

State of Wisconsin\Government Accountability Board

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Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the June 8, 2012, Board Meeting

TO: Members, Government Accountability Board

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

Prepared by:
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Government Accountability Board

Presented by:
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Government Accountability Board

SUBJECT: Ballot Access for the 2012 General Election

This memorandum presents a summary of important and noteworthy information about candidates requesting ballot access for the 2012 General Election.

Summary

2011 Wisconsin Act 75 changed the schedule for circulating and submitting nomination papers for partisan office from June 1st through the 2nd Tuesday in July, to April 15th through June 1st. As such, 5:00 p.m., Friday, June 1, 2012, was the nomination paper filing deadline for the 2012 General Election for the offices of United States Senator, Representative in Congress, State Senator (even-numbered districts), Representative to the Assembly, and District Attorney. Wis. Stat. § 8.15(1).

If an incumbent fails to file a Notification of Noncandidacy for their current office with the appropriate filing officer by the 2nd Friday before the nomination paper filing deadline (May 18th in 2012), and fails to file nomination papers and a declaration of candidacy by the deadline to file for that office, a 72-hour extension of the nomination paper filing deadline is granted to all candidates for that office except the incumbent. *See* Wis. Stat. § 8.15(1).

Prospective candidates that otherwise may be reticent to run against an incumbent may be more inclined to run if the incumbent is not. The purpose of this provision is to alert the public of the possibility of an open seat. If the first indication that an incumbent is not a candidate for their

current position is the filing deadline, the 72-hour extension provides an opportunity for others to file ballot access documents and become candidates for the office.

Because of redistricting, several Assembly incumbents no longer reside in the district number they currently represent. Unless the incumbent intends to move in order to run in the same district number, they too must file a Notification of Noncandidacy for their current district number. This detail necessitated additional follow up to make incumbents aware of this requirement.

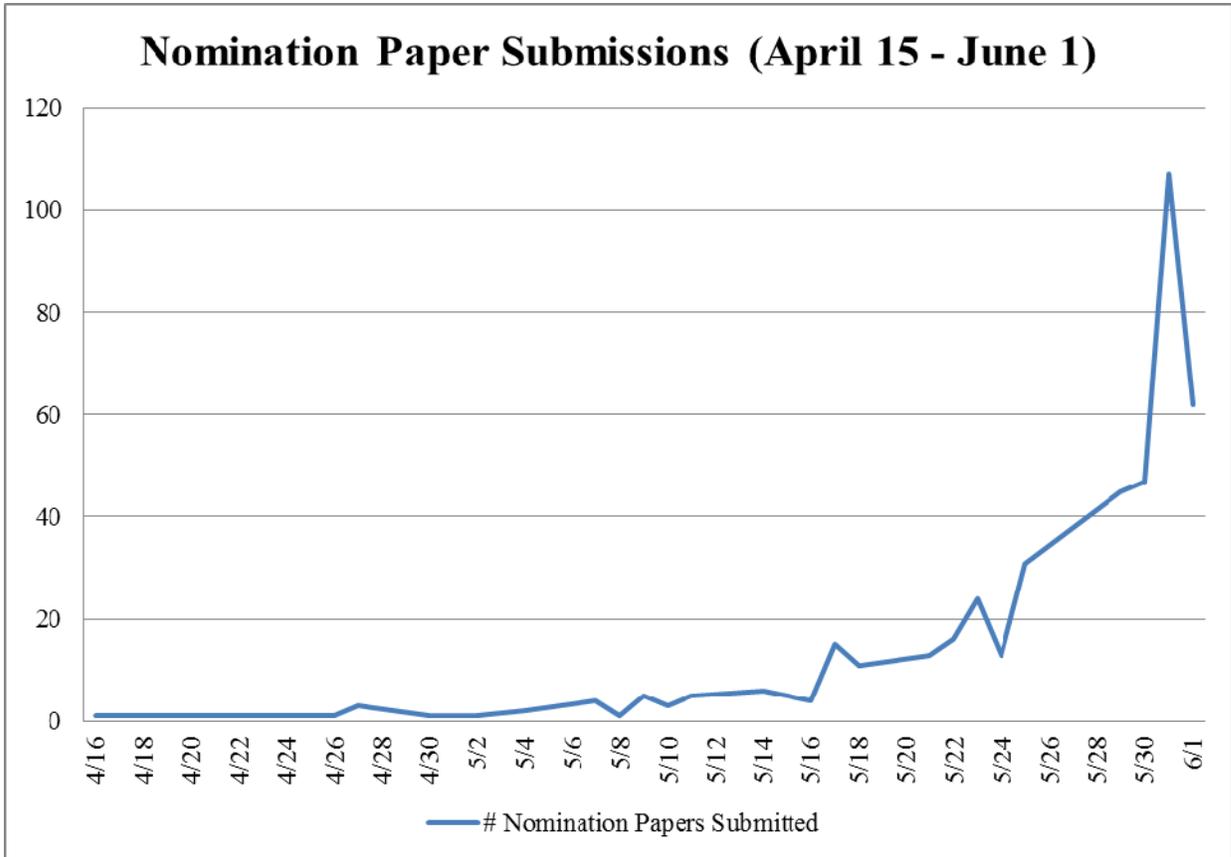
By May 1, 2012, 13 incumbents had filed Notifications of Noncandidacy. On May 2, 2012, staff mailed Notification of Noncandidacy forms, accompanied by an explanatory letter, to each incumbent who had not filed. By May 9, 2012, an additional ten incumbents had filed. On May 10, staff contacted both parties' Senate and Assembly Campaign Committees to enlist their assistance, and by May 18th deadline, an additional 23 were filed for a total of 46. Staff has identified the following incumbent officeholders who did not file a Notification of Noncandidacy by the May 18th deadline and also have not filed for ballot access. The deadline to file for these three offices was extended to 5:00 P.M., June 4, 2012.

District	Incumbent
13 th Assembly District	David A. Cullen
77 th Assembly District	Brett D. Hulsey
81 st Assembly District	Kelda Helen Roys

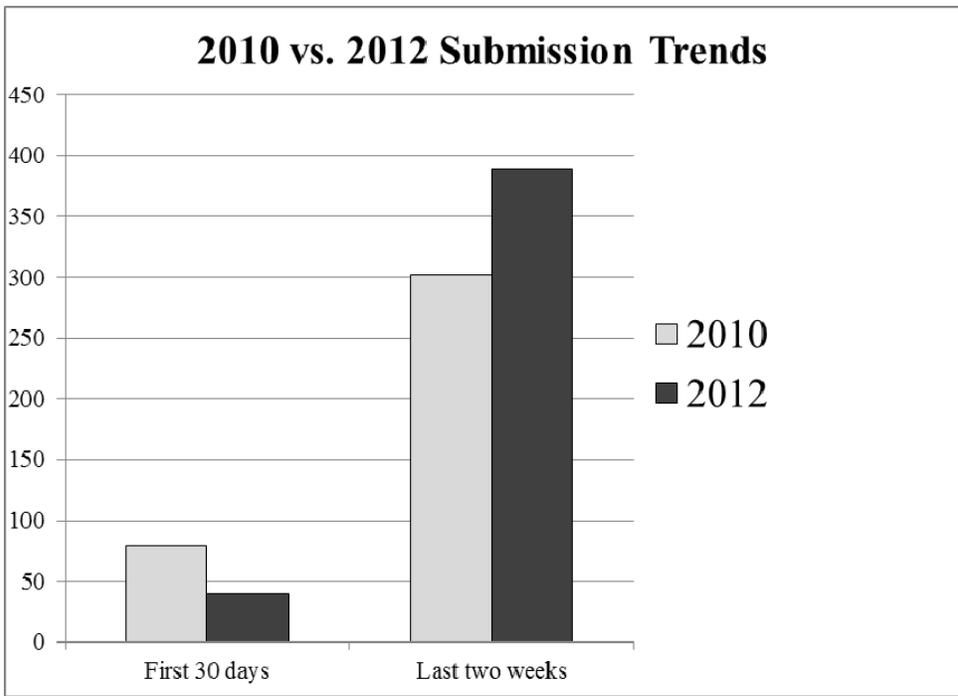
Of the 484 candidates who registered, 427 candidates (88%) filed nomination papers with the Government Accountability Board, Elections Division, by the 5:00 P.M., June 1 deadline.

Office	Registered	Submitted
United States Senator	19	8
Representative in Congress	27	24
State Senator	44	36
Representative to the Assembly	303	269
District Attorney	91	90
Total	484	427

The first day to circulate nomination papers was Sunday, April 15, 2012. The first candidate filed nomination papers on Monday, April 16, 2012. Candidates continued to trickle in through April and May with a significant spike in activity the final week before the June 1st deadline.



To give this data context, while the total number of days over which nomination papers could be submitted was similar to 2010, the 2012 nomination paper submissions were compacted into a shorter timeframe than in 2010. In 2010, staff saw 79 nomination papers submitted in the first month of circulation as opposed to only 40 during the same time period in 2012.



This delay in receiving nomination papers, coupled with approximately 13% more total nomination papers submitted, resulted in a significantly higher volume of nomination papers being submitted in the last two weeks before the deadline. Approximately 207,000 signatures were submitted for review. Staff made extensive use of temporary services staff to provide the necessary capacity to review all nomination papers within the same day they were submitted.

In review of the nomination papers, staff examined each candidate's submission to determine that it contained a valid number of signatures for the office.

- Candidates for United States Senator must file a minimum of **2,000** valid signatures of qualified electors of the state to qualify for ballot access. Wis. Stat. § 8.15 (6)(a).
- Candidates for Representative in Congress must file a minimum of **1,000** valid signatures of qualified electors from the district to qualify for ballot access. Wis. Stat. § 8.15(6)(b).
- Candidates for State Senator must file a minimum of **400** valid signatures of qualified electors from the district to qualify for ballot access. Wis. Stat. § 8.15 (6)(c).
- Candidates for Representative to the Assembly must file a minimum of **200** valid signatures of qualified electors from the district to qualify for ballot access. Wis. Stat. § 8.15(6)(d).
- Candidates for District Attorney must file a minimum of:
 - **500** valid signatures of qualified electors from the prosecutorial unit, if the population of the prosecutorial unit is over 100,000, to qualify for ballot access. Wis. Stat. § 8.15(6)(dm).
 - **200** valid signatures of qualified electors from the prosecutorial unit, if the population of the prosecutorial unit is 100,000 or less, to qualify for ballot access. *Id.*

Each state candidate is also required to file a Campaign Registration Statement (GAB-1), Declaration of Candidacy (GAB-162), and Statement of Economic Interests (SEI) in order to qualify for ballot access. Wis. Stat. §§ 11.05(2g), 8.21, 19.43(4). Federal candidates are only required to file a Declaration of Candidacy in addition to their nomination papers. Wis. Stat. § 8.21. Failure to file any required ballot access document prevents the candidate's name from appearing on the ballot. Wis. Stat. § 8.30.

Staff used the guidance provided in GAB 2.05 in review of the nomination papers submitted to determine if a given signature was facially valid. No affirmative steps were taken to find and eliminate duplicate signatures or signatures from individuals who are ineligible to vote due to age, residency, citizenship, or other disqualifying factors. However, approximately 8,000 signatures were struck for a variety of issues including incomplete addresses, dates, or an incomplete certification of the circulator.

By the deadline for filing nomination papers, 103 candidates had also filed additional nomination papers to supplement their original filings. Additionally, 12 candidates filed correcting affidavits

on or before the June 1 deadline to rehabilitate defective signatures and exceed the minimum number of signatures required for the office.

Two individuals did appear shortly after the nomination paper filing deadline of 5:00 P.M., June 1st and attempted to file nomination papers. In the first case, an unknown agent of candidate Virginia Faye Pratt was intercepted on the first floor by Elections Division Administrator Robinson and informed that as it was past 5:00 P.M. that the papers could not be accepted. Candidate Tiffany Koehler managed to get up to the G.A.B. offices approximately 5-10 minutes after the deadline and stated that she was delayed by traffic due to construction. The Ms. Koehler spoke with Staff Attorney Haas and was informed that her papers could not be accepted after the deadline.

Staff Recommendations for Ballot Status

A listing of candidates recommended for ballot status is attached and is also available on the Elections Division website at <http://gab.wi.gov>. Staff requests the Board approve the ballot status of those candidates listed who have met or exceeded the minimum valid signatures required for the office and who have filed all necessary ballot access documents.

RECOMMENDED MOTION: Accept the staff recommendation and approve all candidates listed on the attached report who have met or exceeded the minimum valid signatures required for the office and who have filed all necessary ballot access documents by their respective deadlines.

Staff Recommendations for Denial of Ballot Status

Staff recommends that the following candidates be denied ballot status for the reasons indicated:

Candidate	Office	Reason
George Lucia	United States Senator	Failed to file nomination papers
John Schiess	United States Senator	Insufficient valid signatures
Kip A. Smith	United States Senator	Failed to file nomination papers
William Patrick Lano	United States Senator	Failed to file nomination papers
John McClellan	United States Senator	Failed to file nomination papers
Gregory Paules	United States Senator	Failed to file nomination papers
Vittorio Spadaro	United States Senator	Failed to file nomination papers
Riley J. Hood	United States Senator	Failed to file nomination papers
Michael Blinkwitz	United States Senator	Failed to file nomination papers
Joseph Moriarty	United States Senator	Failed to file nomination papers
James Samuelson	United States Senator	Failed to file nomination papers
Michael D. LaForest	United States Senator	Failed to file nomination papers
Lou Mittelstaedt	Congress – Dist 2	Failed to file nomination papers
Joe Kopsick	Congress – Dist 2	Failed to file nomination papers
Rocky Ison	Congress – Dist 2	Insufficient valid signatures
Edward H. Martin, Jr.	Congress – Dist 3	Failed to file nomination papers
Dale Lehner	Congress – Dist 7	Insufficient valid signatures
Richard A. Langan	State Senate – Dist 2	Failed to file nomination papers

Candidate	Office	Reason
Virginia Faye Pratt	State Senate – Dist 6	Failed to file nomination papers
Michael Bonds	State Senate – Dist 6	Failed to file nomination papers
Scott David Erlenborn	State Senate – Dist 10	Failed to file nomination papers
John M. Curry	State Senate – Dist 18	Failed to file nomination papers
Mary Scray	State Senate – Dist 30	Failed to file nomination papers
Tim Hesse	State Senate – Dist 32	Failed to file nomination papers
Miguel Morga	State Senate – Dist 32	Failed to file nomination papers
Laurie Beth Burke	Assembly – Dist 2	Failed to file nomination papers
Jeanette Lynn Greenwood	Assembly – Dist 2	Failed to file nomination papers
Cylest Brooks	Assembly – Dist 7	Failed to file nomination papers
Kristopher M. Rowe	Assembly – Dist 10	Failed to file nomination papers
Matt Adamczyk	Assembly – Dist 13	Failed to file Statement of Economic Interests
Kenneth Andrew Morgan	Assembly – Dist 19	Failed to file nomination papers
Mike Schmidt	Assembly – Dist 21	Insufficient valid signatures
Asher Heimermann	Assembly – Dist 26	Failed to file nomination papers
Jared Gary Christiansen	Assembly – Dist 30	Failed to file nomination papers
James E. Kilian	Assembly – Dist 37	Insufficient valid signatures
Kevin M. Kuehl	Assembly – Dist 40	Failed to file Declaration of Candidacy – see below “Irregularities”
Anthony Glenn Wickersham	Assembly – Dist 45	Failed to file nomination papers
Robert Daniel Graupner	Assembly – Dist 47	Failed to file nomination papers
Patrick W. Miles	Assembly – Dist 47	Failed to file nomination papers
David Soumis	Assembly – Dist 47	Failed to file nomination papers
Dan Bohrod	Assembly – Dist 48	Failed to file nomination papers
Santiago Rosas	Assembly – Dist 48	Failed to file nomination papers
Matthew A. Schauenburg	Assembly – Dist 48	Failed to file nomination papers
Andrew Koerwitz	Assembly – Dist 53	Insufficient valid signatures
Dennis J. Wesenberg	Assembly – Dist 53	Failed to file nomination papers
Douglas Troy Vlotho	Assembly – Dist 59	Failed to file nomination papers
Kevin Cantwell	Assembly – Dist 62	Failed to file nomination papers
Troy Halversen	Assembly – Dist 62	Failed to file nomination papers
Brian R. Harwood	Assembly – Dist 65	Failed to file nomination papers
George Meyers	Assembly – Dist 67	Failed to file nomination papers
Jonathon William Rygiewicz	Assembly – Dist 71	Failed to file nomination papers
Dana L. Strohm	Assembly – Dist 71	Failed to file nomination papers
John Matthew Hardin	Assembly – Dist 75	Failed to file nomination papers
Melissa Jane Malott	Assembly – Dist 76	Failed to file nomination papers
Jeremy Joseph Ryan	Assembly – Dist 76	Failed to file nomination papers
Jason D. Vangalis	Assembly – Dist 78	Failed to file nomination papers
Carl Skalitzky	Assembly – Dist 79	Insufficient valid signatures
Peter Louis Gundrum	Assembly – Dist 83	Failed to file nomination papers
Bill Ingram	Assembly – Dist 91	Failed to file nomination papers
Brandon Buchanan	Assembly – Dist 91	Failed to file nomination papers
Frank Mooney	Assembly – Dist 91	Failed to file nomination papers
Ray Ebert	Assembly – Dist 94	Failed to file nomination papers

Candidate	Office	Reason
Steven Freng	Assembly – Dist 94	Failed to file nomination papers
Eric Bahr	Assembly – Dist 95	Failed to file nomination papers
Thomas Perry	Assembly – Dist 97	Failed to file nomination papers
Richard J. Sullivan	DA – Walworth Co	Failed to file nomination papers

RECOMMENDED MOTION: Accept the staff recommendation and deny the candidates listed above who have failed to file all necessary ballot access documents by their respective deadlines.

Irregularities in Ballot Access Documents Not Affecting Ballot Status

During review of nomination papers and other ballot access documents, Elections Division staff identified the following irregularities, none of which affected ballot status:

- Staff allowed the following variations in the title of the office:
 - State representative
 - State assembly
 - Assemblyman
 - “Repersentative” [sic]

- Staff identified one candidate who used the primary date of August 14, 2012. Staff determined that the electors understood the nomination papers were for the November 6, 2012 general election and the papers were found to be sufficient.
 - Most other candidates who circulated with incorrect election dates or who were missing the year managed to recirculate nomination papers.
 - One candidate, Andrew Koerwitz, listed the election date as “Nov 6” and failed to recirculate and is recommended to be denied ballot access for this reason.

- Several candidates failed to provide their municipality of residence in the header of the nomination paper, but did provide a mailing municipality. Staff determined that the information provided was sufficient.

- One candidate, La Tonya Johnson, misspelled her last name on her nomination papers as “Johsnon”, but staff determined that despite the error, electors still would have been able to understand who they were requesting be placed on the ballot.

- Several candidates also failed to correctly indicate the jurisdiction or district for their respective offices in each box indicated on the header of their nomination papers. Staff determined that the missing information was still present in other areas of each nomination paper’s header section and that electors could still understand what they were signing.

- One candidate, Pat Bomhack, omitted the title “certification of circulator” from the certification section of the nomination paper. Staff determined the certification was still sufficient despite the lack of title.

- The nomination papers of one candidate, Dan Necci, titled the address column “mailing address.” Staff determined that since GAB 2.05(12) permits a postal address if it is located

within the jurisdiction that the candidate seeks to represent and there was still a municipality of residence column present, the error was not fatal.

- Page 36 of the nomination papers circulated by Tom Larson contained five signatures, all with the same last name, that all appeared to be in the same handwriting. This was flagged by reviewers as suspicious, but as signatures are entitled to a presumption of validity under GAB 2.05(4), the signatures were counted absent any evidence the signatures were not collected properly.
- Two candidates filed their Declaration of Candidacy by fax. David D. King, filed his Declaration of Candidacy by fax on June 1. His original Declaration of Candidacy was received by mail on June 5, postmarked June 1. Pursuant to GAB 6.04, this document was accepted as timely filed. Kevin Marcus Kuehl, faxed his Declaration of Candidacy on June 4 and the original was received June 5. As Kuehl’s Declaration of Candidacy was not submitted by the filing deadline, this submission was rejected and this candidate is recommended for rejection (see above list).

Challenges to Ballot Status

The deadline for challenges to ballot status was Monday, June 4, 2012, at 5:00 P.M. There were 20 challenges filed against the following candidates:

Candidate	Office	Complainant
Mario R. Hall	Assembly – Dist 12	Frederick P. Kessler
David VanDer Leest	Assembly – Dist 20	Joel Diny
Jose Guzman	Assembly – Dist 9	Josh Zepnick
David King	State Senate – Dist 4	Lena Taylor
Nancy Vandermeer	Assembly – Dist 70	Joel Gratz
Tom Lamberson	Assembly – Dist 8	Joel Gratz
Barry Nelson	Assembly – Dist 25	Jason Diederichs
Mike Howe	Assembly – Dist 25	Jason Diederichs
Amanda Mary-Mariah Hall	Assembly – Dist 47	Robb Bradford Kahl
David Stollow	Assembly – Dist 32	Jennifer Toftness
Randy Bryce	Assembly – Dist 62	Jennifer Toftness
Kelley Albrecht	Assembly – Dist 63	Jennifer Toftness
Cindy Moore	Assembly – Dist 15	Jennifer Toftness
Eric Prudent	Assembly – Dist 98	Jennifer Toftness
Josh Young	Assembly – Dist 3	Alvin Ott
David Verhage	Assembly – Dist 71	Katrina Shankland
Chad Bucholtz	Assembly – Dist 22	Jennifer Toftness
Jesse Roelke	Assembly – Dist 84	Matthew Spencer
Jonathan Dederling	Assembly – Dist 78	Joel Gratz
Tom Hibbard	Assembly – Dist 99	Chris Kapenga

A separate memo will address these challenges in detail.

Attachment: Candidates Registered by Office Report