

Meeting of the Board
Tuesday, May 15, 2012

Agenda
Open Session

9:00 A.M.

G.A.B. Conference Room
212 East Washington Avenue, Third Floor
Madison, Wisconsin

Tuesday, May 15, 2012

9:00 A.M.

Page

A. Call to Order

B. Director's Report of Appropriate Meeting Notice

C. Sign Official Canvass of April 3, 2012 Election

D. Minutes of Previous Meetings

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| 1. March 12, 2012 Meeting | 3 |
| 2. March 20, 2012 Meeting | 12 |
| 3. March 30, 2012 Meeting | 17 |
| 4. April 17, 2012 Meeting | 22 |

E. Personal Appearances

F. Report on April 3, 2012 Presidential Preference - Spring Election and May 8, 2012 Recall Primary Election

G. Report on Verify the Recall Analysis **26**

H. Report on Concealed Carry Restrictions in the G.A.B. Offices and at Polling Places **37**

I. Proposed Revisions to Central Count Absentee Guideline **40**

J. Adoption of Guideline Relating to Scope of Campaign Finance Regulation **53**

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.

K.	Administrative Rules	<u>Page</u>
1.	Approve Scope Statement on Single Signer Recall Petitions, GAB 2.05 (8)	54
2.	Approve Scope Statement on Use of Stickers On Student Identification Cards GAB 10.0x	60
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M.	Director's Report	
1.	Ethics Division Report - campaign finance, ethics, and lobbying administration.	95
2.	Elections Division Report – election administration.	98
3.	Office of General Counsel Report – general administration	114
N.	Closed Session	
5.05 (6a) and 19.85 (1) (h)	The Board's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (g)	The Board may confer with legal counsel concerning litigation strategy.	
19.851	The Board's deliberations concerning investigations of any violation of the ethics code, lobbying law, and campaign finance law shall be in closed session.	
19.85 (1) (c)	The Board may consider performance evaluation data of a public employee over which it exercises responsibility.	

The Government Accountability Board has scheduled its next meeting for Friday, June 8, 2012 to review ballot access challenges for the August 14, 2012 partisan primary in Room 412 East at the State Capitol building beginning at 9:00 a.m.

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.

State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

State Capitol, Room 412 East

Madison, Wisconsin

March 12, 2012

9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Denied General Challenges to State Senate Recall Petitions	3
B. Denied Specific Challenges to Recall Petition against Senator Fitzgerald	4
C. Denied Specific Challenges to Recall Petition against Senator Wanggaard	4
D. Denied Specific Challenges to Recall Petition against Senator Moulton	5
E. Denied Specific Challenges to Recall Petition against Senator Galloway	6
F. Denied Governor Walker's Request to Consider as Challenges Information from Verify the Recall	7
G. Directed Staff to Seek a One-Week Extension of Time to Determine Petition Sufficiency	7
H: Action Regarding Potential Recall Petition Fraud	8

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

Staff present: Kevin Kennedy, Nathaniel E. Robinson, Michael Haas, Shane Falk, Sharrie Hauge, Katie Mueller, Richard Rydecki, David Grassl, Diane Lowe, Jonathan Paliwal, and Reid Magney

A. Call to Order

Judge Deininger called the meeting to order at 9:02 a.m.

B. Director's Report of Appropriate Meeting Notice

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

C. Personal Appearances

No members of the public appeared to address the Board.

D. Staff Report on Recall Procedures

Director Kevin J. Kennedy introduced Elections Specialist Katie Mueller, who is coordinating the recall petition review operation, as well as Staff Counsel Michael Haas, Assistant Staff Counsel Jonathan Paliwal, Elections Specialist Richard Rydecki and IT Architect David Grassl. Mr. Haas and Ms. Mueller presented an oral and written report.

Mr. Haas described the petition review effort, the lessons learned from the 2011 State Senate recall petitions, as well as the assistance received from the Capitol Police and the Department of Administration.

Ms. Mueller described the many tasks undertaken by the team, which seem simple but become complicated when multiplied by the 300,000 petition pages offered for filing with the Board. Temporary staff must be retrained each time the process moves to the next step, which can be time consuming.

Chair Deininger reported that he visited the Recall Center on Thornton Avenue the previous week and was impressed with the layout and operation.

E. Review of General Recall Issues Common to Several Senate Recall Petitions

Judge Deininger informed the parties that they would each have 15 minutes for presentations.

Staff Counsel Michael Haas provided an oral and written report regarding common legal issues raised in challenges by all four State Senate officeholders: signatures outside the boundaries of the 2012 State Senate districts, date of signing issues, information from third parties, and signatures that appear to have similar handwriting.

Discussion.

Attorney Joseph Olson of Michael Best and Friedrich introduced himself and co-counsel Micheal Screnock. Mr. Olson said the challengers are not raising the issue of district boundaries as part of the challenge. He did present an argument regarding signature dates relative to when the recall committees registered. He also argued that the Board should consider the findings of the Verify the Recall group.

Attorney Jeremy Levinson, representing the recall committees, introduced himself and Mike Pfohl. He said the Board may only consider challenges filed by the officeholders, not by third parties.

Discussion.

Mr. Haas presented the staff's recommendations.

Discussion.

MOTION: Reject all challenges of the Senate officeholders which are based on the signer residing outside of the new 29th Senate District. Moved by Judge Barland, seconded by Judge Nichol.

Discussion

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

Motion carried unanimously.

MOTION: Deny all challenges of the Senate officeholders which are based on the individuals allegedly signing the petitions prior to the recall committees completing registration with the Board. Moved by Judge Brennan, seconded by Judge Nichol.

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

Motion carried unanimously.

MOTION: Deny all challenges filed by the Senators which are based on the assertion that information produced by Verify the Recall is incorporated into the Written Challenges. Moved by Judge Cane, seconded by Judge Barland.

Discussion

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

Motion carried unanimously.

MOTION: Deny all challenges filed by the Senators which are based solely on the assertion that multiple signatures appear in the same handwriting. Moved by Judge Cane, seconded by Barland.

Discussion.

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

Motion carried unanimously.

Judge Deininger called a recess at 10:49 a.m. The Board reconvened at 11:04 a.m.

F. Review of Challenges Related to Recall Petition of Senator Fitzgerald

Mr. Haas made an oral and written presentation of the staff’s recommendations, found beginning on page 131 of the Board materials.

Discussion.

MOTION: Accept staff’s recommendation as outlined in the written report, to deny certain challenges filed by Senator Fitzgerald for the reasons stated in the accompanying Evaluation of Challenges memorandum: to strike 261 signatures as duplicate names; to strike an additional 606 invalid signatures; and, to deduct 1,586 “Remaining Challenges” signatures from the staff-determined total of verified signatures. The Board verifies that at least 18,282 valid signatures are contained in the recall petition offered for filing against Senator Fitzgerald. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on a date to be determined by the Board in accordance with any court order governing this matter. Moved by Judge Barland, seconded by Judge Cane.

Discussion.

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

Motion carried unanimously.

G. Review of Challenges Related to Recall Petition of Senator Wanggaard

Mr. Haas made an oral and written presentation of the staff’s recommendations, found beginning on page 143 of the Board materials.

Attorneys for the challengers and the petitioners said they had nothing to add.

Discussion.

MOTION: Accept staff’s recommendation as outlined in the written report: to deny certain challenges filed by Senator Wanggaard for the reasons stated in the accompanying Evaluation of Challenges memorandum: to strike 140 signatures as duplicate names; to strike an additional 603 invalid signatures; and, to deduct 3,827 “Remaining Challenges” signatures from the staff-determined total of verified signatures. The Board verifies that at least 19,142 valid signatures are contained in the recall petition offered for filing against Senator Wanggaard. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on a date to be determined by the Board in accordance with any court order governing this matter. Moved by Judge Cane, seconded by Judge Nichol.

Roll call vote: Barland:	Aye	Brennan:	Aye
	Cane:	Deiningger:	Aye
	Nichol:		Aye

Motion carried unanimously.

H. Review of Challenges Related to Recall Petition of Senator Moulton

Mr. Haas made an oral and written presentation of the staff’s recommendations, found beginning on page 152 of the Board materials.

Discussion.

Attorneys for the challengers and the petitioners said they had nothing to add.

MOTION: Accept staff’s recommendation as outlined in the written report to deny certain challenges filed by Senator Moulton for the reasons stated in the accompanying Evaluation of Challenges memorandum: to strike 263 signatures as duplicate names; to strike an additional 949 signatures; and to deduct 1,038 “Remaining Challenges” signatures from the staff-determined total of verified signatures. The Board verifies that at least 18,657 valid signatures are contained in the recall petition offered for filing against Senator Moulton. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on a date to be determined by the Board in accordance with any court order governing this matter. Moved by Judge Cane, seconded by Judge Barland.

Roll call vote: Barland:	Aye	Brennan:	Aye
	Cane:	Deiningger:	Aye
	Nichol:		Aye

Motion carried unanimously.

I. Review of Challenges Related to Recall Petition of Senator Galloway

Mr. Haas made an oral and written presentation of the staff’s recommendations, found beginning on page 160 of the Board materials.

Attorneys for the challengers and the petitioners said they had nothing to add.

MOTION: Accept staff’s recommendation as outlined in the written report to deny certain challenges filed by Senator Galloway for the reasons stated in the accompanying Evaluation of Challenges memorandum: to strike 407 signatures as duplicate names; to strike an additional 1,251 invalid signatures; and to deduct 853 “Remaining Challenge” signatures from the staff-determined total of verified signatures. The Board verifies that at least 18,511 valid signatures are contained in the recall petition offered for filing against Senator Galloway. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on a date to be determined by the Board in accordance with any court order governing this matter. Moved by Judge Nichol, seconded by Judge Brennan.

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

Motion carried unanimously.

Judge Deininger called a recess at 11:41 a.m. The Board reconvened at 11:45 a.m.

J. Review of Issues Related to Recall Petition of Governor Walker

Mr. Haas made an oral and written presentation of the staff’s recommendations, found beginning on page 169 of the Board materials. He said no information has been submitted by Verify the Recall, and statutes do not allow such information to be accepted as a challenge by the Governor or Lt. Governor.

Discussion.

Attorney Olson said the Governor’s committee makes the same argument regarding acceptance of Verify the Recall’s data.

Attorney Brendan Rowan, representing the Lt. Governor, said he agreed that Verify the Recall is not a party to the petition.

Attorney Levinson said Verify the Recall has not submitted anything to be considered by the Board’s staff.

MOTION: Find that Wis. Stat. §9.10(3)(b) does not provide the Board with authority to entertain challenges filed by parties other than the officeholder. The Board further finds

that no purported challenges have been timely filed by the Verify the Recall organization regarding the Governor and Lt. Governor petitions. The Board further finds that it will deny challenges asserted by Governor Walker and/or Lt. Governor Kleefisch which are based on the assertion that information produced by the Verify the Recall organization is incorporated into the Written Challenges. Moved by Judge Cane, seconded by Judge Brennan.

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

Motion carried unanimously.

L. Request for Extension of Time to Complete Review and Determination of Recall Sufficiency

(This agenda item was taken out of order.)

Mr. Haas made an oral and written presentation of the staff report beginning on page 191 of the Board materials. Staff recommends seeking a two-week extension to allow enough time to complete the checks for duplicate signatures as ordered by the Waukesha County Circuit Court. A hearing before Judge Niess has been scheduled for March 14.

Discussion.

Attorney Olson said the position of the Governor and Senators is that they support the staff's request for additional time. Attorney Rowan said the Lt. Governor has no objection to an extension.

Attorney Levinson argued that the petitions to recall the Governor and Lt. Governor will be found to be sufficient, regardless of what happens with the duplicate checks. He said that if the election is delayed until June the character of the electorate will change. He urged the Board to send the election to the voters as soon as possible.

Discussion.

Judge Cane said he was troubled by the prospect of having an election the day after Memorial Day, and that he favors a one-week extension.

MOTION: Direct staff to work with the Department of Justice to file a motion requesting an extension to complete its careful examination of the recall petitions to determine sufficiency and order any required recall election from March 19, 2012 to March 30, 2012. Moved by Judge Cane, seconded by Judge Nichol.

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

Nichol: Aye

Motion carried unanimously.

K. Review of Recall Fraud Issues

Director Kennedy made an oral and written presentation of the staff report beginning on page 188. He said that the public should understand that when the Board has reasonable suspicion of recall petition fraud under §5.05, it will make a referral to a District Attorney.

MOTION: Direct staff to evaluate all submissions raising issues of illegality with respect to the recalls and present those matters it believes raise a reasonable suspicion of illegal activity to the Board for consideration pursuant to Wis. Stats. §5.05. Moved by Judge Cane, seconded by Judge Nichol. Motion carried unanimously.

Director Kennedy announced to the Board that this morning Dane County Circuit Court Judge Richard Niess has issued an order enjoining the Board from enforcing photo ID provisions of 2011 Wisconsin Act 23. Pending appeal of his decision, no photo ID will be required in upcoming elections.

L. Closed Session

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

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

Roll call vote: Barland:	Aye	Brennan:	Aye
Cane:	Aye	Deiningner:	Aye
Nichol:	Aye		

Motion carried. The Board recessed at 1:12 p.m. and convened in closed session at 1:50 p.m.

M. Adjourn

The Board adjourned in closed session at approximately 3 p.m.

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The next regular meeting of the Government Accountability Board is scheduled for Tuesday, March 20, 2012, at the G.A.B. office, 212 E. Washington Ave., in Madison, Wisconsin beginning at 9:00 a.m.

March 12, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

April 27, 2012

March 12, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

May 15, 2012

DRAFT

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue, Third Floor

Madison, Wisconsin

March 20, 2012

9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved Minutes of Previous Meetings	2
B. Received Report Regarding Award of a \$1.9 million Federal Grant	2

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

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

A. Call to Order

Judge Deininger called the meeting to order at 9:00 a.m.

B. Director's Report of Appropriate Meeting Notice

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

C. Minutes of Previous Meetings

December 13, 2011 Meeting – Open Session

January 12, 2012 Meeting – Open Session

February 7, 2012 Meeting – Open Session

MOTION: Approve the Open Session minutes of the meetings of December 13, 2011, January 12 and February 7, 2012. Moved by Judge Barland, seconded by Judge Cane. Motion carried unanimously.

D. Personal Appearances from Members of the Public

Attorney James S. Mueller of Cross Plains appeared on behalf of Citizens for Election Protection to express concerns about fraud involving electronic voting equipment. Until there can be improvements in hardware and software, he encourages municipalities to hand count paper ballots.

John Washburn of Germantown appeared on his own behalf to express concerns about Command Central activities in Barron County swapping the Insight optical scanner for touch-screen voting equipment. He asked the Board to find out how many other counties this has happened in.

Mary Ann Hanson of Brookfield appeared on her own behalf to express concerns about aspects of 2011 Wisconsin Act 23 involving curbside voting and signing of the poll book.

Discussion.

E. Staff Report on Recall Petition Review

Staff Counsel Michael Haas and Elections Specialist Katie Mueller gave an oral presentation. They discussed recent registrations of a recall committee seeking to recall Senator Jauch and a recall PAC exploring the possible recall of Senator Schultz. Staff has almost completed the duplicate review of the Governor recall petitions and has begun duplicate review of the Lt. Governor petitions.

F. Report on Military and Overseas Voter Initiative

Elections Division Administrator Nat Robinson presented an oral and written report on the Board's efforts to serve military and overseas voters. Staff recently received news that the Federal Voting Assistance Program has awarded the G.A.B. a \$1.9 million competitive grant to build an online system for military and overseas absentee ballot delivery and tracking. He cautioned that this is not online voting, but a system that will allow eligible voters anywhere in the world to get their absentee ballot, which can be printed, marked and returned by mail for counting. Elections Specialist Katie Mueller wrote the grant proposal.

Judge Barland asked about clerks' responses to G.A.B. requests for information regarding compliance with the federal MOVE Act.

Mr. Robinson said that while the majority of clerks are cooperative, a small number of clerks are consistently noncompliant with requests for information and reporting. Staff spends a lot of time begging and pleading for compliance.

Discussion.

G. Legislative Status Report

Staff Counsel Haas reported on the court-ordered stay on implementation of voter photo ID provisions of 2011 Wisconsin Act 23, as well as other bills contained in the written report beginning on page 19 of the Board materials.

Discussion.

Director Kennedy said he does not expect election legislation to be part of any special legislative session. The Board will have to see where the courts go with voter photo ID.

H. Director's Report

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

Written report from Division Administrator Jonathan Becker was included in the Board packet. He noted that a bill has passed the Legislature exempting veterans from state license fees, which may affect lobbying licenses issued by the Board. Staff was never asked for a fiscal estimate, and it is unknown what impact it will have on fees collected by the Board.

Elections Division Report – election administration

Written report from Division Administrator Nathaniel E. Robinson was included in the Board packet. He reported on preparations for the April 3 Spring Election, including extended hours of operation. In the event that the stay is lifted on the voter photo ID injunction, staff is ready to resume the public information and outreach campaigns, as well as the training for local election officials.

Judge Deininger asked that staff responses be prepared for the next regular meeting to address public comments regarding electronic voting equipment in Barron County and curbside voting.

Office of General Counsel Report – general administration

Written report from Kevin J. Kennedy, Sharrie Hauge, and Reid Magney was included in the Board packet. Ms. Hauge reported that the Board's request for funding for recall petition processing is not yet on the agenda for the Joint Committee on Finance (JCF).

Discussion regarding sources of agency funding if JCF does not appropriate funding to cover unanticipated recall expenses.

Director Kennedy reported that the Government Accountability Candidate Committee has given the Governor a list of four names for appointments for two vacancies on the Board.

Director Kennedy discussed the need to change the date of the June regular meeting from June 12 to the previous week to accommodate the June 11 certification deadline for candidates for the November 2012 General Election. Judge Deininger said June 7 or 8 are possible meeting dates.

I. Closed Session

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

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

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

Motion carried. The Board recessed at 10 a.m. and convened in closed session at 10:14 a.m.

H. Adjourn

The Board adjourned in closed session at 2:50 p.m.

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, May 15, 2012, at the G.A.B. office, 212 E. Washington Ave., in Madison, Wisconsin beginning at 9:00 a.m.

March 20, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

May 1, 2012

March 20, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

May 15, 2012

DRAFT

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

Room 412 East, State Capitol

Madison, Wisconsin

March 30, 2012

9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Certify Recall Petitions in State Senate Districts 13, 21, 23 and 29	2
B. Certify Recall Petitions of Governor Scott Walker	2
C. Certify Recall Petitions of Lt. Governor Rebecca Kleefisch	3
D. Publish a Searchable Database of Recall Petition Signatures	4

Present: Judge David Deininger, Judge Michael Brennan, Judge Thomas Cane, Judge Thomas H. Barland (in person) and Judge Gerald Nichol (by telephone)

Staff present: Kevin Kennedy, Nathaniel E. Robinson, Michael Haas, Ross Hein, Sharrie Hauge, David Grassl, Diane Lowe, Katie Mueller, Richard Rydecki, Jonathan Paliwal, and Reid Magney

A. Call to Order

Judge Deininger called the meeting to order at 9:01 a.m.

B. Director's Report of Appropriate Meeting Notice

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

C. Personal Appearances from Members of the Public

No members of the public appeared to address the Board.

D. Staff Report on Recall Procedures

Staff Counsel Michael Haas and Elections Specialist Katie Mueller gave an oral presentation of the written staff report starting on page 4 of the Board materials. They discussed how staff reviewed and determined the sufficiency of the recall petitions offered for filing against the governor and lieutenant governor.

E. Senate Recall Petitions – Certifications of Sufficiency

Staff Counsel Haas presented an oral and written report on the sufficiency of recall petitions offered for filing against the four incumbent State Senators: Scott Fitzgerald, Van Wanggaard, Terry Moulton, and Pamela Galloway. On March 12, the Board considered and denied challenges to the petitions by the officeholders, ordering the staff to file the petitions at a date in the future.

MOTION: Direct staff to file the recall petitions in Senate Districts 13, 21, 23, and 29, and to attach a certificate of sufficiency to each petition on March 30, 2012. Moved by Judge Cane, seconded by Judge Barland.

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

Motion carried unanimously.

F. Governor Walker Recall Petition

Staff Counsel Haas presented an oral report based on the written staff memo beginning on page 9 of the Board materials. Staff recommends the Board find the petitions to be sufficient and to order them to be filed. He noted there is one change from the staff memo: one name struck by the staff as a potentially fictitious turned out to be an actual person, and apologized to the person. That leaves 900,939 valid signatures.

Judge Deininger called on the representative of the Governor, Attorney Michael Screnock of Michael Best and Friedrich.

Attorney Screnock said that the issues were addressed at the Board's March 12 meeting, and asked that for the sake of a complete record, the comments of the Governor's representatives on March 12 be included into the record of this meeting.

Judge Deininger recognized Attorney Jeremy Levinson, representing the petitioners. He thanked the staff and the Board for their hard work on the petitions.

Staff Counsel Haas noted that Verify the Recall did submit its findings regarding five of the six recall petitions on March 23, and indicated they advised they did not intend the report to be considered as challenges.

Discussion.

Judge Deininger said that by statute, the Board’s job is to review the information on the face of the petitions for sufficiency. The staff also reviewed the petitions for duplicates and potentially fictitious names. Any challenges to signatures that go to information behind the face of the petitions – such as petitions signed by someone else, people who were tricked into signing – must be brought by the officeholders.

Staff Counsel Haas noted that if the staff finds evidence of fraud, it will be referred to District Attorneys for possible enforcement action.

MOTION: Accept staff’s recommendation as outlined in the staff memo beginning on page 9 of the Board materials: to admit into the hearing record Exhibits 1-3 and A-Walker through E-Walker, which staff has produced in support of its findings, to deny certain challenges filed by Governor Walker for the reasons stated in the memo, to strike 4,000 signatures as duplicate names; and, to strike an additional 26,114 invalid signatures. The Board verifies 900,939 valid signatures are contained in the recall petition offered for filing against Governor Walker. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on this date, March 30, 2012. Moved by Judge Cane, seconded by Judge Brennan.

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

Motion carried unanimously.

G. Lieutenant Governor Kleefisch Recall Petition

Staff Counsel Haas presented an oral report based on the written staff memo beginning on page 16 of the Board materials. Staff recommends the Board find the petitions to be sufficient and to order the petition to be filed.

Attorney Screnock said Attorney Brendan Rowan would not be appearing on behalf of the Lt. Governor. Attorney Levinson had no remarks.

MOTION: Accept staff’s recommendation as outlined in the staff memorandum: to admit into the hearing record Exhibits 1-3 and A-Kleefisch through D-Kleefisch, which staff has produced in support of its findings; to deny certain challenges filed by Lt. Governor Kleefisch for the reasons stated in the memo; to strike 4,263 signatures as duplicate names; and, to strike an additional 29,601 invalid signatures. The Board verifies 808,990 valid signatures are contained in the recall petition offered for filing

against Lt. Governor Kleefisch. The Board further directs staff to file the recall petition and attach a certificate of sufficiency on this date, March 30, 2012. Moved by Judge Barland, seconded by Judge Cane.

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

Motion carried unanimously.

Judge Deininger said the Board appreciates the staff's hard work on the recall petitions. He noted there has been a lot of public attention on the staff's efforts, including some posturing on both sides about how the Board and staff were proceeding. He said the staff plowed ahead in a businesslike and orderly fashion to do the public's business.

H. Public Access to Searchable Databases of Recall Petitions

Director Kennedy presented an oral report based on the written report starting on page 22 of the Board materials. He said the Board is committed to ensuring accountability of government officials by making that process as transparent as possible. The staff's recommendation is to make the searchable database created as part of the duplicate signature check available online to the public.

Discussion.

MOTION: Direct staff to provide public access in a searchable format on the agency website to the data developed in its careful examination of the recall petitions. Moved by Judge Nichol, seconded by Judge Cane.

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

Motion carried unanimously.

I. Closed Session

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

MOTION: Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel

concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Barland, seconded by Judge Brennan.

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

Motion carried. The Board recessed at 10:18 a.m. and convened in closed session at 10:45 a.m.

H. Adjourn

The Board adjourned in closed session at 11:56 a.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, May 15, 2012, at the G.A.B. office, 212 E. Washington Ave., in Madison, Wisconsin beginning at 9 a.m.

March 30, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

April 30, 2012

March 30, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

May 15, 2012

State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue

Madison, Wisconsin

April 17, 2012

9:00 a.m.

Open Session Minutes

Summary of Significant Actions Taken

Page

- | | | |
|----|---|---|
| A. | Deny Challenges to Nominating Petitions of Six “Protest” Candidates | 2 |
| B. | Approve Ballot Access Memo for Recall Election | 3 |

Present: Judge David Deininger, Judge Michael Brennan, Judge Gerald Nichol and Judge Thomas Cane (in person), Judge Thomas H. Barland and Judge Timothy Vocke (by telephone)

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

A. Call to Order

Judge Deininger called the meeting to order at 9:00 a.m.

B. Director’s Report of Appropriate Meeting Notice

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

C. Personal Appearances on Ballot Access Issues

Lori Compas of Fort Atkinson appeared on her own behalf to express concerns about “fake Democrats” on the ballot for the recall primary.

Deborah Ann Speckmann of Madison appeared on her own behalf to congratulate the Board and its staff for its work over the last year and a half in dealing with recall petitions and elections.

D. Staff Report on Ballot Access Issues Regarding Recall Elections

Elections Division Administrator Nathaniel Robinson introduced Elections Specialist David Buerger, who presented an oral and written report on ballot access issues. In total, 35 candidates registered for the recall elections – 15 for Governor, six for Lt. Governor and the remainder for the four State Senate Districts.

E. Challenges to Nomination Papers

Staff Counsel Michael Haas introduced the issue of challenges filed against candidates Gladys Huber, Isaac Weix, Gary Ellerman, Tamra Lyn Varebrook, James Engel, and James Buckley, who are seeking to run in the Democratic primary.

Judge Deininger gave representatives of the challengers and candidates 15 minutes each to make their arguments.

Attorney Jeremy Levinson said it is prohibited to submit intentionally false information on official government election documents. He argued there is no question that these six candidates are supported by the Republican Party of Wisconsin, and that this is an attempt to manipulate the elections to the advantage of the Republican incumbents.

Discussion.

Attorneys Joe Olson and Michael Screnock appeared on behalf of the Republican Party of Wisconsin. Attorney Olson said the Board has no legal authority to deny the six candidates ballot access. He argued Wisconsin has had an open primary system since 1906, and that there are court opinions supporting open primaries going back to 1918.

Discussion.

Mr. Haas presented an oral and written report. He said election laws do not require someone to be a member of a political party to run in a primary.

Discussion.

MOTION: Deny the challenges to the nomination papers of candidates Gladys Huber, Isaac Weix, Gary Ellerman, Tamra Lyn Varebrook, James Engel, and James Buckley, and grant ballot access to those candidates for the respective Democratic Primary recall elections on May 8, 2012. Moved by Judge Cane, seconded by Judge Vocke.

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

Motion carried unanimously.

MOTION: Grant ballot access to other candidates identified in the staff ballot access memo as having sufficient signatures or being incumbents to their offices. Moved by Judge Vocke, seconded by Judge Cane. Motion carried unanimously.

F. Director’s Report

Director Kennedy informed the Board members that the closed session would begin in 20 minutes in the large conference room.

G. Closed Session

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

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

Roll call vote: Barland:	Aye	Brennan:	Aye
Cane:	Aye	Deiningger:	Aye
Nichol:	Aye	Vocke:	Aye.

Motion carried. The Board recessed at 10:18 a.m. and convened in closed session at 10:45 a.m.

H. Adjourn

The Board adjourned in closed session at 12:00 p.m.

####

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, May 15, 2012, at the G.A.B. office, 212 E. Washington Ave., in Madison, Wisconsin beginning at 9:00 a.m.

April 17, 2012 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

April 26, 2012

April 17, 2012 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

May 15, 2012

DRAFT

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of May 15, 2012

TO: Members, Government Accountability Board

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

Prepared and Presented by:
Michael Haas, Staff Counsel
Jonathan Paliwal, Assistant Staff Counsel

SUBJECT: Verify the Recall / True the Vote Recall Petition Analysis

I. Introduction:

This memorandum broadly summarizes the results of the “Verify the Recall” effort at verifying the legitimacy of the recent recall petitions. It is not a rigorously thorough analysis of the independent effort to evaluate five of the six recall petitions but instead a cursory impression of the value and efficacy of that effort in light of the statutes governing recall petitions. It is based upon material produced by Verify the Recall using computer software developed by “True the Vote,” which describes itself as a non-profit and non-partisan group “dedicated to free and fair elections” that operates out of Houston, Texas.

Board staff undertook this analysis because the primary legal issue raised in Governor Walker’s Written Challenge was whether the Board could or should review any information or challenges filed by the Verify the Recall organization. At its meetings of February 7, 2012, March 12, 2012, and March 30, 2012, the Board found that there was no statutory basis for the Board to accept challenges or rebuttal documents from any party other than the targeted officeholders or the petitioners. Additionally, representatives of Verify the Recall stated that they did not intend for their work to be considered or accepted as proper legal challenges to the sufficiency of the petition to recall the Governor.

For these reasons, Board staff did not initially review the analysis submitted by Verify the Recall; nevertheless, because of some wide disparities between the Board’s own petition analysis and the Verify the Recall audit, Board staff determined that some review would be useful as a check on its own work and as a useful self-assessment of the Board’s own procedures.

The efforts of Verify the Recall and others attempted to ensure that citizens could have confidence in the integrity of the petition process and the Board’s conclusions regarding the validity of the petitions. However, it is the conclusion of Board staff that the Verify the Recall

computer-generated analysis to unearth duplicative and / or non-compliant signatures falls outside of the process and standards established under Wisconsin Statutes and adopted by the Board. It uses a significantly more demanding standard which would result in far more signatures being eliminated than should be struck under the substantial-compliance standard that has been developed under Wisconsin law. While the G.A.B.'s petition analysis has clear rules based upon the Statutes, the rigid standards of this particular software are ill-suited to the review process. The human element of having staff evaluate each signature may introduce other variables that result in errors, but it is required to make an informed judgment as to the will of the elector. Although True the Vote's analytical tools may serve other useful purposes, they would not comply with the petition analysis required under Wisconsin Statutes and administrative rules at this time.

II. Verify the Recall & True the Vote

Verify the Recall is a joint effort of two non-profit corporations, "We the People of the Republic" and the "Wisconsin GrandSons of Liberty". The two organizations "teamed up to organize an effort to check the validity of ALL signatures submitted" in the gubernatorial recall due to "reports of duplicate signatures, questionable practices and *downright fraud*." See <http://www.verifytherecall.com/>. Using software developed by True the Vote, Verify the Recall sought volunteers to enter data drawn from scanned petition pages to create an online digital dataset that was subsequently examined according to a "multivariate analysis hierarchy". In regards to the Governor's recall petition audit, True the Vote states that over 43 days, 5.19 million signature records were entered by over 17,000 volunteers from all 50 states and that each record was inspected (entered) 3.62 times. See attached Exhibit – A, True the Vote Recall Report – Governor Scott Walker.

III. Methodology

Recall Petition Audit Methodology:

True the Vote began with an online-based volunteer community that "allowed the general public an opportunity to assist in developing a comprehensive digital dataset of all recall petition signatures." See <http://www.truethevote.org/reports/project-summary-walker.pdf>. Volunteers would transcribe each of the petitions' handwritten signature lines into a proprietary database that was then analyzed by True the Vote's software for eligibility. True the Vote would consider a signature invalid if

- The signature was incomplete (definition not elaborated)
- The signature was not unique in the dataset
- The signature was dated outside of the circulation period
- The residency of the signer cannot be determined by the address given
- The signature is that of an individual who is not a resident of the jurisdiction or district from which the elective official being recalled is elected
- The signature is that of an individual who is known to be deceased
- The signature is that of an individual who is known to be fictitious

True the Vote relied primarily on "redundancy of entry" to ensure accuracy; that is, each page had to be separately entered three times before any subsequent analysis of validity took place. This subsequent analysis proceeded according to the following hierarchy:

1. Is the record incomplete?
2. Is the date out of range?
3. Is it a potentially false name?
4. Is it a PO Box?
5. Is it out of area?
6. Is the signer dead?
7. Is the record a duplicate?

If the resulting determination was deemed inconclusive, the signature line was referred to a senior True the Vote researcher to determine eligibility.

IV. Analysis:

It is staff's conclusion that True the Vote's results are at best flawed because of what must be described as a "strict compliance" standard coupled with a model that allows errors to be multiplied via the volunteer data entry. These errors led to many computer determined strikes as the software can only evaluate the information entered, so if it was flawed or incomplete there was no opportunity for determining validity under a substantial compliance standard. This conclusion is based on the points of comparison made between True the Vote's analysis of the Scott Walker recall petition and the G.A.B. analysis of the Walker recall petition.

Staff's comparison was neither scientific nor exhaustive, but something more than anecdotal. Rather than undertake a global evaluation of the Verify the Recall audit, staff believed that points of departure would illustrate differences between the two respective efforts. For this reason, staff did not reevaluate signatures with "date problems" since the G.A.B. struck 4,545 signatures more than the Verify effort (although many of the True the Vote "Bad Sign Date" strikes would have been allowed in the G.A.B.'s analysis).

Despite the seven determinative factors above, the complete data report compiled by True the Vote had only five means of classifying faulty signatures:

1. Incomplete Record = 35,483 (by far the most)
2. Bad Sign Date = 14,287
3. Out of State = 4,643
4. Duplicate = 6,035
5. Arbitrated = 719

Because of the small (and more manageable) number, staff reviewed all Arbitrated names, approximately 28% of the "Out of State" signatures (1,311), and all duplicates that began with the letter "A".

Arbitrated Ineligibles:

True the Vote struck 719 signatures on the Scott Walker petition for unstated reasons. Of these, staff believes only 65 would have been struck by the G.A.B. under the statutory standards. Because the reasons were not stated, staff can only surmise why these signatures were struck, but it appears most often that the signature did not match the printed name or only one of the boxes is filled in; that is, there was only a printed name or only a signature (such as page 028868 being

struck since there is only one column for electors' names). There were also multiple instances where signature lines were struck for being blank, that is, absolutely no information was listed and this was counted not as a blank record but as an invalid signature.

Where the signature and printed name did not match they were struck for the most minor of variations. For example, on line 6 of page 037908, "Mary Lee Smith" signed her name "Mary L. Smith" and was struck. True the Vote did unearth an interesting category of names under this field that may inform a future recall analysis: instances where the signature and the printed name *clearly* did not match, such as occurred on line 1 of page 051339. The printed name is "Tonya Hubbard" and the signature is "Tonya Hernandez". Albeit, these are not frequent but they are puzzling. These may be names of women who were recently married and are not accustomed to a new signature, as these instances are overwhelming female names.

Based on this review, staff concludes that only 9% of the True the Vote's arbitrated signatures would be struck under the statutory standards, reflecting the gulf between a sufficient and very strict standard of compliance. If these are the signatures reviewed by the organization's senior researchers, it is not likely that review of the more generic categories that were not subject to that review will be consistent with the standards that the G.A.B. is required to apply.

Out of Area:

According to Mark Antill, the Executive Director of True the Vote, the computer algorithm for determining that a signature was out of area was as follows: if the municipality box was filled in, or a city or zip code was included in the address, so long as the software recognized the name as being in Wisconsin, the signature was allowed. Using this model, True the Vote recommended striking 4,643 signatures. The G.A.B.'s review of the Governor's recall petition determined that 6 addresses were outside of Wisconsin. Staff reviewed approximately 28% of True the Vote's "Out of State" ineligible list and determined that only 6 of the 1,311 reviewed names would be struck for either containing no municipality or for being out of state. Again, this reflects a clear variance from the standards established in Wisconsin law.

Of this category of signatures reviewed, besides 4 signatories that gave addresses outside the state of Wisconsin, the only ones that arguably could be struck are an individual who misspelled "Akan" as "Aiken" (but clearly listed Muscoda for his home address) and a signer whose entire entry is completely illegible. Among those struck for being "Out of State" are 13 signatures from Milwaukee and 3 from Madison. These signatures were struck because the cities were misspelled when they were entered and the software did not recognize them as Wisconsin cities.

Also worth noting is that entire cities seem to have been left out of the analysis. For example, in the audit of the "Out of State" ineligible, signers with an address in Suring, Wisconsin were struck 97 times apparently for being out of state. Suring occurs in True the Vote's dataset 251 times and presumably all of these names were struck. The same is apparently true of some other localities as well, such as Waunakee. Mr. Antill revealed that their researchers may have omitted some smaller towns. Mr. Antill also conceded that the software would not recognize abbreviations. For example, if a signer gave "Ft. Atkinson" as his city of residence instead of "Fort Atkinson" it would be struck. The same would apply to "Stevens Pt." instead of "Stevens Point". Under a substantial compliance standard, such abbreviations are commonplace and accepted as valid addresses.

This is one of the most significant weaknesses of the True the Vote model. Although the goal and amount of volunteer effort involved was laudable, it also relied on a software program that insisted on exactness of data matches that the law does not require, and which was compounded by faulty programming that did not recognize existing Wisconsin municipalities. In some cases, the structure allowed for purposeful fabrications. For example, Verify the Recall's record of Walker petition page 073334, has the following entry for Line 6 (a line that doesn't exist on this page of five signatures): Jewish Roosters, Wisconsin Synagogues, Fox Valley, Little Israel Take Over, 11/26/2011. This signature was counted as struck for being out of state, even though it was never part of the petition in the first place.

If a petitioner or the True the Vote volunteer made any error with regard to place, be it an omission or a spelling error or simply employed a common abbreviation, the software struck the signature. Nothing short of an exact match will do if the signature is to survive the program's scrutiny. Given Wisconsin law's emphasis on substantial compliance and the presumption of validity giving effect to the will of the voter, this aspect alone would seem to limit or disqualify significant reliance on True the Vote's software and methodology.

Duplications:

The G.A.B. developed a system for identifying duplications so as to ensure that individuals who signed the petition more than once were only counted for their earliest signature. Coupled with a name and address match, staff would evaluate signatures that appeared in duplicate via the State Voter Registration System (SVRS). Because Verify the Recall did not have access to the SVRS database, staff was not surprised that its report identified 6035 duplications compared to the G.A.B.'s 4002. However, staff was interested in exploring the reasons for this difference of over 2000.

According to Mr. Antill, Verify's the Recall's computer program analyzed all names searching for "exact" matches that also had the same address. Thus, their method would necessarily over-count similarly named individuals living at the same address if they weren't entered correctly, letter for letter. For instance, on page 20 of Verify the Recall's "Scott Walker Multi-Signature Report, "Andrea Hill" of 2226 Lawn Street is listed as having signed the petition twice. See <http://www.truethevote.org/reports/duplicates-report-walker.pdf>. Using their own links to the respective pages one can see that one of the names is actually "Andrew J. Hill" and an SVRS search did reveal that "Andrew J." and "Andrea" share that address. While Verify's analysis is capable of this kind of error it is unable to account for common variations like nicknames, such as if a "James Smith" signed "Jim" on one occasion and "Jimmy" another.

Board staff undertook a limited set of comparisons to evaluate the two efforts in an attempt to discern the differences between the two audits for duplicate names. Staff compared all duplicates identified in the two sets where the first name began with the letter "A". For the G.A.B., this was 279 names, for the Verify effort, this was 362. Of those 362, staff determined that 187 signatures would not have been struck using the G.A.B.'s methodology. Again, the reasons for that high of an error rate (51.65%) are entirely attributable to the lack of human oversight in evaluating the petitions. Most of these non-duplications are the result of creating two separate records off of one single petition page, with the result that the software essentially counts the same signatures twice. The other two sources of error were signatures being counted

from the wrong petitions (most commonly, Lt. Governor Kleefisch), and names actually having two SVRS entries because the signatures belonged to a “Junior” and “Senior”.

Overall, the G.A.B.’s count included 146 duplications that Verify did not have and Verify’s count included 42 duplications that the G.A.B. failed to reveal. If these rates would hold true throughout the petitions, Verify’s true number would be 2,917, over 1000 less than the G.A.B. number. However, based on Verify’s having found duplicates that G.A.B did not, the G.A.B. might expect to find nearly 600 more duplications.

Potentially False Names:

Without identifying the names in their report, Verify the Recall struck 2,590 names as being “potentially false”. The G.A.B.’s own review of the Governor Walker recall petition found 4. This is again a distinction of process. Mr. Antill stated that the names were pre-determined, that is, True the Vote’s research staff drew up a list of names that they believed would be used on the recall petition fraudulently. If such a name appeared on the petition, the name was flagged and struck from the final tally. When asked if True the Vote would be willing to share this list, Mr. Antill declined, stating that this was proprietary information and was the work product of True the Vote. He did leave open the possibility that the actual list of the 2,590 names struck might be shared at a later date, but he would want to check with their legal counsel first. Mr. Antill did share that the names of “Scott Walker” and other Wisconsin politicians were included on their list of potentially fictitious names. Given the uncertain quality of the chosen fictitious names, staff was unable to evaluate the reliability of Verify the Recall’s search for potentially fictitious names.

Other Points of Note:

Some final items of note gleaned from staff’s review of Verify the Recall which were problematic compared to the process and standards required under Wisconsin law:

- If there was a PO BOX listed at all even if accompanied by a house and street number, the signature was often struck.
- Signatures were often struck for lacking a Zip Code.
- Duplicates were struck based on address and name but did not account for “Juniors” and “Seniors”.
- Staff’s cursory look of “Incomplete Records” revealed that many of those strikes were because the signer did not include a municipality in the “Voting Municipality” column yet did include one as part of their address.
- Since the G.A.B. struck more date-related signatures than True the Vote did, staff did not evaluate this category of strikes. However, a cursory review of this category indicates that their lower numbers do not indicate a higher degree of accuracy as data entry errors were common.
- True the Vote did not claim that their results were final, asking that the G.A.B. “thoroughly examine” all 152,000+ circulator records as well as “more closely” examining all duplicate signatures and false names. Those examinations were part of the G.A.B.’s review.

V. Conclusion:

While Verify the Recall, using software supplied by True the Vote, took steps to ensure that Chapter 9 of the Statutes was adhered to, there was no accompanying or adequate consideration of established Wisconsin statutory and case law that has fully developed the substantial compliance standard when it comes to evaluating election-related petitions. Under that body of law, an election petition is to be reviewed and construed with a view to promote the purpose for which it was enacted. To survive this standard of scrutiny, an elector needs only to have established a manifest intent to add his or her name to a properly circulated petition. Information on a petition is presumed to be valid and the burden is on the challenger to present evidence to rebut that presumption.

The Board and its staff share Verify the Recall's stated goal of ensuring that the recall petitions were free of substantial fraud and were the result of a legitimate democratic exercise. The Board and the taxpayers invested much time, effort, and resources into a careful and conscientious review process that was required by and consistent with Wisconsin Statutes. Verify the Recall encouraged a strong level of civic engagement, which is both an indication of, and a contributing factor to, a strong and transparent process. However, the combination of the method of analysis it employed and the manner in which the data was collected and analyzed created results that were significantly less accurate, complete, and reliable than the review and analysis completed by the G.A.B.

In addition, use of the Verify the Recall's methodology would not have been consistent with Wisconsin law and would have resulted in findings which would not have survived legal challenge. Perhaps the effort illustrates, in part, how a petition might be evaluated under a strict compliance standard relying primarily on automated review with limited staff analysis and supervision. But those are not the standards implemented by the Board or established by law in Wisconsin.

This memorandum is presented for informational purposes only and requires no Board action.

RECALL PETITION REPORT - GOVERNOR SCOTT WALKER
Submitted by True the Vote
on Behalf of Verify the Recall
Updated 3.21.12

EXHIBIT
- A

Overview of True the Vote

True the Vote is a nonpartisan, non-profit, citizen led initiative to inspire and equip fellow citizens to participate in our nation's electoral process. True the Vote's comprehensive program includes public outreach and education efforts, training and support of election workers, and research of publicly available election related records.

True the Vote's research focuses primarily on the review of election related records including audits of petition signatures, voter registration applications, voter registries, and other publicly available documents, for the purposes of assuring accuracy and authenticity of data used in electoral processes. Our work is supported by volunteer True the Vote researchers from across the country. True the Vote research projects range in size and scope; from narrow, county specific projects involving single datapoint analysis to national projects involving multipoint analysis, using research teams that span nationwide.

Overview of Verify the Recall

In December of 2011, Wisconsin GrandSons of Liberty and We the People of the Republic, working with True the Vote, launched Verify the Recall, an online effort to allow the general public an opportunity to assist in developing a comprehensive digital dataset of all recall petition signatures. True the Vote then applied multivariate analyses to the dataset; determining the eligibility of each signature line and the total count of eligible signatures.

Over 17,000 people from all 50 states have volunteered with Verify the Recall

Goals

- To conduct a comprehensive review of recall petition data
- To uphold the integrity of election processes
- To publicly present all findings

RECALL PETITION REPORT - GOVERNOR SCOTT WALKER

Submitted by True the Vote

on Behalf of Verify the Recall

Updated 3.21.12

Recall Petition Audit Methodology

Volunteers transcribed each of the petitions' handwritten signature lines into a proprietary database, in a secure web-based environment, using tested True the Vote procedures to assure a high degree of accuracy. Once entered, True the Vote used its proprietary software program to examine each signature for eligibility.

Empowered By **TRUE the VOTE** 2012

INSTRUCTIONS FOR USE:
 Please fill in each field using the information provided from the scanned copy of the page you are viewing.
 If you are unable to read some information, please make your best guess.
 Once a signature line has been entered, press the "NEXT" button.
 When you reach the last signature line, pressing next will fetch another page from the petition.

Printed Name:
 Printed Matches Sign? Yes No Can't Tell
 Line# 1
 Street:
 City:
 Zip:
 Is this PO Box? Yes

Municipality Type: Town Village City
 Municipality Name:
 Date Signed:
 Phone:
 Email:

RECALL PETITION

RECALL PETITION

To the Wisconsin Government Accountability Board: We, the undersigned qualified electors of the 33rd State Senate District of Wisconsin petition for the recall of State Senator Dan Kapacke from office pursuant to Article XIII, Section 12 of the Wisconsin Constitution and § 9.10 of the Wisconsin Statutes.

THE MUNICIPALITY USED FOR MAILING PURPOSES, WHEN DIFFERENT THAN MUNICIPALITY OF RESIDENCE, IS NOT SUFFICIENT.
 THE NAME OF THE MUNICIPALITY OF RESIDENCE MUST ALWAYS BE LISTED.

PRINTED NAMES OF ELECTORS	SIGNATURES OF ELECTORS	STREET & NUMBER OR RURAL ROUTE <small>Rural address must also include box or city no.</small>	MUNICIPALITY OF RESIDENCE <small>Town, Village, or City</small>	DATE OF SIGNING
1. Jon L. Rabbitt	<i>[Signature]</i>	12540 City Pl. 0A La Crosse, WI 54601	<input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City Barre Mills	3/16/11
2. Troy A. Schmutzer	<i>[Signature]</i>	2632 Calvert Rd #210 La Crosse, WI 54601	<input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City La Crosse	3/16/11
3. Theresa A. Martison	<i>[Signature]</i>	W2812 Shorewood Ct West Salem, WI 54601	<input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City Hamilton	3/16/11
4. MELVIN GLEN JENKINS	<i>[Signature]</i>	2142 HACKBERRY LANE LA CROSSE, WISCONSIN	<input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City LA CROSSE	3/16/11
5. Tim Thompson	<i>[Signature]</i>	13779 Logging Road West Salem, WI 54602	<input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City JARRE	3/16/11
6.		13501 Heath Rd.	<input type="checkbox"/> Town <input type="checkbox"/> Village	3/16/11

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RECALL PETITION REPORT - GOVERNOR SCOTT WALKER
Submitted by True the Vote
on Behalf of Verify the Recall
Updated 3.21.12

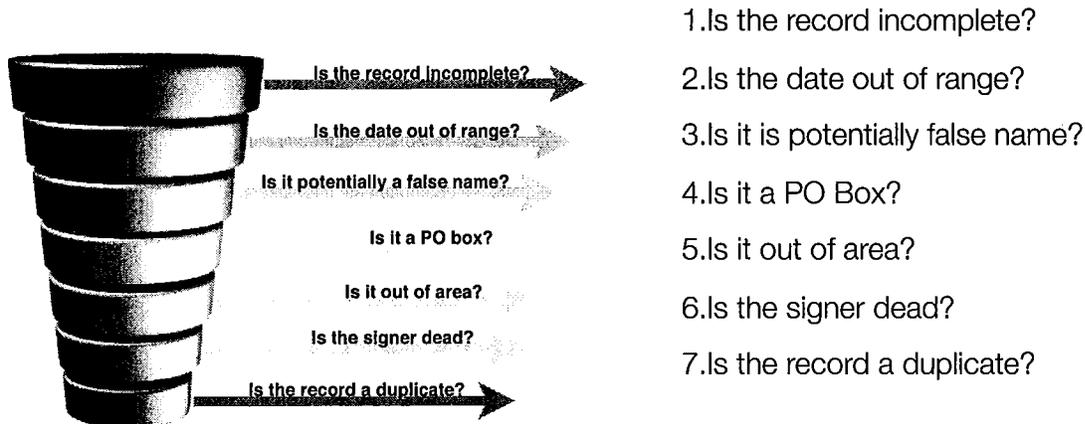
Pursuant to Wisconsin Election Code Chapter 9.10.2, each signature was examined and deemed ineligible if any of the following conditions were present:

- The signature is incomplete
- The signature is not unique in the dataset
- The signature is dated outside the circulation period
- The residency of the signer cannot be determined by the address given
- The signature is that of an individual who is not a resident of the jurisdiction or district from which the elective official being recalled is elected
- The signature is that of an individual who is known to be deceased
- The signature is that of an individual who is known to be fictitious

Petition pages were systematically distributed to data enterers, each page being completely entered a minimum of three times. Redundancy of entry provided a basis of comparison used to weigh the accuracy of signature line data, as well as the efficiency and accuracy of the data enterer.

This process of verification and evaluation was used to programmatically determine the eligibility of each signature line, using the following hierarchy for elimination:

If the resulting determination was inconclusive, the signature line was examined by senior True the Vote researchers and eligibility determinations made on a case by case basis.



RECALL PETITION REPORT - GOVERNOR SCOTT WALKER
Submitted by True the Vote
on Behalf of Verify the Recall
Updated 3.21.12

Typical records requiring further research included addresses that are not found in the US Post Office Address Register or signatures that do not match. Any records that remain indeterminable will be categorized as requiring further inspection, at which point the eligibility determination would be left to the GAB or challenging party.

Analysis

The Recall Petition of Governor Walker required a minimum of 540,208 signatures in order to trigger a recall election. On January 17th, the Committee to Recall Walker submitted an estimated 152,000 petition pages containing a purported 1,000,000 signatures.

Verify the Recall **launched the Walker audit on February 3rd**, shortly after the petition documents were posted online. Approximately **5200 volunteers** participated in the data entry effort. **5,194,467 records were entered in 43 days**, with **each signature line being entered approximately 3.62 times**. The following is an overview of all findings *to date*.

Variables Analyzed*	Total Counts
Total Number of Pages Submitted	152,508
Total Number of Pages Processed	143,403
Number of Pages Unable to Access	undetermined
Number Records Processed	1,435,499
Blank Lines	575,344
Unique Records (including duplicates)	860,155
Incomplete / Indecipherable Records	35,483
Sign Date Out of Range	14,287
Out of State	4643
Duplicate Signatures	6035
Potentially fictitious names and/or signatures**	2590
Total Ineligible Signatures	63,038
Total Signatures for Further Investigation***	212,628
Total Eligible Signatures based on data available	584,489

* 97% data entered, approx margin of error +/- 7%, based on current redundancy ratio duplications, omissions in GAB data

** based on visual inspection

*** illegible, possibly false, mismatched or otherwise compromised signatures, based on programmatic inspection

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Board Meeting

TO: Members, Government Accountability Board

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

Prepared and Presented by:
Michael Haas, Staff Counsel
Matthew Giesfeldt and Blythe Kennedy, Legal Interns

SUBJECT: Applicability of Concealed Carry Law to G.A.B. Office and Polling Places

Summary

This memorandum presents a summary of the Government Accountability Board staff's interpretation of Wisconsin's concealed carry law as it pertains to the G.A.B. office and Wisconsin polling places. Judge Nichol has inquired into the agency's policy as it relates to the G.A.B. office, and Board members as well as clerks have sought information regarding the new law's applicability to polling places.

Wisconsin's concealed carry law permits the G.A.B. to prohibit concealed firearms in its offices. Wisconsin's concealed carry law also permits municipalities to prohibit concealed firearms at polling places during elections, whether or not the polling place is located on municipal property.

Background

The Wisconsin State Legislature recently passed legislation that allows Wisconsin residents to carry concealed weapons. The Governor signed 2011 Wisconsin Act 35 on July 8, 2011 and it became effective on November 1, 2011. The law contains provisions that allow certain entities to prohibit persons from carrying a concealed weapon on property owned or controlled by the entity if it provide proper notice to visitors and patrons. This memorandum summarizes a plain language interpretation of the concealed carry law as it pertains to the Government Accountability Board ("G.A.B.") offices and to polling places across the state. Board staff believes this memorandum is consistent with the Department of Justice's published guidance regarding the concealed carry law. However, we have requested the Department of Justice's review of this memorandum and will notify the Board if its feedback is contrary to or alters the conclusions outlined below.

G.A.B. Offices

It appears that the G.A.B. may prohibit carrying a concealed weapon within its offices if the agency gives proper notice. The Department of Administration has announced a preference that, in general, State agencies permit concealed carry in their offices, but the Board may determine a policy best suited for the agency, for both visitors and employees.

Units of state and local government may notify persons with concealed weapons not to enter buildings that the government unit owns, *occupies, or controls*. WIS. STAT. §§ 943.13(1m)(c)2. (emphasis added). The G.A.B. is a tenant in the building at 212 East Washington Avenue, Madison, Wisconsin 53703. Thus, even though the G.A.B. does not own its building, its status as a tenant permits it to prohibit concealed weapons within its office area. *See* WIS. STAT. §§ 943.13(1m)(c)2. If the G.A.B. provides proper notice, it is unlawful for any person to enter or remain in any part of the building for which notice was given if the person has a concealed weapon. *See* WIS. STAT. §§ 943.13(1m)(c)2.

In order to legally institute this policy, the G.A.B. must provide all visitors proper notice to restrict their right to concealed carry. For non-residential buildings and state or government property, such as the office occupied by the G.A.B., a sign must be posted in a prominent place near all entrances to the part of the building to which the restriction applies. WIS. STAT. § 943.13(2)(bm)2.b. Further, any person entering the restricted part of the building must be reasonably expected to see the sign. WIS. STAT. § 943.13(2)(bm)2.b. The sign must be at least five inches by seven inches in size. WIS. STAT. § 943.13(2)(bm)1. Minimally, the sign must state that persons with weapons or firearms are prohibited from the applicable part of the building. WIS. STAT. § 943.13(2)(bm)1.

The agency may also prohibit its employees from carrying a concealed weapon at the workplace. If the G.A.B. permits employees to carry concealed weapons, certain administrative requirements apply regarding notification of supervisors and keeping the weapon on the person at all times.

Polling Places

It appears that municipalities may also restrict the right to carry concealed weapons within polling places if they provide proper notice. Local units of government may determine whether concealed weapons are permitted on property owned by the municipality. Because of the law's special event provisions, it appears that municipalities may also determine the concealed carry policy regarding polling places that are not located on municipal property and which do not otherwise restrict carrying concealed weapons (as schools would already do).

Organizers of special events may prohibit access to persons with concealed weapons. WIS. STAT. § 943.13 (1m)(c)3. A "special event" is an event open to the public for a duration of not more than three weeks and either has designated entrances to and from the event that are locked when the event is closed or requires admission. WIS. STAT. § 943.13(1e)(h). An election at a polling place appears to meet the plain language definition of "special event." *See* WIS. STAT. § 943.13(1e)(h).

To legally prohibit concealed weapons, an organizer of a special event must post a sign in a prominent place near all entrances to the event so that an individual attending the event can be

expected to see the sign. WIS. STAT. § 943.13(2)(bm)2b. The sign must be at least five inches by seven inches in size, and it must state that persons with firearms or weapons are prohibited from entry. WIS. STAT. § 943.13(2)(bm)1.

Staff recommends that municipal governing bodies, as the owner and organizer of elections at the local level, make any determinations regarding whether a polling place will prohibit concealed weapons, rather than delegating that decision to the municipal clerk.

In addition to the “special event” provision of the concealed carry legislation, other statutes provide independent authority for clerks and election inspectors to maintain order, and support their ability to restrict or prohibit the carrying of concealed weapons at polling places in specific cases.

First, if a concealed weapon distracts an election official, the official may prohibit carrying a concealed weapon within the polling place. WIS. STAT. § 5.35 (5) provides that “no polling place may be situated so as to interfere with *or distract* election officials from carrying out their duties.” (emphasis added). The duty to prevent interference with and distraction of electors at polling places falls on the municipal clerk and election inspectors. WIS. STAT. § 5.35 (5). Thus, under the plain language of the statute, if an election official is distracted by persons with concealed weapons, the clerks and inspectors have the right to prohibit that activity in order to prevent this interference or distraction. *See* WIS. STAT. § 5.35 (5).

Second, in specific situations, election inspectors may give verbal notice to maintain order at the polling place. Election inspectors have full authority to maintain order and to enforce obedience to their lawful orders during the election and canvass process. WIS. STAT. § 7.37 (2). Any person who disobeys an inspector’s command, engages in disorderly conduct, or interrupts or disturbs the proceedings may be removed from the voting area or taken into custody by law enforcement. WIS. STAT. § 7.37 (2). Under the plain language of this statute, an inspector could legally command a person with a concealed weapon to leave a polling place for the purpose of maintaining order, even if the written notice required by the concealed carry law has not been posted.

Finally, chief inspectors or municipal clerks may prohibit election observers from carrying a concealed weapon if doing so disrupts the operation of the polling place. The chief inspector or municipal clerk may order the removal of any individual exercising the right to observe at the polling place if that individual commits an overt act that disrupts the operation of the polling place or clerk’s office. WIS. STAT. § 7.41(3).

In summary, therefore, if an election at a polling place qualifies as a “special event,” persons carrying a concealed weapon may be prohibited from entry at those places, if the municipality posts the required notice. Clerks and election inspectors may also be permitted to prohibit carrying concealed weapons at the polling location in specific cases if doing so distracts election officials or disrupts operation of the polling place.

Board staff intends to advise municipalities that the governing body, with the input and advice of the municipal attorney, should consider the applicability of the concealed carry law to their polling places, and determine whether concealed weapons will be permitted at those locations. However, Board staff also will refrain from providing guidance to municipalities on this question until it has received any feedback or recommendations from the Department of Justice.

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by:

Shane W. Falk, Staff Counsel

SUBJECT: Revised Central Count Absentee Guideline

Introduction:

Wis. Stat. §6.86(6) was created by 2011 Wisconsin Act 227, which prohibits an elector from personally delivering or mailing an absentee ballot and voting in person at the same election on Election Day. This process affects the Central Count Absentee Guideline the Board previously adopted on December 13, 2011.

The December 13, 2011 Central Count Absentee Guideline incorporated the statutory right and the Board's longstanding policy to permit an elector vote in person on Election Day, so long as the voter's absentee ballot had not been processed. The enactment of Wis. Stat. §6.86(6) impacts the whole absentee voting process and requires a revision of the Central Count Absentee Guideline to take into account the impact of this statutory change.

Recommendations:

1. Staff recommends that the Board approve the draft revised Central Count Absentee Guideline, which incorporates procedural changes pursuant to 2011 Wisconsin Act 227, that follows this Memorandum and incorporate more specific information on central count absentee processes in the Election Day Manual and G.A.B. training.
2. Staff recommends that the Board direct staff to notify all clerks, but specifically the clerks for municipalities with existing or considering central count absentee, of the revised guidance and inform them that they must conform their conduct to the law.
3. Staff recommends that the Board direct staff to notify all clerks, but specifically the clerks for municipalities with existing or considering central count absentee, that

they shall forward copies of enabling ordinances and any written procedures for Central Count Absentee by May 25, 2012 for review by Board staff to ensure compliance with the Central Count Absentee Guidance and statutes.

Background:

The December 13, 2011 Central Count Absentee Guideline was adopted in response to two requests for the Board to clarify the central count absentee procedures.

Sections 7.52 and 7.53(2m), Wis. Stats., were created by 2005 Wisconsin Act 451, which permits the governing body of a municipality to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers. This process is commonly referred to as “central count absentee.” Following the enactment of §§7.52 and 7.53(2m), Wis. Stats., the governing bodies of several municipalities adopted ordinances permitting the central count of absentee ballots. Staff has been unable to obtain an updated and accurate list of municipalities with central count absentee ordinances still in effect or anticipated in the near future. At last count, there were 14 municipalities with central count of absentee ballots and 2 additional municipalities had stated a desire to implement central count of absentee ballots. Municipalities with existing central count of absentee ballots include larger municipalities such as Milwaukee, Kenosha, and Wausau.

In 2011, a married couple (the Gunkas) who voted in Milwaukee were charged and tried for alleged double-voting because they both submitted absentee ballots and both then voted in person at the polls. The couple was found “not guilty” by a jury. In reviewing this situation, staff became concerned that the central count absentee guidance issued by the State Elections Board on February 21, 2007 and reissued by the G.A.B. on January 17, 2008 needed further review and clarification.

The G.A.B. and its predecessor, the S.E.B., had a longstanding policy permitting an elector to appear in person on Election Day to vote, even if that same elector had already submitted an absentee ballot, so long as the absentee ballot had not already been “cast” - processed and tabulated. This procedure was specifically authorized by §6.88(3)(a), Wis. Stats. If the absentee ballot had not yet been cast, the elector was permitted to vote in person and the election officials were to reject the elector’s absentee ballot. If the absentee ballot had already been cast and a voting number assigned to the elector, the election officials had to prohibit the elector from voting in person. Application of specific central count absentee statutory provisions (§§7.53(1) and (2)(d), Wis. Stats.) similar to this policy and §6.88(3)(a), Wis. Stats., had been inconsistent.

Following the Gunka verdicts and pursuant to §5.05(6a), Wis. Stats., two specific requests were made for the Board to provide an opinion on central count absentee processes, hoping to clarify the procedures for election officials and voters, but also to avoid unnecessary use of prosecutorial resources.

This topic was first on the Board’s meeting agenda on August 2, 2011 and again on September 12, 2011 when the Board received copies of comments from many municipalities with central count absentee. Since the September 12, 2011 meeting, the G.A.B. has received no additional

comments from municipalities with existing central count absentee; however, staff has been contacted by at least two new municipalities considering implementing central count absentee.

Several municipal clerks have pointed out to staff that the Election Day Manual does not specifically address central count absentee in great detail and there is no reference to central count absentee in the section of the manual relating to the “absentee” watermark on the poll list. Clerks have also identified that some procedural inconsistencies in the central count absentee process have emerged since the State Election Board’s first guidance in 2007 and that the G.A.B. training on the central count absentee process has been minimal thus far. Some clerks apparently were not even aware of the 2007 and 2008 guidance issued by the S.E.B. and G.A.B.

On April 6, 2012, the Governor signed 2011 Senate Bill 271 into law as 2011 Wisconsin Act 227. This Act affected the absentee voting process as a whole and prohibited voters from both submitting an absentee ballot and voting in person at the same election on Election Day. Act 227 was effective on April 20, 2012 and staff worked long hours to provide detailed guidance to clerks and their election inspectors regarding the impact of the Act’s requirements. A significant amount of absentee voting and Election Day processes required revision. Likewise, the Central Count Absentee Guideline requires revision to incorporate the impacts of Act 227.

Analysis:

No person may vote more than once in the same election. §12.13(1)(e), Wis. Stats. Whoever intentionally violates §12.13(1)(e), Wis. Stats., is guilty of a Class I felony. §12.60(1)(a), Wis. Stats. No person may personally deliver an absentee ballot and vote in person at the same election on Election Day. § 6.86(6), Wis. Stats. An elector may obtain an absentee ballot pursuant to §§6.86 and 6.865, Wis. Stats., in lieu of voting in person at the polls on Election Day. Statutorily prescribed procedures set forth the absentee ballot canvassing process, in part to ensure that no person votes more than once in the same election.

Act 227 prevents returning an absentee ballot and voting in person at the same election, regardless of whether the absentee ballot was cast - processed and counted. Act 227 also prohibits the return of absentee ballots to voters once mailed or personally delivered to the clerk, except in the case of damaged or spoiled ballots or envelopes with incomplete or no certificates. These new statutory requirements impact the procedures for processing absentee ballots at polling places and central count locations.

Upon receipt of an absentee ballot, the municipal clerk must enter information about receipt of the ballot into the Absentee Ballot Log (GAB-124). The municipal clerk should examine the certificate envelope for any errors and, if there is an error, contact the voter with information regarding the opportunity to correct the certificate envelope at the clerk’s office, by mail, or on Election Day at the polling place or central count location. The municipal clerk must enter information about the defect and the voter contact into the Absentee Ballot Log. The Absentee Ballot Log will be used in the clerk’s office and by election inspectors on Election Day to verify the current status of an absentee ballot. Information on the Absentee Ballot Log will be used to determine whether a voter is able to vote in person at the polling place, correct a defect in the certificate envelope, or receive a replacement absentee ballot.

Voters with incomplete or no certificate envelopes have the opportunity to correct the certificate envelopes, “whenever time permits.” §6.87(9), Wis. Stats. Staff has interpreted the “whenever time permits” language as up to and including Election Day, thus giving electors the opportunity to correct an insufficiency on their certificate envelope at the polling place or central count location.

In municipalities without central count absentee, the municipal clerk shall deliver all timely received absentee ballots to the election inspectors of the proper ward or election district where the absentee ballots are canvassed. §6.88(2), Wis. Stats. Except in municipalities with central count absentee, the inspectors shall canvass the absentee ballots at any time between the opening and closing of the polls on Election Day. §6.88(3)(a), Wis. Stats. By implication, Act 227 necessarily causes a change in the timeline for processing absentee ballots with incomplete or no certificate envelopes. Inspectors shall not process absentee ballots with incomplete or no certificates until 8 p.m. on Election Day. Electors shall have the opportunity to correct an insufficiency on their certificate envelope at the polling place or at the central count location until 8 p.m. on Election Day. The elector shall bring the original witness to the polling place or central count location to correct the insufficiency. The inspectors shall provide a replacement certificate envelope to an elector, as necessary. After 8 p.m. on Election Day remaining absentee ballots with incomplete or no certificate envelopes shall be processed in the usual fashion, i.e. rejected.

2011 Wisconsin Act 227 did not eliminate the requirement to reconcile the poll list of central count absentee voters with the in person poll lists. After any canvass of the absentee ballots is completed under §7.52, Wis. Stats., the board of canvassers shall reconcile the poll list of the electors who vote by absentee ballot with the corresponding poll list of the electors who vote in-person to ensure that no elector is allowed to cast more than one ballot. §§7.53(1) and (2)(d), Wis. Stats. **If an elector who votes in person has submitted an absentee ballot, the absentee ballot is void.** Id. The purpose of marking the poll list number of each elector on the back of the elector’s ballot before depositing it in the ballot box is to provide for easy identification and later rejection of the absentee ballot after the reconciliation of the poll list of the electors who vote by absentee ballot with the corresponding poll list of the electors who vote in-person, pursuant to §§7.53(1) and (2)(d), Wis. Stats.

The reconciliation will identify electors who mail or personally deliver an absentee ballot to the municipal clerk and also vote in person at the same election on Election Day, which is contrary to §6.86(6), Wis. Stats. The board of canvassers shall prepare a list of electors for which an absentee ballot was voided because the elector voted in person on Election Day. The board of canvassers shall provide this list to the municipal clerk. Immediately following the election, the municipal clerk shall provide this list to the district attorney for review of whether any electors violated §12.13(1)(e), Wis. Stats.

Proposed Motions:

- 1. MOTION:** The Board approves the draft revised Central Count Absentee Guideline, which incorporates procedural changes pursuant to 2011 Wisconsin Act 227, that follows this Memorandum and staff is directed to incorporate more specific information on central count absentee processes in the Election Day Manual and G.A.B. training.

2. **MOTION:** Staff shall notify all clerks, but specifically the clerks for municipalities with existing or considering central count absentee, of the revised guidance and inform them that they must conform their conduct to the law.

3. **MOTION:** Staff recommends that the Board direct staff to notify all clerks, but specifically the clerks for municipalities with existing or considering central count absentee, that they shall forward copies of enabling ordinances and any written procedures for Central Count Absentee by May 25, 2012 for review by Board staff to ensure compliance with the Central Count Absentee Guidance and statutes.

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: May ____, 2012

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

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

SUBJECT: Central Count Absentee Guideline

Special Note: This guideline contains revisions formally adopted by the Government Accountability Board at its May 15, 2012 meeting and provides updates to procedures due to legislation affecting absentee voting as prescribed in 2011 Wisconsin Act 227.

Guideline—Central Count Absentee

This guideline was originally adopted by the Government Accountability Board at its December 13, 2011 meeting and was revised at the May 15, 2012 meeting. The guideline provides some basic information for municipalities who want to utilize a municipal board of absentee ballot canvassers for counting absentee ballots on Election Day. Section 7.52, Wis. Stats., permits the governing body of a municipality to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers.

This guideline also provides the basic requirements for establishing procedures for utilizing a municipal board of absentee ballot canvassers to count absentee ballots on Election Day. There are a number of administrative procedures clerks will have to develop to ensure individuals do not vote absentee and in person for the same election. In addition, these administrative procedures will ensure that votes cast by absentee ballot are properly reported for the canvass of election results.

Establishing a Municipal Board of Absentee Ballot Canvassers

If the governing body decides to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers, it must adopt an ordinance. Section 7.52 (1), Wis. Stats. The municipal clerk is required to notify the Elections Division in writing

before the municipality adopts the ordinance and consult with the Elections Division staff concerning administration of a central location for counting absentee ballots.

The governing body must also establish a municipal board of absentee ballot canvassers. Section 7.53 (2m), Wis. Stats. The municipal board of absentee ballot canvassers is the municipal clerk and two other qualified electors of the municipality appointed by the clerk. They serve two-year terms beginning January 1st of odd-numbered years.

Polling Place Procedures for Municipalities with a Municipal Board of Absentee Canvassers

In general, a voter who did not receive an absentee ballot by mail or who chose not to return an absentee ballot is able to vote in person at the polling place on Election Day. However, a voter who returned an absentee ballot with an incomplete or no certificate envelope (or who did not receive or return a replacement envelope) cannot vote in person at the polling place on Election Day. Voters with incomplete or no certificate envelopes may only correct the envelope up to and including Election Day (correction occurring at the central count location on Election Day and with the original witness.)

At the polling place, if a voter has an absentee designation in the poll book, the election inspector must check the absentee ballot log to determine whether the absentee ballot was received. If the absentee ballot log reflects that the voter's absentee ballot was received, the election inspector shall inform the voter that he or she cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6).

If there is no indication in the absentee ballot log regarding receipt of the voter's absentee ballot, the election inspector shall ask the voter: "Did you mail or personally deliver your absentee ballot to the clerk's office?" If the voter answers this question in the affirmative, the election inspector shall inform the voter that he or she cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6). If the voter answers this question in the negative, the election inspector shall permit the voter to vote in person at the polling place.

Please note: A voter who did not receive a replacement ballot by mail or who chose not to return a replacement ballot for a spoiled or damaged ballot is able to vote in person at the polling place. The absentee ballot log (GAB 124) should indicate the first ballot was cancelled and a second ballot was issued.

General Election Day Procedures for Municipal Board of Absentee Ballot Canvassers

The municipal board of absentee ballot canvassers shall publicly convene between 7 a.m. and 10 p.m. on Election Day to count the absentee ballots for the municipality. The municipal clerk shall give at least a 48-hour notice of the meeting of the municipal board of absentee ballot canvassers.

Any member of the public has the right to observe the proceedings of the municipal board of absentee ballot canvassers just as they do at the polling place.

Election inspectors may be appointed to assist the municipal board of absentee ballot canvassers with counting the absentee ballots for the municipality. If appointed, there must be

an odd number of inspectors, and there must be at least three inspectors present at all times while absentee ballots are counted.

Prior to the polls opening at 7 a.m. on Election Day, the municipal clerk shall identify and announce an Internet website at which an absentee informational statement shall later be posted. No later than 8 p.m. on Election Day, the municipal clerk shall post an absentee informational statement in the clerk's office and on the Internet website as identified by the clerk. The statement shall list the number of absentee ballots that have been issued and the number of absentee ballots that have been returned by the close of the polls on Election Day. The statement shall not include the name or address of absentee voters.

Reconciliation of Poll Lists (or Absentee Log)

After any canvass of the absentee ballots is completed under §7.52, Wis. Stats., the board of canvassers shall reconcile the poll list of the electors who vote by absentee ballot (or absentee log) with the corresponding poll list of the electors who vote in person to ensure that no elector is allowed to cast more than one ballot. §§7.53(1) and (2)(d), Wis. Stats. The purpose of marking the poll list number of each elector on the back of the elector's ballot before depositing it in the ballot box or voting equipment is to provide for easy identification and later rejection of the absentee ballot after the reconciliation of the poll list of the electors who vote by absentee ballot (or absentee log) with the corresponding poll list of the electors who vote in person, pursuant to §§6.86(6) and 7.53(1) and (2)(d), Wis. Stats.

If an elector who votes in person has also submitted an absentee ballot, the absentee ballot is void and only the in person vote shall be counted. §7.53(2)(d), Wis. Stats. The reconciliation will identify electors who mail or personally deliver an absentee ballot to the municipal clerk and also vote in person at the same election on Election Day, which is contrary to §6.86(6), Wis. Stats. The board of canvassers shall prepare a list of electors for which an absentee ballot was voided because the elector voted in person on Election Day. The board of canvassers shall provide this list to the municipal clerk. Immediately following the election, the municipal clerk shall provide this list to the district attorney for review of whether any electors violated §12.13(1)(e), Wis. Stats.

Voter Lists

The municipal board of absentee ballot canvassers shall use two duplicate SVRS-generated copies of a single poll list for the entire municipality, or the SVRS-generated absentee ballot log for the entire municipality. The list shall be annotated with voter numbers beginning with the number 1, along with an indication the voter cast an absentee ballot. If the voter's name does not appear on the poll list, the name and voter number shall be recorded on the supplemental poll list.

Procedures for Processing Absentee Ballots

No earlier than 7:00 a.m. on Election Day, the municipal board of absentee ballot canvassers shall open the carrier envelope or container in which the absentee ballots were delivered to the central count absentee ballot site so that a member of the public may observe the opening.

The municipal clerk shall group absentee ballots with incomplete or no certificates. The municipal board of absentee canvassers shall not process absentee ballots with incomplete or no certificates until 8 p.m. on Election Day. Electors shall have the opportunity to correct an insufficiency on their certificate envelope at the central count location until 8 p.m. on Election Day. The elector shall bring the original witness to the central count location to correct an insufficiency on their certificate envelope. The municipal board of absentee canvassers shall provide a replacement certificate envelope to the elector, as necessary. After 8 p.m. on Election Day absentee ballots with incomplete or no certificates shall be processed as outlined below.

As each ballot is processed, the municipal board of absentee ballot canvassers shall announce the name of the absentee voter so that any member of the public present may hear the voter's name. The municipal board of absentee ballot canvassers shall carefully examine the certificate to determine if it is signed and witnessed and the elector is a registered voter in the reporting unit for which the absentee ballot is being processed.

The municipal board of absentee ballot canvassers shall compare the certificate envelope to the list of ineligible voters provided by the Department of Corrections. If the absentee voter's name appears on the list, the municipal board of absentee ballot canvassers shall challenge the absentee ballot.

The municipal board of absentee ballot canvassers shall carefully open the certificate envelope, remove the ballot from the certificate envelope and verify that the ballot has been initialed by the municipal clerk or a deputy clerk. NOTE: If the ballot does not contain the initials of either the municipal clerk or a deputy clerk, the omission is noted on the Inspectors' Statement (Form GAB-104), and the ballot is processed. An absentee ballot is not rejected solely because the initials of the clerk or deputy clerk are missing.

The municipal board of absentee ballot canvassers shall mark the voter number on the back of the ballot and on the poll list, or SVRS-generated absentee ballot log, along with the indication the voter cast an absentee ballot.

If the poll list indicates the voter was required to provide proof of residence as a first-time voter, the municipal board of absentee ballot canvassers shall record the type of document provided on the poll list. If no proof of residence was provided, the municipal board of absentee ballot canvassers shall treat the absentee ballot as a provisional ballot.

The municipal board of absentee ballot canvassers may not count the absentee ballot and shall mark the ballot as "Rejected" if:

- The voter is not a registered elector of the reporting unit;
- The absentee certificate envelope was open or had been opened and resealed;
- The absentee certificate envelope contains more than one ballot of any one kind;
- The certificate of a military or overseas elector who received an absentee ballot by Fax or e-mail is missing;
- Proof is submitted that the elector has died.

The municipal board of absentee ballot canvassers may not count the ballot and shall mark the ballot as “Rejected” **after 8 p.m. on Election Day** if:

- The certification is insufficient (not signed or witnessed) or missing.

The reason for rejection shall be recorded on the certificate envelope and on the Inspectors’ Statement (Form GAB-104) by the municipal board of absentee ballot canvassers. The rejected absentee ballots shall be placed in the brown envelope for rejected absentee ballots (Form GAB-102).

After recording the voter number for a properly cast absentee ballot, the municipal board of absentee ballot canvassers shall deposit the absentee ballot in the ballot box or vote tabulating device. The used certificate envelopes shall be placed in the white envelope for used certificate envelopes (Form GAB-103).

Follow the Same General Procedures to Process Absentee Ballots as Used at the Polling Place

The municipal board of absentee ballot canvassers shall follow the same general procedures, and use the same forms as are used at the polling place when processing, counting and securing absentee ballots. Duplicate original tally sheets and a single Inspectors’ Statement (Form GAB-104) must be maintained for each reporting unit. Rejected absentee ballots and used certificate envelopes are not required to be maintained by reporting unit. Rejected absentee ballots may be placed in a single Rejected Absentee Ballot envelope or container. Used certificate envelopes may be placed in a single Used Certificate envelope or container.

Challenging Absentee Ballots

An absentee ballot may be challenged in the same manner as it would be challenged at the polling place. Any qualified elector of Wisconsin may challenge an absentee ballot.

The municipal board of absentee ballot canvassers shall challenge an absentee ballot cast by an elector whose name appears on the ineligible voter list. The municipal board of absentee ballot canvassers shall follow the challenge procedures set out in the Election Day Manual and GAB Chapter 9, Wis. Admin. Code using the GAB 104-C to document the challenge.

An election inspector shall challenge an absentee ballot cast by an elector to whom the municipal clerk issued a replacement absentee ballot as a result of a spoiled or damaged original ballot, when the municipal clerk or clerk staff did not believe the voter was the person to whom the original ballot was issued. The municipal clerk or clerk staff shall attach a note to the absentee ballot certificate indicating the basis for the belief that the voter requesting the replacement ballot was not the person who requested the original ballot. The election inspectors may rely on the municipal clerk’s note to challenge an absentee ballot and shall follow the challenge procedures set out in the Election Day Manual and GAB Chapter 9, Wis. Admin. Code. The election inspectors shall use the GAB 104-C to document the challenge and specifically enter information documenting the municipal clerk’s evidence/belief as the basis for the challenge.

Completing and Delivering Forms

The municipal board of absentee ballot canvassers shall carefully record the votes for each reporting unit on duplicate original tally sheets, which are signed by the board of absentee ballot canvassers and anyone who assisted in the counting. Municipalities utilizing an optical scan voting system shall use two machine printouts as tally sheets. However, write-in votes must be recorded on duplicate original tally sheets (Form GAB-105). The ballots and materials shall be delivered to the municipal clerk following processing and counting of the absentee ballots, and after completing, recording and securing the required forms.

Miscellaneous Issues

Automatic tabulating devices must be properly set up, programmed and tested before Election Day to count absentee ballots by reporting unit for the entire municipality.

Detailed training, including checklists and instructions shall be provided to the municipal board of absentee ballot canvassers by the municipal clerk.

Questions and Comments

If clerks have questions on the utilization of a municipal board of absentee ballot canvassers to count absentee ballots contact the Elections Division staff. We also encourage you to identify issues and detail procedures so that the central count absentee ballot process can be improved and shared with all clerks.

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

DATE: May ___, 2012

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

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

SUBJECT: Revised Central Count Absentee Guideline and Procedure Review Process
Action Requested by Friday, May 25, 2012.

Immediately following this Memorandum, please find the revised Central Count Absentee Guideline, which was adopted by the Government Accountability Board at its meeting on May 15, 2012.

At the Board's May 15, 2012 meeting, the Board considered revised procedures for Central Count Absentee taking into account changes due to recent legislation affecting absentee voting as prescribed in 2011 Wisconsin Act 227.

Act 227 prohibits a voter from mailing or personally delivering an absentee ballot and voting in person at the same election on Election Day. Act 227 also affects the return of absentee ballots to voters once mailed or personally delivered, except for damaged or spoiled ballots or envelopes with incomplete or no certificates. These new statutory requirements impact the procedures for processing absentee ballots at polling places and central count locations, which required the revision of the Central Count Absentee Guideline.

At the Board's August, September, and December 2011 meetings, the Board considered previous recommended procedures for Central Count Absentee and those practices in place in various jurisdictions. In addition, the Board considered comments submitted by many clerks regarding effective Central Count Absentee procedures and limitations of the current enabling statutes. Ultimately and in the current context of the relatively recent activities of the Joint Committee for Review of Administrative Rules, the Board adopted a guideline with stricter adherence to the statutory provisions prescribing the Central Count Absentee procedures.

Most notably, this revised Central Count Absentee Guideline sets forth Election Day polling place procedures that implement Act 227's new prohibition of voting in person after having submitted an absentee ballot. This revised Central Count Guideline also reaffirms the statutory election night reconciliation of the central count poll list (or absentee log) with polling place poll lists. After any Central Count Absentee canvass is completed, the Board of Canvassers shall reconcile the poll list (or absentee log) of the electors who vote by absentee ballot with the corresponding poll list of electors who vote in-person to ensure that no elector is allowed to cast more than one ballot. *Wis. Stat. §7.53(1) and (2)(d)*. If an elector who votes in-person has submitted an absentee ballot, the absentee ballot is void. *Id.*

In addition, the Board directed staff to notify all clerks, but specifically clerks for municipalities with existing or contemplated Central Count Absentee, of the revised Central Count Absentee Guideline and the Board's direction that clerks conform their Central Count Absentee conduct to the law. **For those clerks in municipalities with, or contemplating, Central Count Absentee, please forward copies of your enabling ordinances and any written procedures for Central Count Absentee for review by Board staff to ensure compliance with the Central Count Absentee Guideline and statutes. Direct your emails to Nadya Perez-Reyes, Election Specialist, at Nadya.PerezReyes@wi.gov. Please complete this submission no later than Friday, May 25, 2012.**

Please note that the Board also directed staff to incorporate more information regarding Central Count Absentee processes in the Election Day Manual and training, as well as develop recommendations for statutory revisions for consideration by the Board. This work continues at the G.A.B.; however, the Legislature's recent adoption of Act 227 which affects the absentee voting process as a whole, has delayed the G.A.B.'s statutory review and legislative recommendation process.

For background on the revised Central Count Absentee Guideline, please see the Memorandum to the Board dated May 15, 2012 and attachments, which can be found on the G.A.B. website in the May 15, 2012 Board Meeting Materials.

For even more background on the development of the original Central Count Absentee Guideline, please see the Memorandum to the Board dated December 13, 2011 and attachments, which can be found on the G.A.B. website in the December 13, 2011 Board Meeting Materials at pages 34-51: <http://gab.wi.gov/about/meetings/2011/december>.

If you have any further questions or concerns, please contact Nadya Perez-Reyes, Election Specialist, at 608-267-0714 or Nadya.PerezReyes@wi.gov. Thank you.

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

Shane W. Falk
Staff Counsel
Government Accountability Board

Ross D. Hein
Elections Supervisor
Government Accountability Board

SCOPE OF REGULATION

“POLITICAL PURPOSE”

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

Under Chapter 11, Wisconsin Statutes, every person, including individuals and organizations, who makes disbursements for “a political purpose” is subject to various registration and reporting requirements. The Government Accountability Board has adopted GAB Admin Rule 1.28 (3) to help clarify the meaning of “political purpose.” The following version of GAB 1.28 (3) is now in effect:

GAB 1.28 (3) A communication is for a "political purpose" if either of the following applies:

(a) The communication contains terms such as the following or their functional equivalents with reference to a clearly identified candidate and unambiguously relates to the campaign of that candidate:

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

(b) The communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

The Board will consider the following factors in determining whether a communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate:

If a communication includes a reference to or depiction of a clearly identified candidate, is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election, or is made during the period beginning on the 30th day preceding a primary election and ending on the date of that election and the communication --

1. Refers to the personal qualities, character, or fitness of that candidate;
2. Supports or condemns that candidate's position or stance on issues; or
3. Supports or condemns that candidate's public record.

Legal references: §§11.01, *Wisconsin Statutes*; GAB 1.28, *Wis. Adm. Code* (as modified by legal stipulation regarding enforcement—*Wisconsin Club for Growth, Inc., et al. v. Gordon Myse, et al.*, Case No. 10-CV-427 – U.S. District Court for the Western District of Wisconsin).

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Michael Haas, Staff Counsel

SUBJECT: Approve Scope Statement for Proposed Rule Regulating Use of Single-Signer Election Petition

Introduction:

At the November 9, 2011 meeting, the Board specifically authorized the use of election-related petitions containing the signature of a single individual provided that no one other than the signer or the circulator may prepare an election-related petition with a signer's residential address information or the full date of signing pre-populated; however, an election-related petition may have the municipality of residence and the month or year of signing pre-populated. Following the Board's action, the Joint Committee for Review of Administrative Rules immediately scheduled a public hearing and an executive session for November 15, 2011 to discuss the Board's action. In executive session, JCRAR adopted a motion requiring the G.A.B. to promulgate an emergency rule addressing the use of single-signature election petitions.

On December 15, 2011, G.A.B. staff submitted the attached proposed statement of scope for the proposed rule to the Governor for approval. The Governor approved the scope statement on January 13, 2012, and it was published in the March 14, 2012 edition of the Administrative Register. The Board may now approve the statement of scope and authorize staff to begin drafting the emergency rule. The draft emergency rule must then be approved by the Board and submitted to the Governor for approval. Staff recommends that the Board also authorize preparation of a permanent rule consistent with the emergency rule.

If the Governor approves the emergency rule, it will be published in the official newspaper and filed with the Legislative Reference Bureau. The emergency rule would not take effect until it is published and on file with the LRB.

The substance of the attached proposed statement of scope is contained in the Policy Analysis section. Consistent with Wis. Stats. §§ 8.40 and 9.10 and GAB Chapter 2, Wis. Adm. Code, the proposed administrative rule clarifies the following specific standards and procedures related to the signing and circulating of election-related petitions:

1. Only the signer of an election-related petition may complete the signer's name, number of the residential street address, and numeric portion of the signature date on the petition.
2. Only the signer or circulator of an election-related petition may complete the data containing the signer's residential street and municipality as well as the month and year of signing.
3. All other information contained on the petition related to a signer may be pre-filled or pre-populated.
4. An individual may sign an election-related petition as both a signer and circulator provided that one signature is executed as the signer and the other signature attests to the circulator's certification.

Proposed Motion:

The Board approves the attached proposed statement of scope for an emergency and permanent rule permitting the use of election petitions executed and signed by a single individual subject to the conditions described above, and directs staff to prepare a proposed rule for the Board's consideration at a future meeting.

Statement of Scope
Government Accountability Board
Completion of Information on Election-Related Petition

Subject

Amends GAB Section 2.05(8) and clarifies that only the signer of an election-related petition may complete the signer's name, number of the residential street address, and specific date on the petition, and that a signer or circulator may complete the signer's residential street and municipality data as well as the month and year of signing. The rule would also clarify that one individual may sign as both a signer and circulator of a petition.

Objective of the Rule

The proposed rule implements a directive from the Joint Committee for the Review of Administrative Rules (JCRAR). The directive requires the Government Accountability Board (G.A.B.) to promulgate an emergency rule specifying that no one other than the signer or the circulator may prepare an election-related petition with a signer's residential address information or the full date of signing pre-populated.

Emergency Rule Authority

The agency is authorized to promulgate the rule as an emergency rule because it has been directed to do so by the Joint Committee for the Review of Administrative Rules pursuant to Wis. Stats. §§227.10 (1), 227.26 (2).

Permanent Rule

The agency plans to promulgate this rule as both an emergency rule and a permanent rule. This scope statement is submitted in support of both the emergency rule and the permanent rule.

Policy Analysis

Sections 8.40 and 9.10, Stats., establish the requirements governing election-related petitions, and those standards are further outlined in GAB Chapter 2, Wis. Adm. Code. The proposed administrative rule clarifies the following specific standards and procedures related to the signing and circulating of election-related petitions:

1. Only the signer of an election-related petition may complete the signer's name, number of the residential street address, and numeric portion of the signature date on the petition.
2. Only the signer or circulator of an election-related petition may complete the data containing the signer's residential street and municipality as well as the month and year of signing.

3. All other information contained on the petition related to a signer may be pre-filled or pre-populated.
4. An individual may sign an election-related petition as both a signer and circulator provided that one signature is executed as the signer and the other signature attests to the circulator's certification.

The above standards and requirements are consistent with applicable statutes, current administrative rules, and longstanding practices of parties gathering signatures for nomination papers and recall and referendum petitions. Section 8.40(1), Stats., states that "Each signer of such a petition shall affix his or her signature to the petition, accompanied by his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing." Section 8.40(3), Stats., also provides that the Government Accountability Board, "shall, by rule, prescribe standards consistent with this chapter and s. 9.10(2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon."

GAB Chapter 2, Wis. Adm. Code, outlines more specific requirements and rules related to election-related petitions. With regard to the ability of petition circulators to complete some information related to petition signers, Section GAB 2.05(4) states:

Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

Rules pertaining to election-related petitions apply consistently to nomination papers, referendum petitions, and recall petitions. Sec. 8.40(1), Stats.; Sec. GAB 2.09(5), Wis. Adm. Code.

At its meeting of November 9, 2011, the G.A.B. determined that, pursuant to current statutes and administrative rules, no one other than the signer or the circulator may prepare an election-related petition with a signer's complete residential address information or the full date of signing pre-populated, but that election-related petitions may have the municipality of residence and the month or year of signing pre-populated on a petition. The G.A.B. also determined that if the circulator of an election-related petition is also a signer of the petition, then the individual must sign once in the section of the form designed to collect information from qualified electors and a second time in the section of the form designed to obtain a certification from the circulator.

On November 15, 2011, the Joint Committee for the Review of Administrative Rules adopted a motion finding that the G.A.B.'s actions regarding pre-filing or pre-populating information on election-related petitions is a statement of policy that meets the definition of a rule pursuant to Chapter 227 of the Wisconsin Statutes.

Statutory Authority

The Board issued its determination pursuant to its responsibility and authority to issue advisory opinions under Section 5.05(6a), Stats., to conduct voter education under Section 5.05(12), Stats., and to prescribe standards to be used determining the validity of petitions for elections and petition signatures. However, given the directive of JCRAR, Section 5.05(1)(f) Stats., provides explicit authority for the G.A.B. to promulgate rules to ensure the proper administration of elections. Section 227.11(2)(a), Stats., provides clear authority for the G.A.B. to promulgate rules to ensure the proper administration of statutes under its jurisdiction, which includes laws related to the administration of elections. Finally, Section 8.40(3), Stats., also provides specific authority that the Government Accountability Board, "shall, by rule, prescribe standards consistent with this chapter and s. 9.10(2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon."

Comparison with Federal Regulations

Federal law does not address or establish standards or rules for the completion or review of election-related petitions

Entities Affected by the Rules

Election-related petition signers and circulators will be affected by this rule. Election filing officers including the G.A.B., and county, municipal, and school district clerks will also be affected by this rule in their review of election-related petitions. The rule does not impact businesses, private economic sectors or public utility ratepayers.

Economic Impact

The rule will have minimal or no impact on the governmental entities impacted by the rule. The rule's impact in the first instance is on petition signers and circulators who are responsible for completing the petitions properly. Filing officers who accept those petitions, including the G.A.B. and municipal, county and school district clerks are required to certify whether a particular election-related petition is sufficient or insufficient. The rule would clarify the standards to be used by filing officers in reviewing such petitions.

Estimate of Time Needed to Develop the Rules

40 hours.

Approval by the Governor

This Statement of Scope was approved by the Governor in writing on January 13, 2012.

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared and Presented by:

Michael Haas, Staff Counsel

SUBJECT: Approve Scope Statement for Proposed Rule Regarding Stickers on Student Identification Cards

Introduction:

At the November 9, 2011 meeting, the Board specifically authorized the use of stickers or labels affixed to student identification cards to satisfy photo identification requirements of 2011 Act. Following the Board's action, the Joint Committee for Review of Administrative Rules immediately scheduled a public hearing and an executive session for November 15, 2011 to discuss the Board's action. In executive session, JCRAR adopted a motion requiring the G.A.B. to promulgate an emergency rule addressing the use of stickers on student photo ID cards.

On December 15, 2011, G.A.B. staff submitted the attached statement of scope for the proposed rule, as both an emergency and permanent rule, to the Governor for approval. The Governor approved the scope statement on January 13, 2012, and it was published in the March 14, 2012 edition of the Administrative Register. The Board may now approve the statement of scope and authorize staff to begin drafting the rule. The draft rule must then be approved by the Board and submitted to the Governor for approval.

Staff recommends that the Board only authorize preparation of a permanent rule as the Board is enjoined from implementing the photo identification provisions of 2011 Wisconsin Act 23 by two separate State Circuit Court orders, with two additional lawsuits pending in Federal Court where injunctions are also sought. In addition, emergency rules are only effective for 150 days, which could expire prior to resolution of the litigation and injunctions. Statutes prohibit reissuance of an emergency rule, once it has expired. Proceeding only with the permanent rule at this time is most prudent and will preserve the opportunity to promulgate an emergency rule at a later date if the litigation and injunctions are resolved.

The substance of the attached proposed statement of scope is contained in the Policy Analysis section. Consistent with Wis. Stats. §§ 5.02(6m)(f) and 5.02(16c), the proposed rule would specify that stickers affixed to compliant identification cards (1) must be tamper-evident so that removal of the sticker would make it unusable; (2) must not obscure other information on card; (3) must include an indication that it was issued by the institution such as a school logo or identifier; (4) must be affixed by personnel of the institution; and (5) may contain only the cardholders signature and the issuance and expiration dates of the card.

Proposed Motion:

The Board approves the attached proposed statement of scope for an emergency and permanent rule permitting the use of stickers on student identification cards for purposes of photo identification subject to the conditions described above, and directs staff to prepare a proposed permanent rule for the Board's consideration at a future meeting and delay preparation of an emergency rule until such time as the photo identification provisions of 2011 Wisconsin Act 23 are reinstated.

Statement of Scope
Government Accountability Board
Use of Stickers on Photo Identification Cards

Subject

Creates new section of GAB Chapter 10 and clarifies that accredited universities and colleges which issue an identification card for voting purposes may use an adhesive sticker to affix certain required information on the identification card, including the cardholder's signature as well as the issuance and expiration dates of the card.

Objective of the Rule

The proposed rule implements a directive from the Joint Committee for the Review of Administrative Rules (JCRAR). The directive requires the Government Accountability Board (G.A.B.) to promulgate an emergency rule specifying that adhesive stickers may be used to affix certain required information to identification cards issued by accredited institutions for the purpose of voting.

Emergency Rule Authority

The agency is authorized to promulgate the rule as an emergency rule because it has been directed to do so by the Joint Committee for the Review of Administrative Rules pursuant to Wis. Stats. §§227.10 (1), 227.26 (2).

Permanent Rule

The agency plans to promulgate this rule as both an emergency rule and a permanent rule. This scope statement is submitted in support of both the emergency rule and the permanent rule.

Policy Analysis

Sections 5.02(6m)(f), Stats., describes one of the acceptable forms of identification that may be used to obtain an election ballot as follows:

An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.20(1)(d), that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented.

Section 5.02(16c), Stats., further provides that an acceptable form of proof of identification must contain the cardholder's name and photograph.

At its meetings of September 12, 2011 and November 9, 2011, the G.A.B. adopted motions to permit accredited universities and colleges to use stickers on identification cards as a means of complying with the provisions of Section 5.02, Stats. The Board's determination was made in response to inquiries from several public and private institutions indicating that current student identification cards would not comply with the requirements of the law and that they wished to consider using stickers to affix information to existing cards as a cost-effective method of providing voter-compliant proof of identification.

The Board's analysis applied judicially accepted rules of statutory interpretation. It looked first to the plain language of the statute, which requires that identification cards must "contain" certain data. In the absence of an applicable statutory definition of college or university, the Board relied on commonly used dictionary definitions of the term "contain" which include "to have within" and "include." The Board determined that permitting the cardholder's signature and the issuance and expiration dates of the card to be affixed by an adhesive sticker with sufficient security and verification safeguards would comply with the provisions of Section 5.02, Stats.

The proposed rule would specify that stickers affixed to compliant identification cards (1) must be tamper-evident so that removal of the sticker would make it unusable; (2) must not obscure other information on card; (3) must include an indication that it was issued by the institution such as a school logo or identifier; (4) must be affixed by personnel of the institution; and (5) may contain only the cardholders signature and the issuance and expiration dates of the card.

On November 15, 2011, the Joint Committee for the Review of Administrative Rules adopted a motion finding that the G.A.B.'s action regarding the use of stickers on student identification cards is a statement of policy that meets the definition of a rule pursuant to Chapter 227 of the Wisconsin Statutes.

The alternative to promulgating this rule is to restrict the options for accredited institutions to comply with the statutory requirements regarding photo identification cards and to require that all data be included as part of the originally-produced card at a higher cost to the institutions.

Statutory Authority

The Board issued its determination pursuant to its responsibility and authority to issue advisory opinions under Section 5.05(6a), Stats., and to conduct voter education under Section 5.05(12), Stats. However, given the directive of JCRAR, Section 5.05(1)(f) Stats., provides explicit authority for the G.A.B. to promulgate rules to ensure the proper administration of elections. Section 227.11(2)(a), Stats., provides clear authority for the G.A.B. to promulgate rules to ensure the proper administration of statutes under its jurisdiction, which includes laws related to the administration of elections.

Comparison with Federal Regulations

Federal law does not address or establish standards or rules for the issuance of photo identification cards for the purposes of obtaining an election ballot.

Entities Affected by the Rules

Accredited institutions desiring to issue photo identification cards to be used for voting purposes, as well as potential holders of such cards will be affected by this rule. Local election officials and poll workers who review identification cards as part of the voting process will also be affected by this rule. The rule does not impact businesses, private economic sectors or public utility ratepayers.

Economic Impact

The rule will have minimal or no impact on the governmental entities impacted by the rule, except to the extent that public universities or colleges desire to use adhesive stickers as a means of producing photo identification cards to be used for voting. The rule would clarify the options available for accredited institutions in issuing such cards.

Estimate of Time Needed to Develop the Rules

40 hours.

Approval by the Governor

This Statement of Scope was approved by the Governor in writing on January 13, 2012.

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

Prepared by:

Shane W. Falk
Staff Counsel

SUBJECT: Promulgation and Creation of Wis. Adm. Code GAB §1.91
Guideline 1284

I. Introduction (No Recommended Action Necessary):

The promulgation and creation of GAB §1.91, Wis. Adm. Code, is in the final stages. None of the provisions of 2011 Act 21 (as amended by 2011 Act 32) impact the promulgation of GAB §1.91, Wis. Adm. Code, as the new Act is not applicable due to the late stage of the rule's promulgation.

The Assembly Committee on Election and Campaign Reform objected to the promulgation of the rule, as has the Joint Committee for Review of Administrative Rules. Legislation was introduced in both houses of the Legislature attempting to prohibit the Board's promulgation of any rule addressing reporting requirements of organizations making independent disbursements, as well as rules regarding attributions on communications by such organizations.

In anticipation of the expiration of the emergency rule GAB §1.91, the Board adopted Guideline 1284 - Independent Disbursements of Corporations and Non-Political Organizations. This guideline interprets and applies existing campaign finance statutes and Attorney General J.B. Van Hollen's formal opinion (OAG 05-10) to persons making independent disbursements.

The Legislature ended its session without action on the two bills objecting to GAB §1.91 and pursuant to Wis. Stat. §227.19(5)(f), the G.A.B. can proceed with final promulgation of the rule.

II. Status of GAB §1.91, relating to organizations. making independent disbursements:

A. Board Adoption of Emergency and Permanent Rule 1.91

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

The emergency rule was published and effective May 20, 2010, but was only effective for 150 days and would have expired on October 16, 2010. At the Board's direction, staff requested a 60 day extension so that the emergency rule would be in effect throughout the Fall Election. On August 24, 2010, the Joint Committee for the Review of Administrative Rules granted the 60 day extension. The Emergency Rule was continued until an expiration date of December 15, 2010. At the Board's direction, staff requested an additional 60 day extension from the Joint Committee for the Review of Administrative Rules. This is the last extension permitted and it was granted; however, the emergency rule expired on February 15, 2011.

Staff published the scope statement on the permanent rule on July 7, 2010 and also submitted the proposed permanent rule to Legislative Council for review. The Legislative Council Report was received by staff on August 3, 2010. The public hearing on both the emergency and permanent rules was held on August 30, 2010. The Wisconsin Democracy Campaign spoke in favor of the rule, but stated that it wished the rule could require more disclosure of original source donations to organizations making independent disbursements. Attorney Wittenwyler appeared and spoke in favor of the rule as a reasonable way to address the uncertain reporting requirements for organizations making independent disbursements. No person spoke in opposition to the rule.

B. Legislative Review of Rule 1.91

Staff filed a Legislative Report and the Senate standing committee's 30 day review period expired on February 14, 2011. Included within staff's Legislative Report, staff answered several questions posed by Legislative Council. A copy of staff's Legislative Report and the final draft rule follow this Memorandum. See exhibits A and B, respectively.

The Assembly standing committee's 30 day review period was set to expire on February 25, 2011; however, prior to the committee's loss of jurisdiction, it requested a meeting which automatically extended its review period an additional 30 days. Staff was not contacted to schedule a meeting with the committee, but staff did receive notice that the committee objected to the proposed permanent rule on March 24, 2011, following a public hearing before the Assembly Committee. The Assembly standing

committee's objection was made prior to the expiration of its jurisdiction on March 28, 2011.

C. JCRAR Review of Rule 1.91

The Assembly Committee referred the proposed permanent rule to the Joint Committee for Review of Administrative Rules, which held a public hearing on April 27, 2011. Staff attended the hearing and spoke in favor of the proposed permanent rule. At the request of the Joint Committee, staff also submitted written testimony to the Joint Committee on April 28, 2011. See exhibit C. Only a single organization spoke against the rule and provided JCRAR with a copy of its written statement that had been submitted to the Assembly Committee at its public hearing on March 24, 2011. See exhibit D.

Pursuant to §227.19(5)(b), Wis. Stats., the Joint Committee for Review of Administrative Rules would have had a 30 day review period from the date that the proposed permanent rule was referred to it with the Assembly Committee's objection. The Joint Committee for Review of Administrative Rules noticed a public hearing to consider the proposed permanent rule, which automatically extended its jurisdiction and review period another 30 days. Since the original referral to the Joint Committee for Review of Administrative Rules was made on April 7, 2011 and including the 30 day extension, the review period would have expired on June 6, 2011. On June 2, 2011, the Joint Committee for Review of Administrative Rules held an executive session on the rule and voted to object to it.

Pursuant to §227.19(5)(c), Wis. Stats., the G.A.B. is prohibited from promulgating the proposed permanent rule unless the Joint Committee for Review of Administrative Rules non-concurs in the Assembly Committee's objection or an introduced bill objecting to the rule fails to be enacted. If the Joint Committee objects to the proposed permanent rule, it must take executive action to introduce a bill in each house of the Legislature supporting the objection. These bills must be introduced within 30 days of the Joint Committee's objection. If the Joint Committee objects to the proposed permanent rule, pursuant to §227.19(6)(a), Wis. Stats., it will have to append a written report to the bills which include an explanation of any issue with the rule, arguments for and against the rule, and the grounds upon which the Joint Committee relies for the objection.

D. Introduced Legislation Prohibiting Promulgation of Rules

On June 28, 2011, JCRAR introduced AB 196 prohibiting the G.A.B. from promulgating any rule affecting the authority of a corporation or association organized under ch. 185 or 193 to make independent disbursements or regarding attribution requirements in making communications. JCRAR referred AB 196 to the Assembly Committee on Election and Campaign Reform. On June 30, 2011, JCRAR introduced SB 139 (same language as AB 196) and referred it to the Senate Committee on Transportation and Elections. The required written report was filed with both standing committees on July 6, 2011.

Unfortunately, the basis for JCRAR's objection appears to arise from a misunderstanding of the definition of "organization" found in the rule. The report authored by the Co-Chairs of JCRAR focuses on a belief that the rule "is the expansion of the term organization to include any individual." In addition, the Co-Chairs of JCRAR report that "a person who makes a handful of buttons or a couple signs should not be treated the same as a political action committee spending millions of dollars to sway an election." Finally, the Co-Chairs of JCRAR assert that "The *Citizens United* case did not authorize the government to place registration burdens on all individuals as the GAB rule attempts." In fact, the definition of "organization" used in Rule 1.91 specifically **excludes individuals** from compliance with the rule. The definition of "organization" is found in GAB 1.91(1)(g), which provides: "Organization means any person **other than an individual, committee, or political group** subject to registration under s. 11.23, Stats." "Individuals" are required to register, not under Rule 1.91, but rather under §11.05(2), Wis. Stats., a statute on the books since at least 1973.

E. Staff Activities and Final Promulgation

Staff worked diligently to attempt to clarify any confusion about the rule's application so as to allow promulgation of Rule 1.91, preventing uncertainty in the regulated community and appropriate disclosure required by statute. The Ethics and Accountability Division Administrator Jonathan Becker submitted letters to each member of JCRAR on June 1, 2011 and to each member of the two standing committees on July 12, 2011 in an attempt to clarify some provisions of the rule; however, did not specifically address the exclusion of "individuals" from the rule's application.

Ultimately, the legislative session ended without adopting any bill preventing promulgation of GAB §1.91. Staff confirmed with Legislative Council that final promulgation could proceed pursuant to Wis. Stat. §227.19(5)(f), which specifically provides that if the bills "fail to be enacted in any other manner, the agency may promulgate the proposed rule or part of the proposed rule that was objected to." Pursuant to Wis. Stat. §227.19(5)(f), the bills attempting to block the rule did have to be introduced before February 1 of an even-numbered year, which clearly occurred in this instance.

The Director and General Counsel certified the final rule GAB §1.91 on May 1, 2012 and it was submitted to the Legislative Reference Bureau for publication in the Wisconsin Administrative Register, the last step before the rule is effective. The rule GAB §1.91 will appear in the June 30, 2012 Administrative Register and will be effective on July 1, 2012.

III. Guideline 1284:

Attorney General J.B. Van Hollen issued formal opinion OAG 05-10 on August 9, 2010 and acknowledged that Wisconsin statutes can be construed to provide a mechanism by which a corporation (person) may register under §11.05, Wis. Stats., and file an independent oath under §11.06(7), Wis. Stats., if such corporation (person) wishes to engage in independent disbursements. The Board may similarly construe the Wisconsin statutes to issue a guideline

interpreting and applying existing campaign finance statutes and Attorney General J.B. Van Hollen's formal opinion (OAG 05-10) to persons making independent disbursements in the context of and compliance with the *Citizens United* decision. In fact, Attorney General J.B. Van Hollen concluded that his office had in the past "determined that the State Elections Board had the authority to decline to enforce those portions of ch. 11, Wis. Stats., that were unconstitutional and to interpret and apply other parts of ch. 11, Wis. Stats., so as to avoid unconstitutionality." See OAG 05-10, ¶41 (citing 65 Op. Atty. Gen. 145.) Furthermore, Attorney General J.B. Van Hollen concluded and agreed that the G.A.B. should suspend enforcement of the corporate disbursement prohibition in §11.38(1)(a)1. and (b), Wis. Stats., in a manner consistent with the views set forth in formal opinion OAG 05-10. See OAG 05-10, ¶42.

In light of Attorney General J.B. Van Hollen's acknowledgement that the G.A.B. has authority to decline to enforce those portions of ch. 11, Wis. Stats., that are unconstitutional and to interpret and apply other parts of ch. 11, Wis. Stats., so as to avoid unconstitutionality, as well as providing guidance to the general public of Wisconsin, the Board adopted Guideline 1284 - Independent Disbursements of Corporations and Non-Political Organizations on August 2, 2011. Guideline 1284 has been publicly posted on the G.A.B. website since August 2011 and dozens of corporations and organizations have registered and reported political activities in compliance with the guideline.

Independent Disbursements of Corporations and Non-Political Organizations

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

Under Wisconsin Statutes and federal case law, independent disbursements may be made by individuals, registered political committees, and other organizations subject to certain registration and reporting requirements. This Guideline summarizes regulations applicable to the latter category of organizations, including corporations, which are not organized primarily for political purposes, and which may make independent disbursements without being subject to all of the restrictions applicable to political committees

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

What is an independent disbursement? Wisconsin Statutes define an independent disbursement as a payment used to advocate the election or defeat of a clearly identified candidate for state or local office. To be independent, a disbursement must be made without cooperating or consulting with any candidate or candidate's agent or authorized committee who is supported by the independent disbursement. The disbursement must not be made in concert with, or at the request or suggestion of, any candidate, candidate's agent or authorized committee of a candidate who is supported by the disbursement.

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

- 1) Designate a depository account for the deposit of all political contributions and payment of all political disbursements.
- 2) Designate a treasurer who must authorize all political disbursements and obligations.
- 3) Register with the Government Accountability Board if independent disbursements are made which advocate the election or defeat of an identified candidate for state office, or register with the local filing office if the disbursements advocate the election or defeat of an identified candidate for local office, using Form GAB-1.

Continued on next page 

- 4) Pay an annual filing fee of \$100 to the Board if the aggregate independent disbursements exceed \$2500 in a calendar year.

- 5) File the oath for independent disbursements with the appropriate filing officer using Form GAB-6.
- 6) File campaign finance reports, using Forms GAB-2 and GAB-7, listing both contributions received and expenditures incurred, for the purpose of making independent disbursements.
- 7) Include an attribution statement in all independent disbursements indicating the source of the disbursement, the name of the treasurer or other authorized agent of the organization, and indicating that the communication is not authorized by any candidate or candidate's agent or committee.

Regulation of contributions and expenditures: Independent Disbursement Organizations may receive unlimited contributions from individuals, corporations, and political committees, but may not coordinate disbursements with a candidate benefiting from the disbursement. A corporation or other Independent Disbursement Organization may make political contributions from its corporate account to another Independent Disbursement Organization. The contribution must be reported as a receipt by the receiving organization, and must be deposited into that organization's separate depository account. A separate depository account may be used only to deposit contributions and to make independent disbursements. An Independent Disbursement Organization may not make contributions to candidates or to political action committees.

Legal references: §§11.01, 11.05(2), 11.055, 11.06, 11.23, 11.30, 11.38, *Wisconsin Statutes*; GAB 1.91, *Wis. Adm. Code.*; *Citizens United v. FEC*, 130 S. Ct. 876 (2010); OAG-05-10 (Aug 9, 2010).

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of May 15, 2012

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Legislative Status Report

The following is a summary of legislative proposals that Board staff monitored during the 2011 to 2012 general legislative session.

1. **(FAILED) Senate Bill 566 and Assembly Bill 729: Prohibiting discrimination in employment against individuals who sign or refuse to sign recall petitions**

SB566 and AB729 are companion bills that prohibit discrimination in employment against an individual who signs or refuses to sign a petition for the recall of any incumbent elective official. Both SB566 and AB729 were referred to committee and failed to pass.

2. **(FAILED) Senate Bill 561 and Assembly Bill 741: Intimidation or harassment of recall petition signers**

SB561 and AB741 are companion bills that prohibits any person from intimidating or harassing another person because that person signs or is attempting to sign a recall petition. Violators are guilty of a Class I felony and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both. Both SB561 and AB741 were referred to committee and fail to pass.

3. **(FAILED) Assembly Bill 746: Various Changes in Election Laws**

AB746 makes various changes in election laws related to the discontinuance of voting machines, machine-readable ballot recounts, petitions for recounts, the inspection of areas where voted ballots are stored, and the destruction of ballots after an election. AB746 was referred to committee and failed to pass.

4. (FAILED) Senate Bill 553 and Assembly Bill 724: Making Veteran ID cards acceptable for voting

SB553 and AB724 are companion bill that permits a veterans identification card issued by the Veterans Health Administration of the U.S. Department of Veterans Affairs to be used as proof of identification for voting if the card contains the name of the person to whom it is issued and a photograph of the individual. Both SB553 and AB724 were referred to committee and failed to pass.

5. (FAILED) Assembly Bill 723: False statements affecting elections

AB723 provides that no person may knowingly make or publish, or cause to be made or published, a representation pertaining to a candidate or referendum with reckless disregard as to the truth or falsity of the representation, if the representation is intended or tends to affect voting at an election. AB723 was referred to committee and failed to pass.

6. (FAILED) Assembly Bill 685: Judicial disqualification based on campaign financial support

AB685 requires a judge to disqualify himself or herself from an action if, as a candidate for judicial office and within the past 4 years, the judge received campaign financial support of \$1,000 or more from a party to the action. Support includes direct contributions or independent disbursements supporting the judge or opposing the judge's opponent. Judge must disclose reason for disqualification. AB685 was referred to committee and failed to pass.

7. (FAILED) Assembly Bill 684: Notice of certain political contributions made to a judge or justice

AB684 requires an "interested contributor" makes a political contribution to a judge, the person must within 5 days notify the judge and every party to the court action of the fact that the contribution was made, and the amount. "Interested contributor" is a party to a pending action, an affiliate of such a party, spouse, child, minor stepchild, an attorney representing a party, law firm or those in the law firm. Subject to penalties for failure to report. AB684 was referred to committee and failed to pass.

8. (FAILED) Assembly Bill 642: Regulation of campaign finance activity, public financing of elections for state offices, extending time limit for emergency rule procedures, providing exemption from emergency rule procedures

AB642 imposes registration and reporting requirements for groups making expenditures 60 days prior to an election as well as obligations incurred prior to registration. Scope of activity reported is expanded. AB642 also reinstates public financing of campaigns for state office. AB642 was referred to committee and failed to pass.

9. (FAILED) Assembly Bill 525: Return of absentee ballots, submittal of proof of ID with absentee ballot applications, voting in person by electors who have voted absentee

AB525 provides that if an elector mails or delivers an absentee ballot personally to the clerk, the clerk shall not return the ballot to the elector. Also, an elector that mails or delivers an absentee ballot to a clerk may not vote at the same election in person on election day. AB525 deletes procedure under which a copy of an individual's proof of ID is provided with the voter's absentee ballot, rather it requires the ID with the ballot application. AB525 passed in the Assembly. It was then referred to the Senate Rules committee and failed to pass.

10. (PASSED) Assembly Bill 506: Requiring county clerk to organize first election of officers after incorporation of city or village

Under current law, when a town is incorporated as a city or village, the clerk of the circuit court of the county where the incorporation petition was filed is required to organize the first election for the newly incorporated city or village officers. Under AB506, the responsibility for organizing the election is changed to the county clerk of the county in which the petition was filed.

AB506 passed the Assembly and was concurred in the Senate. It was **published as Wisconsin Act 130** on 4/4/2012

11. (FAILED) Senate Bill 528 and Assembly Bill 365: Electronic voter registration

SB528 and AB365 are companion bills. These bills permit a qualified elector with a current and valid driver's license or DOT identification card to register to vote electronically on a secure internet site maintained by the Government Accountability Board. AB365 also permits an elector who is registered and has a current and valid driver's license or identification card to electronically enter a change of name or address using a similar procedure. Under AB365, electronic registrations would be treated the same as mail-in registrations. SB528 and AB365 were referred to committee and failed to pass.

12. (FAILED) Senate Bill 481 and Assembly Bill 639: Proof of identification for voting by university, college or technical school students

SB481 and AB639 are companion bills. The bills add technical college ID's to the statutory list of acceptable documents that can be used as proof of identification for voting purposes. SB481 and AB639 were referred to committee and failed to pass.

13. (FAILED) Assembly Bill 460: Use of university, or technical college ID cards as proof of ID for voting

AB460 permits any photo ID card issued by a university or college or by technical college that is part of the state tech college system to be used as proof of ID for voting. AB460 was referred to committee and failed to pass.

14. (FAILED) Senate Bill 446 and Assembly Bill 591: Political disbursements and reporting under campaign finance law for corporations, cooperative associations and labor unions

SB446 and AB591 are companion bills. The bills provide that if a court finds that a prohibition against the making of political expenditures by corporations or similar entities is not enforceable for constitutional reasons, the GAB must publish a finding to that effect. If such a finding is in place, an entity must receive an express approval of the majority of the entity's board to make a disbursement, with a filed statement to the same effect with their campaign finance report. Various changes to the scope and timing of campaign finance reporting and penalties for failure to comply. SB446 and AB591 were both referred to their respective committees and failed to pass.

15. (PASSED) Senate Bill 386 and Assembly Bill 481: Voter registration at high schools and certain tribal school

SB386 and AB481 are companion bills. The bills remove the requirement and procedures for voter registration of students and staff at high schools and certain private and tribal schools. SB386 passed the Senate and was concurred in the Assembly. AB481 was passed by Assembly committee on Election and Campaign Reform, but then laid on the table in the Assembly.

SB386 was published as Wisconsin Act 240 on 4/19/2012

16. (PASSED) Senate Bill 381 and Assembly Bill 476: County and municipal canvassing procedures, provisional ballot information, deadline for recount petitions, terms of town officers, date of annual town meeting, technical revisions to certain election laws

SB381 and AB476 are companion bills. The bills provide that municipal board of canvassers must meet no later than 9 a.m. on the Monday following each election and report returns to counties no later than 4 p.m. on the Monday following each election. Also county board of canvassers must meet no later than 9 a.m. the Tuesday after each election and must report returns for each primary other than the partisan primary no later than 9 days after the primary is held.

SB381 and AB476, in addition, direct municipal clerks to post provisional ballot information online. The bills also change: (i.) the date a recount petition can be filed, (ii.) the terms of town officers; (iii.) the date on which the annual town meeting is held.

Of these two companion bills, AB476 was laid on the table in the Assembly, while **SB386 was published as Wisconsin Act 115** on 2/20/12.

17. (FAILED) Senate Bill 376: WEDC positions covered under the code of ethics for state public officials

SB376 provides for the creation and coverage of certain positions of the Wisconsin Economic Development Corporation (WEDC) under the code of ethics for state public officials. Referred to committee. Public hearing held 1/25/12. Passed in the Senate on 3/7/12. Referred to committee in the Assembly and failed to pass.

18. (FAILED) Senate Bill 374 and Assembly Bill 472: Offering anything of value to induce someone to sign or not sign a recall petition

SB374 and AB472 are companion bills. The bills provide that a person who offers anything of value to induce an elector to sign or refrain from signing a recall petition is guilty of a Class I felony. SB374 passed in committee but failed to pass in the Senate. AB472 passed in the Assembly. It was then referred to the committee on Senate Organization and failed to pass.

19. (FAILED) Senate Bill 367 and Assembly Bill 545: Signing a recall petition for the same officer more than once

SB367 and AB545 are companion bills. The bills prohibit any person from signing a recall petition for the same officer more than once during the same 60-day circulation period. Penalty: Misdemeanor and fine not more than \$1,000 or imprisonment of not more than 6 months. Both SB367 and AB545 were referred to their respective committees and failed to pass.

20. (FAILED) Senate Bill 340: Requirements for candidates to appear on the ballot of a recognized political party

SB340 requires individuals seeking to appear on the ballot of a recognized political party to sign a statement indicating that he or she adheres to the principles of the party under which the signer's name will appear on the ballot. SB340 was referred to committee and failed to pass.

21. (FAILED) Senate Bill 334: Verification of identity of nomination paper and petition circulators

SB334 requires a circulator to submit a sworn affidavit affirming the circulator's identity. SB334 was referred to committee and failed to pass.

22. (FAILED) Senate Bill 329 and Assembly Bill 444: Restoration of voting rights for felons, changing information on voter registration forms, voting procedures for felons

SB329 and AB444 are companion bills. These bills restore the rights of a felon to vote while they are not incarcerated for the felony offense. Voter registration form is changed to reflect a voter's affirmation regarding a felony conviction. Deletes the requirement for DOC to provide a felon list to election officials. Requires DOC, GAB, the director of state courts to include in training programs the requirements of this bill. SB329 and AB444 were referred to committee and failed to pass.

23. (FAILED) Senate Bill 323: Birth certificates requested for the purpose of voting

SB323 allows a person to obtain a free birth certificate for one year following the effective date of the bill if the person needs the birth certificate in order to obtain a driver's license or identification card for the purposes of voting. SB323 was referred to committee and failed to pass.

24. (FAILED) Senate Bill 311 and Assembly Bill 393: Voter intimidation or suppression near polling places

SB311 and AB393 are companion bills that create criminal penalties for any voter intimidation or suppression conducted within 500 feet of a polling place. Both bills were referred to committee and failed to pass.

25. (FAILED) Senate Bill 298: Enclosure of absentee ballots in privacy envelopes

SB298 directs election officials to provide a privacy envelope for each absentee ballot. It also directs election officials to enclose an absentee ballot received electronically or by fax in a privacy envelope before enclosing it in the certificate envelope. SB 298 was referred to committee and failed to pass.

26. (FAILED) Senate Bill 281: Certain communications made for political purposes

SB281 places additional requirements on political communications made through radio and television. Requirements for radio must be spoken at the beginning and end of the communication, and requirements for television must appear on the screen during the entire communication over the full width of the screen and must be readable to viewers. SB281 was referred to committee and failed to pass.

27. (PASSED) Senate Bill 271: Voting at the polls by electors who voted by absentee in the same election

SB271 provides that if an elector casts an absentee ballot, either by mail or in person, the municipal clerk or board of election commissioners shall not return the ballot to the elector. SB271 also provides that an elector who casts an absentee ballot at an election is not permitted to vote in person at the same election on Election Day.

Passed in the Senate, and concurred in the messaged to Assembly. It was **published as Wisconsin Act 227** on 4/19/2012.

28. (FAILED) Senate Bill 270: Notary requirement for recall petition circulators

SB270 requires that when a circulator signs a petition for the recall of an elective officer, the statement must be in the form of an affidavit acknowledged by a notary who administers an oath affirming the circulator's identity and that the circulator appeared before the notary and executed the statement in the notary's presence. SB270 was referred to committee and a public hearing was held on 10/31/2011. It was not passed from committee.

29. (FAILED) Assembly Bill 389: Authority of a state agency to promulgate rules interpreting statutory provisions

AB389 eliminates all changes made to the administrative ruling making process by Wisconsin Act 21, thereby restoring prior law. AB389 was referred to committee and failed to pass.

30. (FAILED) Assembly 366: Notice of the fee for DOT-issued identification cards

AB366 requires the Department of Transportation (DOT) to post signs advising customers that identification cards may be available without charge for the purposes of voting. AB366 was referred to committee and failed to pass.

31. (FAILED) Senate Bill 269 and Assembly Bill 169: Residency of election officials

SB269 and AB169 are separate versions of bills that allow an individual who serves as an election official at a polling place on Election Day to be an elector of the county where he or she serves. AB169 was referred to committee and failed to pass. SB269 passed in the Senate, but was not concurred in the Assembly.

32. (FAILED) Senate Bill 268: The applicability of Wisconsin Act 43 to special and recall elections

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

33. (FAILED) Senate Bill 267 and Assembly Bill 370: Method for reporting election returns by municipalities

SB267 and AB370 are companion bills that allow a municipality that combines wards for voting purposes at a single location to also combine wards when reporting election returns, except when a separate ballot is required in a partisan or nonpartisan election, in which case the municipality must report separate results for the offices listed on each separate ballot. SB267 passed in the Senate, but was not concurred in the Assembly. AB370 was referred to committee and failed to pass.

34. (FAILED) Senate Bill 256 and Assembly Bill 354: Fee exception for duplicate identification cards

SB256 and AB352 are companion bills that include duplicate identification cards in the fee exception under Wisconsin Act 23, and require that the Department of Transportation (DOT) charge no fee for duplicate identification cards. Both SB256 and AB354 were referred to committee and failed to pass.

35. (FAILED) Senate Bill 245 and Assembly Bill 355: The GAB and administrative rule-making procedures requiring Governor Approval

SB245 and AB355 are companion bills that exempt the GAB from administrative rule-making requirements involving the approval of the governor. In particular, SB245 exempts the GAB from

presenting for approval statements of the scope for proposed rules, the final draft form of the proposed rules, and the final draft form of all emergency rules. Both SB245 and AB355 were referred to committee and failed to pass.

36. (FAILED) Senate Bill 213 and Assembly Bill 317: Creation of a Wisconsin Election Campaign Fund

SB213 and AB317 are companion bills that allow individuals to designate on their state income tax return \$1 to be transferred to an election campaign fund administered by the GAB and the state treasurer. Both bills were referred to committee and failed to pass.

37. (FAILED) Assembly Bill 296: Contributions used to finance recall petition drives

AB296 makes contributions used to finance recall petition drives subject to the contribution limitations under campaign finance laws. AB296 was referred to committee and failed to pass.

38. (FAILED) Senate Bill 176 and Assembly Bill 268: Filling legislative vacancies

SB176 and AB268 are companion bills that change statutes to specify that a special election must be ordered by the Governor within 60 days after a vacancy occurs in the senate or assembly, subject to the current exception. Both bills were referred to committee and failed to pass.

39. (FAILED) Assembly Bill 264: Political contributions by certain elective state officials

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

AB264 was referred to committee and failed to pass.

40. (FAILED) Senate Bill 165: Birth certificates for Milwaukee County residents

SB165 allows a resident of Milwaukee County to obtain a free birth certificate, for one year following its effective date, if the resident needs the birth certificate in order to obtain a driver license or identification card for the purpose of voting. SB165 was referred to committee and failed to pass.

41. (FAILED) Senate Bill 162 and Assembly Bill 226: Notice of the fee for free ID cards

SB162 and AB226 are companion bills that would require the Department of Transportation (DOT) to include on its application forms for identification cards a statement that there is no fee for the initial issuance, renewal, or reinstatement of an identification card for voting purposes. The bills also require DOT staff to inform any person inquiring about an identification card that identification cards are available without charge for purposes of voting. Both SB162 and AB226 were referred to committee and failed to pass.

42. (FAILED) Senate Bill 148 and Senate Bill 149 and Senate Bill 150: Redistricting

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

SB148, SB149, and SB150 were all referred to committee and had public hearings on July 13, 2011. The bills passed in the Senate on July 19, 2011. SB148 was amended with one senate amendment, and SB150 was amended with two senate amendments. SB149 was not amended. All bills were then concurred in by the Assembly on July 20, 2011.

The governor approved SB148, SB149, and SB150 on August 9, 2011 and they were **publish** on August 23, 2011 as **Wisconsin Act 43, 44, and 39 respectively.**

43. (FAILED) Senate Bill 157 and Assembly Bill 198: Redistricting Standards

SB157 and AB198 are companion bills that require the Legislative Reference Bureau and the Government Accountability Board to jointly develop standards for legislative and congressional districts based on population requirements under the Wisconsin Constitution and the U.S. Constitution and requirements under Section 2 of the Voting Rights Act. Both bill were referred to committee and failed to pass.

44. (FAILED) Assembly Bill 196: Restrictions on campaign finance rule making authority

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

AB196 was referred to committee and failed to pass.

45. (PASSED) Senate Bill 116 and Assembly Bill 161: Changing the September Partisan Primary

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

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

While in the Senate, SB116 was amended and passed on June 08, 2011. It was then amended and concurred in the Assembly. The Senate concurred SB116 as amended in the Assembly, and the Governor approved. **SB116 was published into law as Wisconsin Act 75** on December 1, 2011.

46. (PASSED) Senate Bill 115 and Assembly Bill 162: Changing the Presidential Preference Primary

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

Both SB115 and AB162 were referred to committee and had public hearings on June 02, 2011. While in committee AB 162 was amended with one substitute amendment and then referred to the committee on rules. On September 13, 2011 AB162 was laid on the table in the Assembly. In the Senate, SB115 was amended with one senate substitute amendment and passed on June 08, 2011. The Assembly concurred on September 14, 2011. SB115 was then approved by the Governor on September 30, 2011 and **published as Wisconsin Act 45** on October 14, 2011.

47. (FAILED) Senate Bill 35: Reducing legislative districts

SB35 reduces the number of State Senators from 33 to 25 and the number of Assembly Representatives from 99 to 75. It would apply to the next decennial legislative redistricting that occurs after its enactment. SB35 was referred to committee and failed to pass.

48. (FAILED) Senate Bill 25 and Assembly Bill 36: Dissolving regional transit authorities

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

49. (FAILED) Assembly Bill 32: Communications by legislators

AB32 would modify the statute which prohibits legislators who are up for re-election from distributing more than 49 pieces of substantially identical material between June 1st of the election year and the date of the election. The bill would create an exception for communications to constituents during the 45 days following a declaration of emergency if the communication relates to the subject of the emergency. AB32 passed in the Assembly but was not concurred in the Senate.

50. (FAILED) Senate Bill 17 and Assembly Bill 28: Reporting by nonresident committees

SB17 and AB28 are companion bills which would expand the amount of campaign finance information which is required to be reported by nonresident political committees. Currently such committees are required to report only contributions received by Wisconsin residents and expenditures made which involve Wisconsin elections. Both SB17 and AB28 were referred to committee and failed to pass.

51. (PASSED) Senate Bill 6 and Assembly Bill 7 and Assembly Bill 67: Photo ID

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

AB67 was introduced as a separate companion bill to SB6 which would require electors to show a valid form of photo identification prior to receiving a ballot. AB67 would in addition change the deadlines for late registration and in-person absentee voting, and require G.A.B. to provide an interactive electronic registration form. The bill was referred to committee and failed to pass.

52. (FAILED) Senate Joint Resolution 68: Independent redistricting commission

SJR68 removes the responsibility to reapportion the legislature and redraw congressional districts from the legislature and assigns it to an independent redistricting commission created by law. Commission's plans must be submitted to the voters in a referendum. SJR68 referred to committee and was not adopted.

53. (FAILED) Assembly Joint Resolution 78: Criteria for legislative redistricting

AJR78, proposed on first consideration, requires the establishment of competitive election criteria for redistricting the legislature following the completion of each census. AJR78 was referred to committee and was not adopted.

54. (FAILED) Assembly Joint Resolution 63: Recall of elective officers and a code of ethics for government officials

AJR63, proposed on first consideration, limits the grounds for the recall of an incumbent congressional, judicial, or legislative elective officer or any county elective officer specified in the Wisconsin Constitution. Under AJR63, an elective officer may be recalled only if they were charged with a serious crime or if a finding of probable cause has been made that they violated the state code of ethics. AJR63 was adopted in the Assembly but was not concurred in the Senate.

55. (FAILED) Assembly Joint Resolution 56: Granting the right to vote to persons convicted of a felony or a certain misdemeanor

AJR56, proposed on first consideration, grants felons and persons convicted of certain misdemeanors the right to vote as well as hold and run for public office. AJR56 was referred to committee and was not adopted.

56. (FAILED) Assembly Joint Resolution 51: Constitutional amendment to change certain elected offices

AJR51, proposed on first consideration, makes elections for the office of district attorney, sheriff, register of deeds, county clerk, treasurer, surveyor, coroner, and clerk of circuit court nonpartisan and changes the term of office to begin on the first Monday in June. AJR51 was referred to committee and was not adopted.

Summary of 2011 – 2012 Election Related Legislative Changes

- **2011 Wisconsin Act 23** - Relating to: requiring certain identification in order to vote at a polling place or obtain an absentee ballot, verification of the addresses of electors, absentee voting procedure in certain residential care apartment complexes and adult family homes, identification cards issued by the Department of Transportation, creating an identification certificate issued by the Department of Transportation, requiring the exercise of rule-making authority, and providing a penalty.
- **2011 Wisconsin Act 39** - Relating to: division of municipalities into wards and redistricting of supervisory and aldermanic districts and appointing a panel to hear challenges to the apportionment of a congressional or legislative district, and hearing certain appeals.
- **2011 Wisconsin Act 43** - Relating to: legislative redistricting.
- **2011 Wisconsin Act 44** - Relating to: congressional redistricting.
- **2011 Wisconsin Act 45** - Relating to: the date of the presidential preference primary and certain other election occurrences.
- **2011 Wisconsin Act 62** - Relating to: creating the office of county comptroller for Milwaukee County.
- **2011 Wisconsin Act 75** - Relating to: the dates of the September primary and certain other election occurrences and absentee voting.
- **2011 Wisconsin Act 115** - Relating to: county and municipal canvassing procedures, provisional ballot information, the deadline for filing a recount petition, terms of town officers, the date of the annual town meeting, and technical revisions to certain election laws.
- **2011 Wisconsin Act 130** - Relating to: requiring the county clerk to organize the first election of officers following the incorporation of a city or village.
- **2011 Wisconsin Act 227** - Relating to: return of absentee ballots and voting in person by electors who have voted by absentee ballot in the same election.
- **2011 Wisconsin Act 240** - Relating to: voter registration at high schools and certain tribal schools.

2011 Wisconsin Act 23 - Changes to Election Laws (Voter Photo ID)

Effective Date: Most Provisions went into effect June 10, 2011. Straight Party ticket voting first applies to 2012 General Election. Voter Photo ID went into effect for the 2012 Spring Primary.

PROOF OF IDENTIFICATION

- An elector is required to present proof of identification to vote at a polling place or by absentee ballot. Act 23 also created several exceptions to the requirement that electors present proof of identification when voting and addressed issues regarding the photo ID requirement and residents who reside in a qualified retirement home, qualified CBRF, residential care apartment complex, or adult family home where special voting deputies are not sent.
- If an elector is required to provide proof of identification or a copy thereof and fails to do so, and the elector votes by provisional ballot, the elector bears the burden of correcting the omission by providing the proof of identification or copy thereof at the polling place before the closing hour or at the office of the municipal clerk or board of election commissioners no later than 4 p.m. on the Friday after the election.
- An absentee ballot envelope certificate is required to include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that if an absentee elector voted in person, the elector presented proof of identification to the clerk and the clerk verified the proof of identification presented. The certificate must also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification.

- The Government Accountability Board (GAB) is required to conduct a public information campaign in conjunction with the first regularly scheduled primary and election at which the voter identification requirements of the Act initially apply for the purpose of informing prospective voters of the new voter identification requirements. The Act also requires GAB to engage in outreach to identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting and provide assistance in obtaining or renewing that document.
- An elector may obtain a free identification card from DOT if the applicant is eligible to obtain an identification card and if the elector is a U.S. citizen who will be at least 18 years of age on the date of the next election and the elector requests that the card be provided without charge for purposes of voting.

SIGNATURE REQUIREMENT

- An elector must enter his or her signature on the poll list, supplemental list, or other separate list when voting in person at an election, unless exempt by reason of the elector’s physical disability. Each registration list prepared for use as a poll list at a polling place or for purposes of canvassing absentee ballots must contain a space for the elector’s signature, or, if another person signed the elector’s registration form for the elector by reason of the elector’s physical disability, the word “exempt.” GAB must, by rule, prescribe the space and location for entry of each elector’s signature on the poll list, which must provide for entry of the signature without changing the orientation of the poll list from the orientation used by the election officials.

RESIDENCY

- The residency requirement increased from 10 days before an election to 28 consecutive days before an election. The Act also provides that an individual who moves within this state later than 28 days before an election must vote at his or her previous ward or election district if the individual is otherwise qualified.

REGISTRATION

- The use of corroboration as an alternative to providing proof of residence was eliminated when registering to vote.
- An 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 (the third Wednesday preceding an election) but not later than 5 p.m. or the close of business, whichever is later, on the Friday before an election at the office of the municipal clerk.
- The provisions regarding appointment and revocation of appointments, of special registration deputies by GAB are revoked. In addition, the appointment of each individual who serves as a special registration deputy on the effective date of the Act solely as the result of action of GAB is revoked.
- Registration forms must also be designed to obtain the location of the elector’s previous residence immediately before moving to the current residence location. Further, the Act requires that registration

forms be designed to obtain the number of an elector's *current* and valid operator's license. The Act also requires that the form contain a statement that falsifying information on the form is a Class I felony.

- Proof of residence for college students must include either of the following documents:
 - An identification card issued by a university, college, or technical college that contains a photograph of the cardholder, together with a fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than nine months before the date of the election at which the receipt is presented.
 - An identification card issued by a university, college, or technical college that contains a photograph of the cardholder if the university, college, or technical college that issued the card provides a certified and current list of students who reside in housing sponsored by the university, college, or technical college and who are U.S. citizens to the municipal clerk prior to the election showing the current address of the students and if the municipal clerk, special registration deputy, or inspector verifies that the student presenting the card is included on the list.
- The GAB or any municipal clerk or board of election commissioners may transfer any information in the registration list to which access is restricted to a law enforcement agency, to be used for law enforcement purposes. Further, the Act provides that GAB may transfer any information in the registration list to which access is restricted to a subunit of the state government of another state to be used for official purposes.
- The municipal clerk may update any entries in the registration list that change on the date of an election, other than a general election, within 30 days after the date of that election and may update any entries that change on the date of a general election within 45 days after the date of that election. In addition, the Act provides that GAB legal counsel may, upon request of a municipal clerk, permit the clerk to update entries that change on the date of a general election within 60 days after that election.

ABSENTEE VOTING

- If an elector makes an application for an absentee ballot in person, the application must be made no earlier than the opening of business on the third Monday preceding the election and no later than 5 p.m. or the close of business, whichever is later, on the Friday preceding the election.
- If a hospitalized elector is unable to sign the GAB form due to physical disability, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf must attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability. The agent must present this statement along with all other information required under current law.
- The municipal clerk must discontinue mailing or transmitting absentee ballots to an elector if the elector fails to return any absentee ballot mailed or transmitted to the elector. In addition, an elector who fails to cast an absentee ballot but who remains qualified to receive absentee ballots may receive absentee ballots for subsequent elections by notifying the municipal clerk that the elector wishes to continue receiving absentee ballots for subsequent elections.

- The GAB must prescribe uniform instructions to absentee voters. The instructions must include information concerning the procedure for correcting errors in marking a ballot, obtaining a replacement for a spoiled ballot and information concerning whether proof of identification is required to be presented or enclosed.
- The absentee voting procedures are applied to absentee voting by occupants of qualified residential care apartment complexes and qualified adult family homes. Specifically, the Act provides that the municipal clerk or board of election commissioners of any municipality where a residential care apartment complex or adult family home is located may adopt the procedures for absentee voting in any such complex or home located in the municipality if the clerk or board finds that there are a significant number of the occupants of the complex or home who lack adequate transportation to the appropriate polling place, who may need assistance in voting, who are aged 60 or over, or who are indefinitely confined.
- The prohibition against electioneering is extended to qualified residential care apartment complexes and qualified adult family homes and applies the prohibition against failing to return a ballot to voting in qualified residential care apartment complexes and qualified adult family homes.

STRAIGHT PARTY TICKET

- The authority for any elector, other than an overseas or military elector, to vote a straight party ticket is eliminated. Under federal law, an overseas or military elector may vote a straight party ticket on a write-in absentee ballot for national offices.

CHALLENGING VOTERS

- An inspector is required to challenge any elector for cause any person offering to vote who does not adhere to any voting requirement under ch. 6, Stats.

ELECTION MATERIAL

- Poll lists created for any election may be destroyed 22 months after the election at which they were created.

2011 Wisconsin Act 39 – Redistricting

Effective Date: Generally August 9, 2011

2011 Wisconsin Act 39 relates to the division of municipalities into wards and redistricting of supervisory and aldermanic districts and appointing a panel to hear challenges to the apportionment of a congressional or legislative district, and hearing certain appeals.

2011 Wisconsin Act 43 - Legislative Redistricting

Effective Date: August 24, 2011

2011 Wisconsin Act 43 contains the legislative redistricting plan enacted by the Legislature that reconfigures the 132 Wisconsin legislative districts, based on the 2010 Census. Appended to the Act are population data and

maps related to the new districts. With respect to regular elections, Act 43 first applies to offices filled at the 2012 general election. With respect to special or recall elections, Act 43 first applies to offices filled or contested concurrently with the 2012 general election.

2011 Wisconsin Act 44 - Congressional Redistricting

Effective Date: August 24, 2011

2011 Wisconsin Act 44 contains the congressional redistricting plan enacted by the Legislature that reconfigures the eight Wisconsin congressional districts, based on the 2010 Census. Appended to the Act are population data and maps related to the new districts. With respect to regular elections, Act 44 first applies to offices filled at the 2012 general election. With respect to special or recall elections, Act 44 first applies to offices filled or contested concurrently with the 2012 general election.

2011 Wisconsin Act 45 - Presidential Preference Primary

Effective Date: October 15, 2011

Date of Presidential Preference Primary

- Presidential Preference primary moved from the third Tuesday in February to the *first Tuesday in April*. Under the Act, the presidential preference primary takes place as part of the spring election rather than the spring primary.

Certified List of Primary Candidates

- GAB must transmit to each county clerk a certified list of candidates for president who have qualified to have their names appear on the presidential preference primary ballot as soon as possible after the last Tuesday in January of each year in which there is a presidential election.

Preparation of Presidential Preference Primary Ballots

- County clerks are required to prepare a special ballot showing only the candidates in the presidential preference primary.

Distribution of Presidential Preference Primary Ballots

- County clerks are required to distribute the special ballots showing only the candidates for the presidential preference primary no later than 48 days before the presidential preference primary.

Distribution of Absentee Ballots by Municipal Clerks

- Municipal clerks are required to transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary, if the request is made before that day. If the request is not made before that day, the municipal clerk must transmit the absentee ballot within one day of the time the request is received.

Party Participation in Presidential Preference Primary

- The state chairperson of each recognized political party listed on the official ballot at the last gubernatorial election whose candidate for Governor received at least 10% of the total votes cast for

that office may certify to GAB no later than 5 p.m. on the second Tuesday in December of the year before the presidential election that the party will participate in the presidential preference primary.

Committee Certification of Candidate Names for the Presidential Preference Primary

- The committee must convene on the first Tuesday in January of the year of the presidential election.

Petitions for Nomination to Appear on Presidential Preference Primary Ballot

- Any person seeking nomination for the Office of the President of the United States may submit a petition to GAB no later than 5 p.m. on the last Tuesday in January of each presidential election year to have the person's name appear on the presidential preference ballot. The petition may be circulated no sooner than the first Tuesday in January of the presidential election year.

Withdrawal of Candidacy from Presidential Preference Primary

- The name of a person who had been placed in nomination by a committee would appear on the Wisconsin presidential preference ballot unless the person files a disclaimer with GAB no later than 5 p.m. on the last Tuesday in January of the presidential election year.

Results of the Presidential Preference Primary

- GAB is required to notify each state party organization chairperson of the results no later than May 15 following the presidential preference primary.

Election Notices

- Changes the statutory provisions regarding basic election notices to account for the change in the date of the presidential preference primary and the holding of the presidential preference primary at the time of the spring election rather than the spring primary.

2011 Wisconsin Act 62—Creation of Office of County Comptroller

Effective Date: November 15, 2011

- Creates elected office of County Comptroller in counties with a population of 750,000 or more
- Office of County Comptroller will be elected at the spring election for a 4-year term starting April 2012
- Outlines the duties and responsibilities of office of County Comptroller
- Specifies eligibility requirements for the office of County Comptroller
- Provides that the County Corporation Counsel in counties with a population of 750,000 or more must review and countersign all contracts to verify the contracts comply with all statutes, rules, ordinances, and the county's ethics policy.
- Requires the Milwaukee County Executive, upon enactment of the 2012 fiscal year budget for Milwaukee County, to certify to the Secretary of Administration the amount of total appropriations for the functions of the Milwaukee County Treasurer and County Comptroller derived from property tax revenues, sales tax revenues, and fees paid to either office.
- Specifies that Milwaukee County may not exceed the certified amount in paying for the functions of County Treasurer and County Comptroller during Milwaukee County's 2012 fiscal year

2011 Wisconsin Act 75—September Primary, Absentee Voting, Electronic Communication System, Polling Places, Special Elections, Duplicate Identification Cards and Other Election Occurrences (MOVE Act Changes)

Effective Date: December 2, 2011, but the Act contains specific effective dates for some provisions

September Primary

- Renames the “September primary” as the “partisan primary” and changes the date of the primary to the *second Tuesday in August*
- Nomination papers may be circulated no sooner than April 15 preceding the general election and may be filed no later than 5 p.m. on June 1 preceding the partisan primary

Distribution of Ballots to Clerks

- Requires that county clerks distribute ballots to municipal clerks no later than 48 days before each partisan primary and general election

Distribution of Absentee Ballots to Electors

- Requires that municipal clerks send an official absentee ballot to each elector who has requested a ballot no later than the 47th day before each partisan primary and general election

Absentee Ballot Application Signature

- Removes the requirement that the absentee ballot application contain a copy of the applicant’s original signature

Deadline for Absentee Ballot Applications by Military Electors

- Absentee ballot requests by military electors away from home must be received by the municipal clerk no later than 5 p.m. on election day for the presidential preference primary, special election for national office, September primary, and general election

Electronic Transmission of Ballots

- Limits transmission of electronic absentee ballots to military (away from home) or overseas voters

Automatic Absentee Ballots

Military Electors

- Allows a military elector to receive absentee ballots for all elections that occur in the municipality or portion thereof where the elector resides in the same calendar year in which the request is received, unless the elector otherwise requests
- Repeals the requirement to send automatic absentee ballots to military electors

Overseas Electors

- Provides that clerks may not send an absentee ballot for an election if the name of the overseas elector no longer appears on the registration list in eligible status
- Repeals the provision for requesting absentee ballots for two general elections

Electronic Communication System

- Requires that the GAB maintain a freely accessible system where a military or overseas elector who casts an absentee ballot can ascertain whether the ballot has been received by the municipal clerk.
- Requires the GAB to designate and maintain a freely accessible means of electronic communications to be used for allowing a military or overseas elector to request a voter registration or absentee ballot

application, designate whether the elector wishes to receive the applications electronically or by mail, and permit a municipal clerk to transmit the applications b electronically or by mail with related voting, balloting, and election information

Write-In Absentee Ballots

Federal Write-In Absentee Ballots

- Military electors may submit the Federal Write-In Absentee Ballot (FWAB) for any election.
- Completed and signed FWAB serves as an application for an absentee ballot

State Write-In Absentee Ballots

- Discontinues the State Write-In Absentee Ballot (SWAB)

Validity

- FWAB is valid only if the elector submitting the ballot does not submit an official ballot and, if the elector is an overseas elector, the elector resides outside the United States

Late Counting of Absentee Ballots

Extends late counting to any absentee elector if the absentee ballot is received by mail from the U.S. Postal Service and is postmarked no later than election day if it received by the clerk no later than 4 p.m. on the Friday after the election

Military Elector List

- Requires a municipal clerk to keep the military elector list in the format prescribed the GAB and distribute a copy of the list to each polling place for use on election day

Instructions

- Requires that the uniform instructions for absentee voters include the specific means of electronic communication that an absentee elector may use to file or change a voter registration or absentee ballot application

Election Notices

GAB Notices

- The Board must send the Type A notice to each county clerk on or before the 2nd Tuesday in April preceding the partisan primary and general election
- The Board must send the Type notice to each county clerk on or before the 3rd Tuesday in March preceding the partisan primary and general election
- The Board must send a Type B notice to each county clerk certifying the list of candidates for the partisan primary as soon as possible after the deadline for determining ballot arrangement for the partisan primary on June 10

County Clerk Notices

- The county clerk shall send notice of the partisan primary and general election to municipal clerks on the 1st Tuesday in April
- The county clerk shall publish a Type A notice based on the GAB notice by the 2nd Tuesday in April preceding a partisan primary and general election

Polling Places

Must establish polling places for each election at least 30 days before the election

- No later than 30 days before each election, the governing body of a municipality may by resolution combine two or more wards for voting in a common polling place

Special Elections

- Provides that when a special election concerns a national office or a special election for state office is held concurrently with the general election, the GAB must transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in its office at least 62 days before the special primary.
- In other cases, the GAB must transmit the list to each county clerk at least 22 days before the special primary.
- If no primary is required, the GAB must transmit the list to each county clerk at least 42 days before the special election. If the special election concerns a national office or is held concurrently with the general election, the list must be transmitted at least 62 days before the special election.

Date of Special Elections

- If a special election is held concurrently with the general election or a special election is held to fill a national office, the special election may be ordered not earlier than 122 days prior to the partisan primary or special primary and not later than 92 days prior to that primary

Nomination Papers

- Nomination papers for a special election must be filed no later than *June 1* preceding the partisan primary when a special election is held concurrently with a general election.

Special Elections for U.S. Senator or Representative

- A vacancy in the Office of U.S. Senator or Representative occurring prior to the 2nd Tuesday in April in the year of the general election must be filled at a special primary and election. A vacancy in those offices occurring between the 2nd Tuesday in April and the 2nd Tuesday in May in the year of the general election must be filled at the partisan primary and general election

Referenda

- Requires that the amendment, measure, or question be filed with the official or agency responsible for preparing the ballots for the election no later than *70 days* prior to the election

Redistricting

- Changes the deadline of May 15 of the 2nd year following the year of the federal census to April 10 of the 2nd year following the year of the federal census

Duplicate Identification Cards

- No fee for a duplicate state identification card if the elector could obtain a free state identification card, is a qualified elector, and requests the card be provided without charge.
- This provision applied to the initial issuance, renewal, or reinstatement of an identification card.

2011 Wisconsin Act 115—County and Municipal Canvassing Procedures, Delivery of Election Materials, Posting of Provisional Ballot Information, Town Meeting and Town Officer Term Date Changes and Election Deadlines

Effective Date: February 21, 2012

Canvassing Timeline Changes

- Changes the deadlines applicable to boards of canvassers

- The municipal boards of canvassers must meet no later than 9 a.m. on the Monday following an election and must report any required returns to the county and school district by 4 p.m. that day
- County boards of canvassers and school district boards of canvassers must meet no later than 9 a.m. on the Tuesday following an election. School district boards of canvassers must complete their canvasses by 4 p.m. that day.

Delivery of Election Materials

- Changes several provisions relating to the delivery of election materials
- A municipal clerk must deliver late-arriving absentee and verified provisional ballots and related materials to the county clerk and must deliver certain election materials to the school district clerk by 4 p.m. on the Monday following the election
- Specifies that county clerks must return specific election materials to a municipal or school district clerk upon completion of a central count

Posting of Provisional Ballot Information

- Requires municipal clerks to post information regarding the number of outstanding provisional ballots
- Requires municipal clerks to post the number of electors who cast provisional ballots and, as of the closing hour for all polling places, have not yet returned to satisfy relevant voting requirements so that their provisional ballots may be verified

Recount Deadline Changes

- Changes the deadline for filing a recount petition and the date by which the vote margin between the petitioner and leading candidate is determined
- A recount petition must be filed not earlier than completion of the canvass after any valid absentee ballots and provisional ballots are canvassed, and not later than 5 p.m. on the 3rd business day following the last meeting of the relevant board of canvassers after any valid absentee and provisional ballots are canvassed
- The vote margin between the petitioner and leading candidate, which impacts the required payment by a candidate requesting a recount, is determined after canvassing of valid absentee and provisional ballots

Town Meeting and Officer Term Date Changes

- Changes the date of annual town meetings and the date on which the terms of elected town officers begin by one week.
- Changes these dates from the 2nd Tuesday in April to the 3rd Tuesday in April. The Act also allows a town board to enact an ordinance extending town officer terms that expire on the 2nd Tuesday of April in 2012 or 2013 by one week so that the expiration of current terms corresponds with the beginning date of new officer terms

2011 Wisconsin Act 130—First Election Following Incorporation of City or Village

Effective Date: April 5, 2012, and first applies to a city or village that is incorporated on that date

- Following the incorporation of a city or village, the clerk of the circuit court of the county in which the incorporation petition was filed must organize the first election for officers of the city or village
- Transfers the responsibility for organizing the first election to the county clerk of the county in which the incorporation petition was filed

2011 Wisconsin Act 227—Absentee Ballots and Voting In Person and by Absentee Ballot

Effective Date: April 20, 2012

Return of Absentee Ballots by Clerks

- Prohibits a municipal clerk from returning an absentee ballot to a voter once the voter mails or personally delivers the absentee ballot to the clerk, except under specified circumstances
- A clerk may return an absentee ballot to a voter if the ballot has an improperly completed certificate or no certificate and there is time for the voter to correct the defect and return the ballot
- A clerk may also issue a new absentee ballot to a voter if the voter returns a spoiled or damaged absentee ballot to the clerk and the clerk believes that the ballot was issued to that voter

Voting by Absentee Ballot and In Person

- Prohibits a voter who submits an absentee ballot from also voting at the polls
- A voter who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on Election Day

Electronic Applications for Absentee Ballots and Proof of Identification

- Requires an individual who applies for an absentee ballot by fax or email to enclose a copy of his or her proof of identification with the application, rather than enclosing the proof of identification with the completed ballot

2011 Wisconsin Act 240—Elimination of Requirement to Appoint Special Registration Deputy to High Schools

Effective Date: April 20, 2012

- Eliminates the requirement for municipal clerks to appoint special school registration deputies at public high schools and the requirement for municipal clerks to either appoint deputies at, or send deputies to, private high schools and tribal schools

State of Wisconsin \ Government Accountability Board

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JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: May 3, 2012

TO: Members, Wisconsin Government Accountability Board

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

Prepared by: Jonathan Becker, Administrator
Ethics and Accountability Division

SUBJECT: Ethics and Accountability Division Program Activity

Campaign Finance Program

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

Staff Additions

On April 9th, the Ethics and Accountability Division welcomed two additional campaign auditors; Adam Harvell, formerly with the Elections Division, and Molly Sessler. The new staff members are currently in training on the use of the Campaign Finance Information System and have entered numerous finance reports into the system to decrease the backlog of data entry that has accumulated for the past year and half. A training schedule has been implemented for Chapter 11 review and auditing.

2012 January Continuing Reports

As of March 15, 50 committees failed to file campaign finance reports for the January Continuing 2012 report period. The non-filers included 22 candidates, 3 political parties, 15 PACs, 5 sponsoring organizations, 2 conduits, and 3 independent expenditure registrants. Staff made efforts to follow up with all committees that did not timely file.

As of May 3, 2012, 33 committees have yet to file the January Continuing 2012 finance report. The non-filers include 18 candidates, 1 political party, 9 PACs, 2 sponsoring organizations, 1 conduit, and 2 independent expenditure registrants. Staff will follow-up with forfeiture notices.

Spring Pre-Primary and Pre-Election Reports

Materials for the Spring Pre-Primary filing were sent to those candidates participating in the Spring Primary election and to all non-candidate committees. This report covers campaign finance activity from January 1 through February 6, 2012 and was due on or before February 13, 2012. 156 pre-primary reports were filed with the G.A.B.; 64 of those reports were filed by candidates. All candidates required to file a Spring Pre-Primary report have filed.

Materials for the Spring Pre-Election filing were sent out to those candidates participating in the Spring election and to all non-candidate committees. This report covers campaign finance activity from

February 7 through March 19, 2012 and was due on or before March 26, 2012. 162 pre-election reports were filed with the G.A.B., 62 of those reports were filed by candidates. All candidates required to file a Spring Pre-Election report have filed.

Special Pre-Primary and Pre-Election Reports

Materials for the Special Pre-Primary filing were sent to candidates participating in the Special Primary election and to all non-candidate committees. This report covers campaign finance activity from January 1 or the date of the last report, through April 23, 2012 and was due on or before April 30, 2012. 221 pre-primary reports were filed with the G.A.B., 24 of those reports were filed by candidates. All candidates required to file a Special Pre-Primary report have filed.

Materials for the Special Pre-Election filing will be sent on May 11, 2012. This report covers campaign finance activity from April 24 through May 21, 2012 and is due on or before May 29, 2012.

Lobbying Update

Tracey Porter, Ethics and Accountability Specialist

Statement of Lobbying Activities and Expenditures Reports

Chapter 13.68, *Wisconsin Statutes*, requires all registered lobbying organizations to complete a 6 month Statement of Lobbying Activities and Expenditures (SLAE) report that contains information related to the organizations’ lobbying effort between January 1 and June 30, 2012. The SLAE report will be due on or before July 31, 2012. As a part of the SLAE report, those lobbyists who are authorized to lobby for the organization are required to complete a time report that identifies those hours spent communicating or working on other lobbying related matters for the organization. This report is also due on or before July 31, 2012. Both reports are filed electronically. Staff will send communications to all filers in June 2012.

Lobbying Registration and Reporting Information

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

2011-2012 Legislative Session: Lobbying Registration by the Numbers (Data Current as of May 3, 2012)			
	Number	Cost	Revenue Generated
Organizations Registered	752	\$375	\$282,000
Lobbyists Licenses Issued (Single)	645	\$350	\$225,750
Lobbyists Licenses Issued (Multiple)	134	\$650	\$87,100
Lobbyists Authorizations Issued	1711	\$125	\$213,875

Lobbying Website Project Update

A significant amount of time has been allocated to develop the new lobbying application. The developer’s role in the project ended on March 12, 2012 due to budget constraints. Staff continues to work with assigned staff from the Department of Administration to finish work on the remaining undeveloped areas of the lobbying application. Staff plans to continue to test the Production site and make improvements where necessary. A focus group invitation was sent to the lobbying community and members of the Joint Committee on Information Policy and Technology for a presentation and discussion that will take place on May 10, 2012. The lobbying community will be trained on the functionality of the new system in May 2012 and a complete deployment of the application is scheduled for the first part of June 2012.

Financial Disclosure Update

Cindy Kreckow, Ethics and Lobbying Support Specialist

Statements of Economic Interests – Annual Filing

Continuing state public officials who served in office during any portion of 2012 are required to file an annual Statement of economic Interests. Statements were due April 30, 2012. As of May 3, 2012, approximately 100 outstanding statements remained out of over 2,500 officials required to file. A significant amount of staff time has been devoted to answering questions regarding individual Statements of Economic Interests, providing copies of past statements to filers and logging received statements into our current official's database. Outstanding filers have received multiple reminders and staff will continue to follow-up with these individuals. A forfeiture schedule for late filing begins May 7, 2012.

Investment Board Quarterly Transaction Reports and Statements of Economic Interests

Staff received and processed 46 quarterly transaction reports from State Investment Board members and employees that were due on or before April 30, 2012. Statements of Economic Interests for those 46 board members and employees who file them, also due April 30th, have been received as well. Copies of the reports and statements were delivered to the Legislative Audit Bureau for their review and analysis.

State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Elections Division Update

Election Administration Update

Introduction

Since the Government Accountability Board's March 20, 2012 meeting, the Elections Division has focused on the following tasks:

1. Spring Election and Presidential Preference Vote: April 3, 2012

The Spring Election and Presidential Preference Vote was conducted on Tuesday, April 3, 2012. County canvasses were due to be sent electronically to the G.A.B. no later than April 13, 2012. The last canvass was received on April 18. Following is a breakdown of county canvasses received:

▪ April 9	2
▪ April 10	38
▪ April 11	7
▪ April 12	8
▪ April 12	2
▪ April 16	13
▪ April 17	1
▪ April 18	1

There was one petition for recount filed for the office of Racine County Circuit Court Judge, Branch #10. The recount did not change the outcome of the election. The recount canvass was received on April 24.

Staff received many questions before and during the election with respect to voting for the office of President. Most of the questions were related to voting in more than one primary for the office

of President. Voters also questioned why the names of candidates who had publicly withdrawn as candidates for President still appeared on the ballot. As always, some voters were frustrated at not being allowed to vote in both primaries.

Voting equipment software limitations continue to be a problem when a partisan primary appears on the same ballot as nonpartisan offices. A Party Preference section was not included on the April 3rd ballot sample prepared by G.A.B. staff because there was only one partisan office and no opportunity to vote for more than one candidate for the office. Staff believed that requiring voters to choose a party when only one office was implicated would have been unnecessary and confusing to voters.

Soon after the sample ballot was provided to clerks and to the vendors who prepare ballots and programming for electronic equipment, G.A.B. staff was made aware that a Party Preference section would have to be included on optical scan ballots in municipalities using Unity (ES&S) or GEMS (Premier/Dominion) compilation software to merge the touch screen (accessible) equipment and optical scan equipment results. The touch screen has to have a Party Preference screen, or votes for a partisan office cannot be properly attributed to a party. In order for the accessible equipment and optical scan equipment to communicate so that the compilation software can merge the results, the optical scan equipment and accessible equipment must be programmed the same way. This means that the optical scan ballot used in these municipalities had to also contain a party preference. This was also an issue for the recall primary.

This resulted in less-than-uniform ballot styles throughout the state. To avoid this problem in the future, a Party Preference section will be placed on all partisan primary sample ballots, even if the ballot only concerns one partisan office. This will provide uniformity of ballot style until software improvements can better accommodate this type of combined election.

2. Recall Primary for the Offices of Governor, Lieutenant Governor and State Senator – May 8, 2012

The recall primary for the offices of Governor, Lieutenant Governor and State Senator in Districts 13, 21, 23 and 29 will be conducted on May 8, 2012. There will be a primary in both the Republican and Democratic Parties for the office of Governor. Democratic primaries will be held for the offices of Lieutenant Governor and the four State Senate Districts. A recall primary is held only when more than one candidate of a party qualifies for the ballot in a particular office. The primary is conducted only for that office and only in the party with more than one candidate.

A recall election is the result of the submission of a sufficient recall petition. Each recall petition targets a specific officeholder. Therefore, unlike the August partisan primary, each office up for recall is treated as a separate election. This difference presents interesting distinctions in the way votes are counted at a recall primary as opposed to the partisan primary. At the partisan primary, a voter must restrict voting to one party only. However, since each office up for recall is an election in and of itself, a voter is able to switch parties between offices. G.A.B. staff prepared a guide for counting votes at the recall primary for use by municipal clerks and election inspectors.

3. Preparation for 2012 Partisan Primary and General Election

Circulation of nomination papers began on April 15 and completed documents must be submitted no later than 5:00 p.m. on Friday, June 1. As of this time, 354 candidates are registered:

- U.S. Senator 13
- Representative in Congress 13
- State Senator 29
- Representative to the Assembly 228
- District Attorney 71

Thirteen candidates have submitted nomination papers. We anticipate that the most intense period for filing will be the week of May 28.

Staff is also collecting Notifications of Noncandidacy from current incumbents who do not intend to run for their current seat, and from incumbents who do intend to run but, because of redistricting, are no longer able to run in the district they currently represent. Letters alerting all incumbents to this requirement were sent on May 3, 2012.

Independent candidates for the office of President of the United States may circulate nomination papers beginning July 1, 2012, and must be submitted to the Government Accountability Board no later than 5:00 p.m. on Tuesday, August 7, 2012.

4. Successful Petition for Ballot Status

On March 21, 2012, “Americans Elect” submitted a sufficient petition for ballot status to the Government Accountability Board. The petition was required to contain 10,000 signatures, including at least 1,000 signatures of electors residing in each of at least 3 different congressional districts. Wis. Stats. § 5.62(2). Below is the breakdown of signatures by congressional district:

Congressional District	Number of Valid Signatures
1	2,897
2	7,961
3	1,040
4	89
5	137
6	2,497
7	272
8	304
Total	15,197

Americans Elect far exceeded the minimum requirements of a petition for ballot status. Therefore, Americans Elect is entitled to a separate ballot at the partisan primary.

5. Extended Operating Hours to Support Clerk Partners and Voter Customers Before, During and After the April 3, 2012 Spring Primary Election and Presidential Preference Vote

The Government Accountability Board (G.A.B.) extended hours of operation March 26, 2012 through April 6, 2012 in order to provide assistance to our local elections partners and the general public regarding the April 3, 2012 Spring Election and Presidential Preference Vote. The extended office hours schedule included the following:

- Monday, March 26: 4:30 - 6:00 p.m.
- Tuesday, March 27: 4:30 - 6:00 p.m.
- Wednesday, March 28: 4:30 - 6:00 p.m.
- Thursday, March 29: 4:30 - 6:00 p.m.
- Friday, March 30: 4:30 - 6:00 p.m.
- Saturday, March 31: 9:00 a.m.- Noon

- Monday, April 2: 4:30 - 8:00 p.m.
- **Tuesday, April 3 (Election Day) 6:00 a.m. - 11:00 p.m.**
- Wednesday, April 4: (No Extended Hours)
- Thursday, April 5: (No Extended Hours)
- Friday, April 6: 4:30 - 6:00 p.m.
- Saturday, April 7: (No Extended Hours)

Inquiries prior to the election overwhelmingly focused on election preparation. The most common issues included poll books, voter registration, and absentee ballot requests and processing. Election Day inquiries focused around a variety of election administration questions, polling place concerns, voter assistance, absentee ballot processing, and the Statewide Voter Registration System (SVRS). After Election Day, the most common inquiries related to election administration, canvassing, SVRS, campaign finance and ethics, and absentee ballots.

Election Day inquiries accounted for approximately 22.8 percent of all inquiries. Inquiries the day prior to the election were about 13.8 percent of all inquiries. Inquiries during the day after the election amounted to about 7.8 percent of total inquiries during the period of extended operations.

Extended hours inquiries accounted for approximately 12.5 percent of all inquiries during the period of extended operations. Voter Assistance, SVRS, and issues related to voting and the polling place (voting equipment, polling place access, polling place issues, provisional ballots, and the Voter Public Access system) increased during extended hours compared to normal business hours of operation. Inquiries about campaign finance, ethics, and current events (Voter ID, redistricting, and recalls) were more common during business hours than during extended hours of operations.

G.A.B. Staff are developing improved tracking methods in order to provide more accurate and meaningful data about inquiries. The following changes will be implemented prior to the May 8, 2012 election. The form for entering each inquiry will include more clearly defined categories and related sub-categories for classifying inquiries. Clear definitions for these categories and sub-categories will also improve the consistency of classifying inquiries by G.A.B. Staff. Inquiries will be able to be shared between staff members.

Beyond these three near-term goals, G.A.B. Staff are also working to improve automation of capturing inquiry data. Using Microsoft CRM will enable us to improve tracking of emails and phone calls. This new system will enhance staff's ability to further analyze relational data, facilitate tailored training to Municipal and County Clerks, and tailor responses to individuals. While the current system is rather time-consuming, the new system is expected to improve our ability to track inquiries throughout the year. G.A.B. Staff will continue to analyze and review future election inquiries for the purpose of improving the quality of elections-related services.

Extended Operating Hours to Support Clerk Partners and Voter Customers Before, During and After the May 8, 2012 Recall Primary:

Week Leading up to the May 8 Recall Primary

- Wednesday, May 2: 4:30 - 6:00 p.m.
- Thursday, May 3: 4:30 - 6:00 p.m.
- Friday, May 4: 4:30 - 6:00 p.m.

Week During the May 8 Recall Primary

- Monday, May 7: 4:30 - 8:00 p.m.
- **Tuesday, May 8 (Election Day): 6:00 a.m. - 11:00 p.m.**
- Wednesday, May 9: (No Extended Hours)
- Thursday, May 10: (No Extended Hours)
- Friday, May 11: 4:30 - 6:00 p.m.

6. Elections Cost Tracking

On January 6, 2012, the G.A.B. provided an estimated cost of administering a statewide election to the State Legislature. The April 3, 2012 Election was the first time the G.A.B. required municipalities and counties to report the actual costs associated with conducting an election. A summary report of the cost of the April 3, May 8, June 5 and August 14, 2012 Elections will be provided during the Board's August 28, 2012 Meeting.

7. Status of 2011 Wisconsin Act 23 (Photo ID)

Two separate judges, on March 6 and March 12, 2012, issued injunctions preventing the Government Accountability Board from implementing photo ID requirements contained in 2011 Wisconsin Act 23. The Wisconsin Department of Justice appealed those injunctions and the appeals were certified to the Wisconsin Supreme Court.

On April 16, 2012, the Wisconsin Supreme Court denied certification of the appeals. The Supreme Court's decision returned the cases to the Court of Appeal's jurisdiction.

In *NAACP v. Walker*, a trial was held from April 16-19, 2012 in Dane County Circuit Court. A decision is expected after the submission of trial briefs on June 18, 2012. As a result, the 2nd District Court of Appeals denied the petition for leave to appeal and the motion to stay the temporary injunction because of the procedural posture of the case.

On April 26, 2012, the 4th District Court of Appeals denied a motion to stay the permanent injunction on 2011 Act 23 in the *League of Women Voters v. Walker* case. The court granted a motion to advance submission for a timely resolution of the case.

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

Board staff are working with municipal clerks to comply with the requirements of the 2012 UOCAVA Consent Decree. Staff followed up with municipal clerks who did not respond to the U.S. Department of Justice's (USDOJ) survey regarding the transmission of military and overseas electors. Through phone calls and use of the GAB-190 information provided through the Wisconsin Election Data Collection System (WEDCS), Board staff was able to gather information on military and overseas voters from all 1,851 municipalities.

The first reporting requirement of the Consent Decree is due to the U.S. Department of Justice on May 18, 2012. This report will include information collected from the Wisconsin Election Data Collection System (WEDCS) from all municipalities, in addition to information collected from the 61 municipalities that did not transmit absentee ballot to military and overseas voters at least 45 days before the 2012 Spring Primary Election and Presidential Preference Vote.

The Consent Decree includes five additional reporting requirements; two reports are due in June and one each in July, September, and October. All of the five additional reports will require municipal clerks to complete a survey regarding their military and overseas voters; none of the

information requested is currently collected in the format required by the USDOJ. Board staff continues to work with USDOJ and municipal clerks to ensure military and overseas voters are sent their ballots in a timely matter for all elections.

Federal Voting Assistance Program Grant: The FVAP Grant development began as soon as the grant was awarded on March 5, 2012. The current GAB IT team began working on the online balloting systems IT requirements and will continue to work until the FVAP Grant IT staff are hired. The online balloting system is required to be functional for the 2012 General Election.

9. The AccessElections! Wisconsin Accessibility Compliance Program
(Elections and Voting Accessibility)

Number of Polling Places in Wisconsin: For the April 3, 2012 Spring Election, there were 2,678 polling places available to Wisconsin voters. This number fluctuates depending on the type and scope of the election and expected turnout. For expected low turnout rates, polling locations may be consolidated.

2011 Accessibility Audits Completed: During 2011, 396 or 14.7% of the 2,678 Polling Places were subjected to an Accessibility Audit.

2012 Goal for Conducting Accessibility Audits: There are six statewide elections currently scheduled in our State for 2012. The goal is to conduct an average of 200 Accessibility Audits during each of the 2012 scheduled Elections, for a total of 1,200 Audits. To date (2012), the following number of Accessibility Audits have been completed:

- For the February 21, 2012 Spring Primary: 103
- For the April 3, 2012 Spring Election and Presidential Preference Vote: 96
- For the May 8, 2012 Recall Primary: 189

If the goal of an average of 200 Accessibility Audits is completed during 2012, that translates into 1,200 completed Audits or 44.8% of the State's 2,678 polling places.

Also, if the 2012 Accessibility goal is met (1,200 completed Audits), coupled with the 396 Audits completed in 2011, this would mean 55.8% of the State's 2,678 polling places will have been audited by the end of 2012.

The April 3, 2012 Spring Election and Presidential Preference Vote

Ten (10) temporary workers were hired and trained to conduct Onsite AccessElections! Accessibility Compliance Audits in the following six (6) counties during the April 3, 2012 Spring Election and Presidential Preference Vote: Chippewa, Eau Claire, Jackson, Rusk, Sawyer, and Trempealeau. Ninety-six (96) Audits were completed in 79 municipalities. Please refer to Attachment #1 for details.

The May 8, 2012 Recall Primary

The Government Accountability Board migrated its 27-page Accessibility Survey onto an online platform. This migration allowed the Survey to be transferred to computer tablets, and these tablets were used for the first time to record Accessibility audit information during the May 8, 2012 Recall Primary.

This strategic step forward has numerous noteworthy advantages:

- The computerized Accessibility Survey is significantly more efficient.
- The Accessibility Auditor only has to focus on the sections of the Survey that are specific to a particular polling place.
- The online platform eliminates the need for deciphering handwriting.
- The automated process eliminates the need for data-entry of the audited information, thereby reducing costs.
- The audited information is imported into, and automatically populates the AccessElections! Accessibility Database.
- Accessibility Audit Reports containing findings and recommendations for compliance can now be communicated to local election officials and Chief Executives of municipalities in a more timely manner.
- The automated functionalities provide management with easy access to statewide information about the status of polling place Accessibility compliance.
- The online AccessElections! Accessibility Database provides for effective policy decision-making.

Sixteen (16) auditors are being deployed to 11 counties in Northwestern and Central Wisconsin, which include Ashland, Bayfield, Buffalo, Clark, Douglas, Iron, Lincoln, Marathon, Price, Taylor, and Washburn. The 195 Municipalities that are expected to be subjected to an Accessibility Audit on May 8, 2012 are detailed in Attachment #2.

Emerging Top Ten Accessibility Compliance Issues

- A. Insufficient signage for accessible parking spaces and accessible entrances.
- B. Doors that require more than 8 lbs. of force to open.
- C. Doors that do not have lever door handles or an electronic feature such as an automatic opener, power-assist or bell/buzzer.
- D. Insufficient clearance around voting equipment and tables for a person to maneuver in a wheelchair.
- E. Lack of privacy for voters using accessible voting equipment.
- F. Required election notices are not always posted and those posted are not printed in 18-point font
- G. Municipalities that received G.A.B. Accessibility improvement grant funds or supplies to assist respective polling places to achieve compliance could not show or demonstrate items that the funds were intended to purchase, or the supplies that were received.
- H. Gaps and uneven pavement in the pathway from the parking area to the accessible entrance.
- I. Thresholds that are greater than ½-inch high and would require the addition of a threshold ramp.
- J. Gravel parking surfaces for marked accessible parking spaces.

Board staff are analyzing Audit results and preparing to report findings to the municipalities, including clerks and Executive Officers. Staff are continuing to coordinate with municipal clerks to ensure that Accessibility problems uncovered during previous Onsite AccessElections! Accessibility Compliance Audits are resolved as quickly and cost-effectively as possible. Additionally, staff are arranging the distribution of grant-funded Accessibility supplies to municipalities in response to documented needs. At the same time, staff are monitoring the use and effectiveness of previous Accessibility grant funding by municipalities. Staff are also

working with the agency IT section to streamline the AccessElections! Compliance Audit administrative process.

10. Wisconsin Electronic Voting Equipment Systems

One of our in-house initiatives is to address the age of voting systems currently being used in the State of Wisconsin. Overall, these systems are still functioning properly and producing accurate results as verified by past and recent recounts. Regardless, these systems will need to be replaced in the near future and G.A.B. staff will be working with local election officials to determine a plan of action.

Education/Training/Outreach/Technical Assistance

Please refer to Attachment #2, titled “Training Summary,” for a summary of information on core and special election administration training conducted by staff.

Other Noteworthy Initiatives

1. Voter Data Interface

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

Clerks process HAVA Checks and confirm matches on a continuous basis during the course of their daily election administration tasks. This process has been followed since the Interfaces became functional in SVRS on August 6, 2008. Since the last Board meeting, clerks processed approximately 71,071 HAVA Checks with DOT/SSA on voter applications in SVRS. This number is higher than the previous Board report (21,951 HAVA Checks) due to increased voter registration activity related to the Spring 2012 election.

2. Retroactive HAVA Checks Status

There has been no update on this project since the last Board Meeting. Board technical staff were focused on implementing the new Voter Photo ID Law at least until the week of March 6, 2012, at which time a Dane County Circuit Court imposed a temporary injunction on the implementation of various provisions of the Photo ID Law. Technical staff have also been updating SVRS functionalities for the 2010 Decennial Redistricting process, as well as for the 2012 Recall Senate elections.

3. Voter Registration Statistics

As of Monday, May 3, 2012, there were a total of 3,280,826 active voters in SVRS. There were 1,051,977 inactive voters and 303,561 cancelled voters. 2,541 voters have been merged by clerks as duplicates since the last report.

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

4. G.A.B. Customer Service Center

The G.A.B. Customer Service Center is supporting over 2,000 active SVRS users, the public and election officials. The Customer Service Center staff assisted with processing the canvass, GAB-190 reporting data requests and testing SVRS improvements. The Customer Service Center is continuing to upgrade and maintain the two training environments that are being utilized in the field. Staff are monitoring state enterprise network changes and statuses, assisting with processing data requests and processing voter verification postcards. Customer Service Center staff assisted clerks with configuring and installing SVRS and WEDC (GAB-190) on new computers.

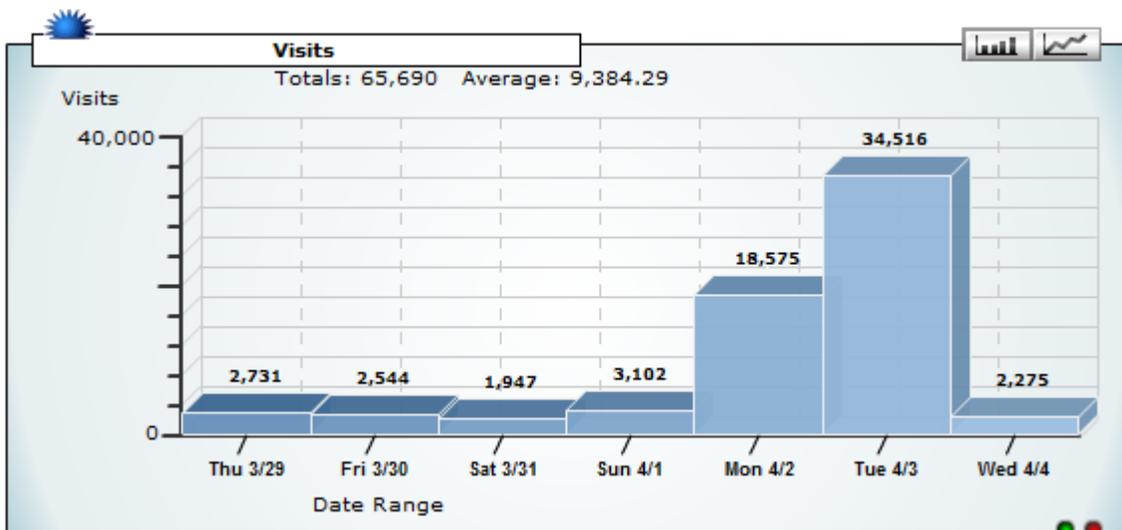
Overall, the majority of inquiries the G.A.B. Customer Service Center received from clerks during this period regarded assistance with setting up the May 8 Primary; setting up the April 3 Election; reconciling the Spring Primary and April 3 Election; running SVRS reports; redistricting; recall issues and Voter ID changes. There was a volume of calls from clerks regarding the Military and Overseas Absentee Survey. Calls from electors, local officials and election officials during this period inquired specifically about recall procedures, recall verification processes and Voter ID requirements.

Calls for this period also consisted of potential candidates requesting information about getting on the ballot, campaign finance issues, and the Statement of Economic Interest. The Ethics Division CFIS and Lobbying reporting also generated a measurable amount of call traffic.

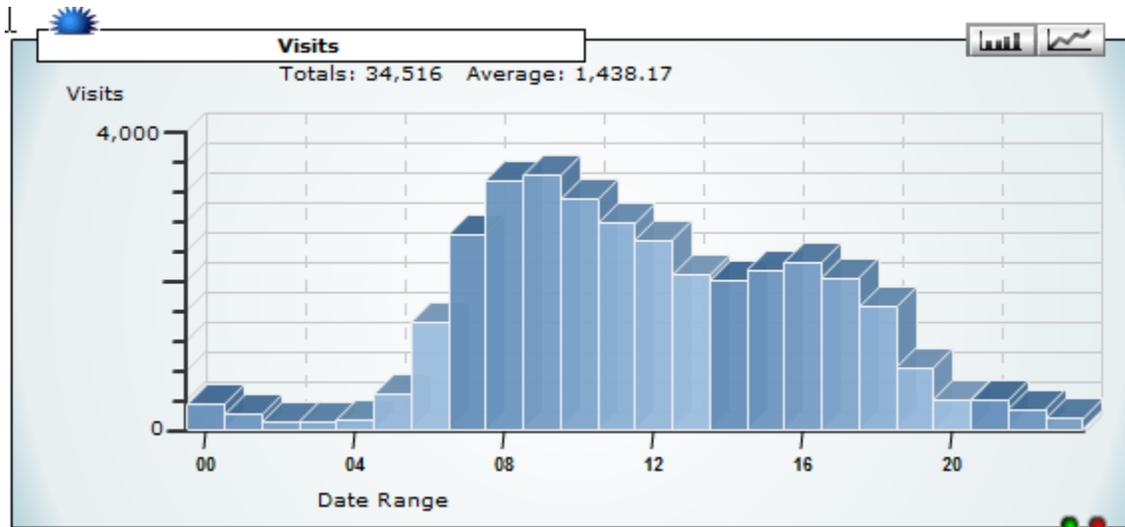
G.A.B. Customer Service Center Call Volume (608-261-2028)

March 2012	1,980
April 2012	1,847
Total Calls for Period	3,827

The graph below illustrates unique voter visits accessing the GAB Voter Public Access (VPA) website for the week prior to and including the April 3, 2012 Spring Election. Election Day had 34,516 unique visitors, typically viewing 17.2 pages per visit.



The graph below illustrates traffic just on April 3, Election Day.



5. The 2010 SVRS Census Redistricting Project

Most of the activity for the 2010 Decennial Redistricting in SVRS wrapped up with the April 3, 2012 Spring Election. All clerks administered the election using the new wards, aldermanic districts, and county supervisory district that were passed as part of the redistricting process.

The April 3, 2012 election went very smoothly regarding Redistricting. Very few contacts were received by Board Staff on or after Election Day regarding Redistricting. Board Staff dedicated considerable time to assisting clerks with Redistricting tasks leading up to the election, and resolved all clerk-reported incidents that impacted the April election by March 23. Board staff also provided many materials to clerks leading up to the election, including updated training materials, interactive training webinars, and memos with helpful tools and tips.

Board staff continues to work on lower priority data quality tasks that did not impact the April election. These tasks are anticipated to continue for the next few months. These include:

- Several municipalities have wards that are split by a State Assembly, State Senate, or Congressional line, which will need to be addressed prior to the Fall 2012 Elections.
- Maps for several Sanitary Districts across the state will be loaded in the coming months. These districts will be loaded in and updated prior to the Spring 2013 Elections.
- Several mapping clean-up tasks are planned for the next 3 months to make the maps in SVRS more usable and accurate.

6. 2012 Recall Senate Districts

Per 2011 Wisconsin Act 43, the four Recall Elections for State Senate taking place in 2012 will be administered using the 2002 Senate Districts rather than the 2011 Act 43 Senate Districts. To accommodate this, the 2002 Senate Districts (referred to as the Recall Senate Districts) were added into SVRS as an additional district. This allowed us to overlay the Recall Senate districts on top of the new wards that went into effect January 1, 2012. Municipalities can continue to use the wards and polling places that were used in the Spring 2012 elections. However, certain wards may have 2 ballot styles – one that includes just Governor and Lt. Governor, and one that also includes a State Senator.

Most municipalities are either entirely within or entirely outside of the Recall Senate Districts. Board Staff identified 17 municipalities that are partially within and partially outside of one of the districts. Most of these splits were due to annexations and include relatively small geographic areas, and in some cases, do not impact any voters. Only 4 of the 17 municipalities had considerable geography in their splits. All 17 municipalities were provided with additional information and resources from Board Staff to help them determine which voters and addresses should be within the Recall Senate districts and which should be outside. They were given instructions on how to have the ballot style clearly appear on the poll list so that election workers can easily determine which voters get the ballot with the State Senate contest and which voters get the ballot for just Governor and Lt. Governor. They were also given resources to help them with late and Election Day registrants who will not appear on the poll list.

Board staff issued a news release to assist the public in determining which elections they are eligible to vote in. The Voter Public Access website was also updated to clearly show which addresses and voters are eligible to vote in the Senate Recall elections.

G.A.B. Technical Staff performed a detailed analysis to identify any voters who had previously been in one of the Recall Senate Districts but now are not, and those voters who previously were not in one of the Recall Senate Districts and now are. Each voter was reviewed to determine if they should be in or out and were corrected as necessary. Most voters who no longer reside in Recall Senate Districts are voters who moved outside of their Recall Senate District and are therefore no longer eligible to vote in that district. Most of the voters who newly appeared in the Recall Senate Districts are voters who moved into the Recall Senate district since Redistricting.

Two staff members have been designated specifically to assist clerks, election workers, or voters who have questions regarding the Recall Senate Districts on Election Day. Staff are confident that there will be few problems or issues on Election Day relative to the Recall Senate Districts.

7. SVRS Core Activities

A. Software Upgrade(s)

Several updates have been made to SVRS applications:

- The SVRS system was updated to track the requirements of Wisconsin Act 23 (Photo Identification). This was implemented in two phases, first in mid-February for the February Primary, and second in early March 2012.
- The Canvass Reporting System was updated with several changes requested by clerks, and to accommodate the new canvassing timeline. This was implemented in two phases, first in mid-February for the February Primary. The second phase will be implemented in late May to be available for the June election.
- The WEDCS System will be updated in late March 2012 to include the revised GAB-190 survey, as well as some functionality enhancements to make it easier for clerks to fill out the survey correctly.
- The Voter Public Access website was updated in early February for both Redistricting and Photo ID. Voters can view both their new and old districts on VPA and will be able to see additional indicators on their voter record that impact their voting process.
- A new Provisional Ballot Tracking System was deployed and used for February Primary and April Presidential Preference and Spring Election.

A new online Ineligible Voter List system was deployed in mid-March and used for the first time for the April Presidential Preference and Spring Election. The online system allows municipal and county clerks to print the required lists on demand and is more cost effective and efficient. Clerks have applauded the use of technology to make the process more efficient and convenient. For example, the City of Sun Prairie was able to eliminate paper lists at the polling place completely. We consider this a “best practice.” The City of Sun Prairie integrated the new online Ineligible List with their polling place laptops to create an automated check-in system.

B. System Outages

There were no unscheduled outages of the SVRS system during this reporting period.

C. Data Requests

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

The following statistics demonstrate the activity in this area since the last Elections Division Update through May 3, 2012:

- Fifty-three (53) inquiries were received requesting information on purchasing electronic voter lists from the SVRS system.
- Thirty-seven (37) electronic voter lists were purchased.
- \$16,950 was collected for SVRS voter data.

30-45-60 Day Forecast

1. Prepare for the June 5, 2012 Recall General Election.
2. Prepare temporary staff to conduct onsite AccessElections! Accessibility Compliance Audits during the June 5, 2012 Recall General Election.
3. Continue with implementation of the \$1.9 million dollar grant award received from the US Department of Defense, Federal Voter Assistance Program (FVAP). The purpose of the grant is to create an Online Ballot Delivery System for Military and Overseas Electors. The Grant Period is March 5, 2012 until November 30, 2016.
4. Prepare for the August 14, 2012 Partisan Primary.
5. Prepare temporary staff to conduct onsite AccessElections! Accessibility Compliance Audits during the August 14, 2012 Partisan Primary.
6. Nomination Paper circulation for the General Election starts on April 15. Deadline to file ballot access documentation is June 1.

Action Items

None.

ATTACHMENT #1

**Accessibility Compliance Audits Conducted
During the April 3, 2012 Spring Election and Presidential Preference Primary**

County	City	Town	Village
Chippewa	Chippewa Falls, Hayward	Auburn, Cooks Valley, Eagle Point, Hallie, Howard, Tilden, Wheaton, Woodmohr	Lake Hallie
Eau Claire	Eau Claire	Bridge Creek, Brunswick, Clear Creek, Fairchild, Otter Creek, Pleasant Valley, Union	Fairchild
Jackson	Black River Falls	Adams, Alma, Brockway, Cleveland, Garden Valley, Garfield, Hixton, Komensky, Northfield, Springfield	Alma Center, Hixton, Merrillan, Taylor
Rusk		Atlanta, Big Bend, Flambeau, Hubbard, Murry, Rusk, Strickland, Stubbs, Thornapple, Washington, Wilkinson, Wilson	
Sawyer		Couderay, Draper, Edgewater, Hayward, Meadowbrook, Meteor, Ojibwa, Radisson, Sand Lake, Weigor, Winter	Couderay, Exeland, Radisson, Winter
Trempealeau	Arcadia, Blair, Galesville, Osseo	Arcadia, Caledonia, Dodge, Etrick, Gale, Hale, Pigeon, Preston, Unity	Eleva, Pigeon Falls, Strum, Trempealeau

Six (6) Counties
Seventy-Nine (79) Municipalities

ATTACHMENT #2

Accessibility Compliance Audits Conducted During the May 8, 2012 Recall Primary

County	City	Town	Village
Ashland	Ashland, Mellen	Agenda, Ashland, Chippewa, Gingles, Gordon, Jacobs, La Pointe, Marengo, Morse, Peeksville, Sanborn, Shanagolden, White River	Butternut
Bayfield	Bayfield, Washburn	Barksdale, Barnes, Bayview, Bell, Cable, Clover, Delta, Drummond, Eileen, Grand View, Hughes, Iron River, Kelly, Keystone, Lincoln, Namakagon, Orienta, Oulu, Pilsen, Port Wing, Tripp, Washburn	Mason
Buffalo	Alma, Buffalo City, Fountain City	Alma, Belvidere, Dover, Gilmanton, Glencoe, Maxville, Modena, Mondovi, Montana, Naples, Nelson, Waumandee	Cochrane, Nelson
Clark	Owen, Stanley, Thorp	Hixon, Hoard, Mayville, Reseburg, Thorp, Withee, Worden	Curtiss, Dorchester, Withee
Douglas	Superior	Amnicon, Bennett, Cloverland, Gordon, Highland, Lakeside, Maple, Wascott	Oliver, Poplar, Solon Springs, Superior
Iron		Anderson, Carey, Kimball, Knight, Mercer, Oma, Pence, Saxon, Sherman	
Lincoln	Merrill	Bradley, Corning, Harding, King, Pine River, Russell, Skanawan, Tomahawk	
Marathon	Mosinee, Shofield, Wausau	Bevent, Easton, Franzen, Guenther, Knowlton, Norrie, Plover, Reid, Rib Mountain, Ringle, Stettin, Texas, Wausau, Weston	Birnamwood, Brokaw, Elderon, Hatley, Kronenwetter, Rothschild, Weston
Price	Park Falls, Phillips	Catawba, Eisenstein, Elk, Emery, Fifield, Flambeau, Georgetown, Hackett, Harmony, Hill, Knox, Lake, Ogema, Prentice, Spirit, Worcester	Catawba, Kennan, Prentice
Taylor	Medford	Aurora, Browning, Chelsea, Cleveland, Deer Creek, Ford, Goodrich, Greenwood, Grover, Hammel, Holway, Jump River, Maplehurst, Mckinley, Medford, Molitor, Pershing, Rib Lake, Roosevelt, Taft, Westboro	Gilman, Lublin, Rib Lake, Stetsonville
Washburn	Shell Lake	Barronett, Bashaw, Bass Lake, Beaver Brook, Birchwood, Brooklyn, Casey, Chicog, Crystal, Evergreen, Frog Creek, Gull Lake, Long Lake, Madge, Spooner, Springbrook, Stinnett, Stone Lake, Trego	Birchwood, Minong

Eleven (11) Counties
 One Hundred Ninety-Five (195) Municipalities

ATTACHMENT #3

GAB Election Division's Training Initiatives
March 21, 2012 – May 14, 2012

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Voter Registration	Basic training in adding voter registration applications, searching for voters, updated voters.	3 hours	Municipal and county clerks, staff and temp workers who provide election support only.	The WBETS site is available to train temporary workers.	75
Municipal Clerk	2005 Wisconsin Act 451 requires that all municipal clerks attend a state-sponsored training program at least once every 2 years. Training conducted by certified county and municipal "clerk-trainers" and GAB staff using live Webinar.	3 hours	All Municipal clerks are required to take the training; other staff may attend.	1	20
Chief Inspector	New chief inspectors must attend 3-hour Baseline training class.	3 hours	All new chief inspectors are required to attend; clerks may attend for training credit.	12	250

Training Type	Description	Class Duration	Target Audience	Number of Classes	Number of Students
Webinars	Board staff conducted training classes using Webinar technology	Varies	County and municipal clerks and their staff; location election officials.	Recall: April 5, 2012 MCT Training: April 18, 2012 CIT Training: April 26, 2012 Acts 227 & 240: April 24, 2012	Varies
Other	<ul style="list-style-type: none"> • Board staff presented election administration law information to Wisconsin Municipal Clerks Association in New Richmond on April 25, 2012. 				

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KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the May 15, 2012 Meeting

TO: Members, Wisconsin Government Accountability Board

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

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

SUBJECT: Administrative Activities

Agency Operations

Introduction

The primary administrative focus for this reporting period has been preparing for the May 8 recall primary election, preparing for the implementation of the Federal Voting Assistance Grant program, procuring goods and services, recruiting staff, communicating with agency customers, and developing legislative and media presentations.

Noteworthy Activities

1. Procurements

Since the last Board meeting, the procurement section has worked on several high-priority projects. One project has been to facilitate the process of hiring temporary services workers to conduct polling place accessibility surveys on May 8 and to train them on the reimbursement process for expenses.

The procurement section has also helped to purchase easily-transportable tablet PCs that will modernize the program. With these tablet PCs, Polling Place Accessibility Survey staff will be able to electronically fill out the surveys, which can then be immediately downloaded and data entered, saving valuable staff time and funding. These PCs will have other applications that the agency can explore in the future to help modernize our training and outreach.

We have also begun research on leasing new photocopiers for the Federal Voting Assistance Program grant and for our main office since our existing photocopier lease expires on June 30, 2012.

2. Contract Sunshine

Contract Sunshine has had another successful certification period. For the first time ever, all 32 agencies that are required to report, plus one optional-reporting agency, have certified their data for the certification period January 2012 through March 2012. This continues a general trend in the program that has seen all but one or two agencies at most failing to certify per reporting period.

Effective May 14, 2012, Julie Nischik will be taking over the administration of the Contract Sunshine Program. James Malone has accepted a promotion and will be leaving the agency to work at the Legislative Audit Bureau. Prior to James departure, he trained Julie to take over his duties and has written a Contract Sunshine Administrator's manual and User's Guide to facilitate a smooth transition.

3. Federal Voting Assistance Program's (FVAP) Electronic Absentee Systems for Elections (EASE) Grant

In preparation for the implementation of the FVAP EASE grant valued at \$ 1,919,864, the financial services section has been working on getting all the operational preparations completed, which include:

- Attend program status meetings and advise staff on procurement of supplies & services startup needs and budgetary constraints.
- Set up FVAP budget-to-actual Excel file to account for revenues and expenditures.
- Registered the G.A.B. on the federal website to electronically claim monthly reimbursement of FVAP expenditures and met with federal Defense Contract Management Agency personnel for post-award grant orientation.
- Claimed reimbursement for April expenditures, coordinated accounting for incoming wire transfer with DOA-Treasury staff, and prepared journal entry to record revenue receipt.
- Calculate and book the IT service time adjusting entries, to properly allocate outside professional IT service expenditures between federal and state programs.
- Set up payroll funding streams for FVAP program.
- Completed a space request to procure office space for the project. We are working with DOA State Facilities to design the layout of the Central Services space and to procure the equipment needed (work stations, chairs, etc.) for the project.

4. Other Financial Services Section Activity

- Sharrie Hauge and Mike Lauth attended the National Grants Management Association annual conference on April 22-25 to learn about federal funds compliance and reporting.
- Calculated and booked the first quarter payroll adjusting entry, to properly allocate salaries and fringe benefits between federal and state programs.
- Audited the monthly General Service Billings and caught a \$5,052 erroneous overbilling by DOA.
- Updated process flow/procedures for billing personnel costs to federal programs.
- Monitored the final expenditure of Federal Section 261 funds (\$175K) for the federal fiscal year ending 9/30/12 and initiated transition to next federal fiscal year funding (\$200K).
- Performed an audit of petty cash accounts and determined these funds could be surrendered and replaced with p-card usage.

- Updated the Wismart Federal Aid Inference Tables and future accessibility grant end dates in preparation of new fiscal year processing.
- Calculated rental rates for tablets purchased with GPR funds to be leased back to the federal accessibility program survey for elections usage.
- Assisted with processing recall petitions during workdays, and on several nights and Saturdays through the end of March.
- Continue to log existing staff time and calculate wages & fringe spent on both Recalls process for a possible 13.10 emergency funding request to JCF for recall costs expended and encumbered to date.

5. Staffing

Currently, we are working on a recruitment strategy for hiring 26 new federally funded positions that begin on July 1, 2012. The 26 existing federally funded positions expire on June 30, 2012.

6. Communications Report

Since the March 20, 2012 Board meeting, the Public Information Officer has engaged in the following communications activities in furtherance of the G.A.B.'s mission:

The PIO continued to respond to a high number of media and public inquiries on a variety of subjects, including the presidential preference primary, recall elections ordered March 30, and the agency's reaction to the court injunctions barring enforcement of the new Voter Photo ID Law. There have been a large number of inquiries about campaign finance issues related to the recalls. The PIO set up interviews with print and electronic journalists for Director Kennedy and also gave multiple interviews when he was not available.

Between March 21 and May 4, the PIO has responded to approximately 400 telephone calls from media and the public requesting information and interviews (115 over the last eight business days of March, 222 calls over 20 business days in April and 65 calls over the first four days in May). These media contacts do not count the many emails received and responded to.

The PIO has been assisting with two new social media efforts for the agency – Facebook and Twitter. A Social Media Committee researched the issues involved with communicating through social media, and the PIO assisted with the launch on April 25 of Facebook carried out primarily by Voter Services Specialist Meagan McCord Wolfe. The PIO has taken on primary responsibility for Twitter, which launched on May 4, backed up by Ms. Wolfe.

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

7. Meetings and Presentations

During the time since the last Board meeting, Director Kennedy has been participating in a series of meetings and working with agency staff on several projects. The primary focus of the staff meetings has been to address recall election preparation and litigation related issues. The primary focus has been on recall election preparation and campaign finance issues. Agency activity has also focused

on the Federal Voting Assistance Program (FVAP) grant to facilitate delivery of ballots to military and overseas voters, implementation of 2011 Wisconsin Act 227 which significantly changed absentee voting requirements for elections following the April 3, 2012 Spring Election and the launching of new social media initiatives.

The media has made a number of inquiries on legal issues as well as the rules, and costs associated with recall. This has led to extended interviews with print journalists and a number of television and radio appearances.

On April 11, 2012, Director Kennedy was interviewed by Steve Walters with Wisconsin Eye. The program, *Campaign 2012 Newsmakers: Preview of the Recall Primaries with Kevin Kennedy*, can be viewed at this link: <http://www.wiseye.com/Programming/VideoArchive/EventDetail.aspx?evhdid=5994>

On April 13, 2012 Director Kennedy was interviewed for Capitol City Sunday on WKOW-TV Channel 27 that aired on April 15, 2012. The program, *Recall Rules and Financing*, can be viewed at this link: <http://www.wkow.com/story/17410769/capitol-city-sunday-focuses-on-recall-rules-and-financing>

He also appeared on the Wisconsin Public Television program *Here and Now* on April 20, 2012. The program, *Fake or protest? GAB's Kevin Kennedy weighs in*, can be viewed at this link: <http://wpt.org/NPA/HAN1042.cfm>

On May 4, 2012, Director Kennedy taped a segment, "Primary turnout hard to predict," for WISN-TV, Channel 12's *UpFront with Mike Gousha* show, which aired May 6: <http://bit.ly/ITIUEt>.

On March 27 2012, Director Kennedy and Attorney Mike Wittenwyler spoke at the Association of Wisconsin Lobbyists annual meeting in Madison on campaign finance issues related to the recall and Fall elections. Jon Becker and Director Kennedy made several presentations during the week of March 26, 2012 to legislative staff on ethics issues as part of an ongoing training program for legislative personnel. On April 10, 2012 the Director and General Counsel was the featured speaker at the weekly meeting of the Rotary Club of Milwaukee. On May 2, 2012 Staff Counsel Mike Haas made a presentation to the Janesville Noon Lions Club.

Director Kennedy attended a special workshop on *Polling Places, People and Postage* organized by the Election Center in Atlanta, Georgia from April 24 through April 28, 2012. The Election Center is a national organization focused on training state and local election officials. On May 6 and 7, 2012, Director Kennedy participated in a forum at the Harvard Kennedy School Institute of Politics on *The U.S. Election Assistance Commission and the 2012 Election Cycle*. A select group of state and local election administrators, along with academics and Members of Congress were invited to participate in the forum.

On April 18, 2012, the agency hosted a group of Arabic international visitors as part of a program for the Near East and North Africa on *Transparency in Federal, State and Local Government*. The International Institute of Wisconsin facilitated the U.S. Department of State's International Visitor Leadership Program. Visitors were from Algeria, Bahrain, Iraq, Kuwait, Morocco, Palestinian Territories, Qatar, Saudi Arabia and Sudan. Director Kennedy, Ethics Division Administrator Jon Becker and the Governor's Legal Counsel, Brian Hagedorn, discussed the practice of transparency in Wisconsin government.

Looking Ahead

The staff will wrap up the May 8, 2012 recall primary elections, prepare for the June 5, 2012 recall elections as well as work with several hundred candidates filing ballot access and campaign finance documents for the Fall partisan elections. The filing deadline is 5 pm on Friday June 1, 2012.

The Board's next meeting is Friday June 8, 2012 beginning at 9:00 a.m. in Room 412 East at the State Capitol.

Action Items

None.