan adopted by the appropriate, formal, recorded action of the agency's governing board consistent with the Legislature's statutorily expressed desire for the agency to receive contributions for the purpose solicited and from which state officials will derive no private benefit. Eth. Bd. 370, Volume **X**, Page 31

SOLICITATION OF MONEY, GOODS, AND SERVICES; A state legislator should not solicit or retain contributions to defray costs of the legislator's participation in a conference-tour of Europe. Eth. Bd. 341, Volume **IX**, Page 41

SOLICITATION OF FUNDS; The Ethics Board does not sanction state officials' and employees' solicitation of funds from people or organizations with which the officials and employees work in their public capacities. Eth. Bd. 335, Volume **IX**, Page 29

STATEMENTS OF ECONOMIC INTERESTS

STATEMENTS OF ECONOMIC INTERESTS; The reporting of assets held in trust is discussed. Eth. Bd. 315, Volume **VIII**, Page 69

OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; STATEMENTS OF ECONOMIC INTERESTS; A member of the State Building Commission is not obliged to mention on his or her Statement of Economic Interests that the member is a director of the Wisconsin State Building Corporation or the Wisconsin State Agencies Building Corporation. Eth. Bd. 237, Volume **V**, Page 75

GIFTS; EXPENSES; STATEMENTS OF ECONOMIC INTERESTS; The provision of transportation and hotel expenses by a foreign country where no valuable consideration was given in return is a gift and must be reported as such on the recipient's Statement of Economic Interests. Eth. Bd. 207, Volume **III**, Page 111

STATEMENTS OF ECONOMIC INTERESTS; The disclosure law considers a person to be the owner of that portion of a trust's assets that the person's interest in the trust bears to all vested beneficial interests in the trust. Eth. Bd. 202, Volume **III**, Page 97

GIFTS; STATEMENTS OF ECONOMIC INTERESTS; Transportation provided by a business need not be reported as a gift under extraordinary circumstances. Eth. Bd. 199, Volume **III**, Page 89

STATEMENTS OF ECONOMIC INTERESTS; A person is not excused from disclosing sources of substantial income simply because the person is engaged in a certain profession. The disclosure of a client's identity in unusual cases may be waived where identification

might be adverse to the public's interests or work an unreasonable hardship upon the person filing. Eth. Bd. 195, Volume **III**, Page 79

STATEMENTS OF ECONOMIC INTERESTS; GIFTS; Unless received for valuable consideration, a person's membership in a private social club is a gift. A person required to file a Statement of Economic Interests must identify on his or her Statement donors (except certain relatives) from whom he or she received gifts valued at more than \$100 during his or her preceding tax year. Eth. Bd. 191, Volume **III**, Page 71

FEES AND HONORARIUMS; STATEMENTS OF ECONOMIC INTERESTS; Wisconsin's Code of Ethics for Public Officials and Employees does not require a person to report compensation received as a director's fee in connection with the person's appearance as an expert witness in the trial of a lawsuit except as a person filing a Statement of Economic Interests would ordinarily identify each source from which the person or his or her immediate family received. Eth. Bd. 189, Volume **III**, Page 65

GIFTS; STATEMENTS OF ECONOMIC INTERESTS; Upon learning that a Statement of Economic Interests filed with the Ethics Board is not complete, a state public official should amend his or her Statement.

State public official's acceptance of a vacation paid for by a corporation should be reported on Statement of Economic Interests. Eth. Bd. 152, Volume **II**, Page 67

TRAVEL EXPENSES

SEE: EXPENSES AND MEALS, LODGING, TRAVEL, AND ENTERTAINMENT

UNLAWFUL BENEFITS

IMPROPER USE OF OFFICE; LEGISLATORS; UNLAWFUL BENEFITS; GIFTS; The Ethics Code prohibits a legislator from using state resources in his legal representation of a pro bono client in private litigation. It does not bar the legislator's receipt of a gift in token of appreciation from the client. Eth. Bd. 584, Volume **XII**, Page 1

UNLAWFUL BENEFITS; LEGISLATORS; GIFTS; A state public official may not, consistent with Wisconsin's Code of Ethics for Public Officials, accept for the official's personal benefit a retailer's discount on equipment and supplies if the retailer limits the discount to state officials and employees. Eth. Bd. 330, Volume **IX**, Page 17

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES

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

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; LEGISLATIVE EMPLOYEES; LEGISLATORS; The Ethics Code will not be an obstacle to a legislator's affixing or causing legislative employees to affix to highway maps of Wisconsin information that furthers a public purpose including information that informs the maps' recipients of the name and mailing address of the legislator elected from the recipient's legislative district and the telephone numbers by which they may call state officials toll free to express their concerns about the state's actions and their support for or opposition to proposals pending before the Legislature. The greater the label's content of public information and the further the distribution from a campaign at which the distributor will stand for election, the more clearly it fulfills a public purpose. In this instance, the action about which you have asked is consistent with the Ethics Code. Eth. Bd. 308, Volume VIII, Page 49

DISQUALIFICATION; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES, AND SERVICES; The Ethics Code does not forbid a state public official to hold an office in an organization, provided:

- a. the official does not use his or her public position to obtain a substantial favor or service for the organization;
- b. the official does not, in furtherance of the official's responsibilities to or interest in the organization, rely upon the state's facilities, supplies, or services that are not generally available to all of Wisconsin's residents; and
- c. that if in the discharge of official duties the official confronts a matter in which the organization has a substantial interest, the official gives his or her superior a written statement describing the nature of the possible conflict and the superior assigns the matter to a person not subject to the conflicting interests. Eth. Bd. 270, Volume VI, Page 41

IMPROPER USE OF OFFICE; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; INFLUENCING OFFICIAL JUDGMENT; A legislator who is a member of a legislative campaign committee may not invoke the title or prestige of his or her position or office to solicit contributions other than publicly reported political contributions for his or her own benefit or for the benefit of the committee; nor may a legislator rely on the state's supplies, services or facilities not generally available to Wisconsin residents to solicit contributions for a private purpose.

A legislator may solicit financial assistance for an individual person other than himself or herself or a member of his or her immediate family provided the solicitation and acceptance is achieved in a fashion that cannot reasonably be expected to influence the legislator's vote, official actions or judgment and cannot reasonably be considered a reward for his or her official action or inaction. Eth. Bd. 244, Volume V, Page 97

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

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not use his or her name, letterhead, office or title or prestige of office to solicit money or payments or services or other things of value from another person or organization over whose activities the official must exercise substantial discretion. Eth. Bd. 211, Volume **IV**, Page 51

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislator may accept pay from a business for advising it provided the legislator does not rely upon his or her public position for the client's benefit or represent the client's interest in the Legislature or before state agencies. Eth. Bd. 209, Volume **IV**, Page 45

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The appropriateness of an agency's support of a life insurance program turns on applicable constitutional and statutory restrictions on the use of public funds and facilities rather than any language in the Code of Ethics for Public Officials and Employees. Eth. Bd. 206, Volume **III**, Page 109

MEALS, LODGING, TRAVEL AND ENTERTAINMENT; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; In connection with a meeting in Wisconsin of representatives of state governments a state public official may:

- a. Attempt to negotiate a bargain on room rates at local hotels for the benefit of governments sending delegates to this convention;
- b. Arrange an exhibition of office equipment and related products or supplies of special interest to the governments represented at the Association's meetings; and
- c. Facilitate an organization's offer to furnish Wisconsin's customary hospitality to the Association's delegates, provided the event is conducive to discussion of policies, practices, or issues of concern to the Association and the public or representatives of the press are also invited. Eth. Bd. 186, Volume **III**, Page 55

IMPROPER USE OF OFFICE; OFFICERS, DIRECTORS AND MEMBERS OF ORGANIZATIONS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should not solicit funds for any organization with which he or she is associated--including a charitable organization of which the official is a director--if the solicitation involves the prestige or other use of the official's public position or office. Eth. Bd. 185, Volume **III**, Page 53

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The State of Wisconsin should consider establishment of an appropriate state policy on local toll telephone calls placed by state officials and employees from state telephones. Eth. Bd. 184, Volume **III**, Page 51

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; Legal counsel to a state agency may practice law for compensation in the private sector if appointing authority approves and state's time, facilities, supplies and services are not used. Eth. Bd. 180, Volume **II**, Page 115

EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; An administrator of a division

of a state agency may teach a seminar in the private sector for a fee if the state's time, facilities, supplies and services are not used and appointing authority approves. Eth. Bd. 178, Volume II, Page 111

USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official should be certain that a telephone call made to any political campaign headquarters arises because of official functions before billing the call to Wisconsin's taxpayers. However, if the telephone call arises because of official functions and not independently of them, it is appropriately billed to the state. Eth. Bd. 169, Volume II, Page 95

FEES AND HONORARIUMS; EMPLOYMENT CONFLICTING WITH OFFICIAL RESPONSIBILITIES; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; The Code of Ethics does not bar a legislator's assisting a federal agency for compensation as long as this activity is pursued without use of the state's time, facilities, supplies and services not generally available to all citizens. Eth. Bd. 167, Volume II, Page 90

FEES AND HONORARIUMS; LEGISLATORS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A legislator should not accept a fee for delivery of a talk prepared by legislative employees. A legislator should not accept an honorarium exceeding \$100 from an organization with a special interest in actions of the committee chaired by the legislator. An honorarium received by a legislator should be reported to the chief clerk. Eth. Bd. 164, Volume II, Page 84

FEES AND HONORARIUMS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; A state public official may accept an honorarium from the United States for participating in a meeting if, in connection therewith, the official does not use the state's time, facilities, supplies or services not generally available to all citizens and attendance is not an official responsibility. Eth. Bd. 160, Volume II, Page 78

FEES AND HONORARIUMS; USE OF STATE'S TIME, FACILITIES, SUPPLIES AND SERVICES; If a state public official is compensated by an organization for work performed with reliance on the state's supplies and postage and the work is related to but not a part of official responsibilities, a sufficient portion of the compensation should be turned over to the official's agency to defray costs incurred by it. Eth. Bd. 149, Volume II, Page 62

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