

Open Session Addendum

Public Comments
Agenda Item “H”

Magney, Reid - GAB

From: reid.magney@wi.gov on behalf of Government Accountability Board [reid.magney@wi.gov]
Sent: Monday, November 22, 2010 9:07 PM
To: GAB Public Comment; Magney, Reid - GAB
Subject: Form submission from: Election Observer Rule Comments Form

Submitted on 11/22/2010 - 9:06pm
Submitted by anonymous user: [184.60.38.121]

Submitted values are:

Name: Paul Malischke
Street Address: 4825 Bayfield Terrace
City: Madison
State: WI
Zip Code: 53705
E-mail: malischke@yahoo.com
Telephone: 608-238-8976
Comments:

Please consider the following changes to the rule.

These will help to clarify rights and responsibilities and thereby reduce conflicts between observers and pollworkers.

- 1) Specify whether observers have the right to enter the polling place before the 7:00 a.m. starting time. Controversy will be avoided if both observers and chief inspectors have the same understanding. Give the chief inspector the option to bring them into the polling place before the opening.
- 2) Specify that the poll closing procedures must remain open to observers, even those arriving past 8:00 pm. On November 4, 2008, I arrived at 8:05, asked to observe, and was told I could not enter the polling place since I had arrived late.
- 3) Specify that observers have the right to see the serial number on all seals, see the signed zero tape, and also to receive a copy of the tabulator printout with the results. For the 2010 November election, there was a highly publicized confrontation in Milwaukee over printing a poll tape.
- 4) Section 4.02 (6) This currently reads, "Observers may not use any video or still camera inside the clerk's office." Add "while voting is in progress". A rule has the force of law, and should be written precisely.
- 5) Specify that before duplicating a ballot, the pollworker must announce that it is being done, and why (e.g. an absentee ballot contains an overvote). Duplicating ballots is one of the most sensitive Election Day procedures.

The results of this submission may be viewed at:
<http://gab.wi.gov/node/1439/submission/628>

Magney, Reid - GAB

From: reid.magney@wi.gov on behalf of Government Accountability Board [reid.magney@wi.gov]
Sent: Thursday, December 02, 2010 2:42 PM
To: GAB Public Comment; Magney, Reid - GAB
Subject: Form submission from: Election Observer Rule Comments Form

Submitted on 12/02/2010 - 2:41pm
Submitted by anonymous user: [216.54.131.253]

Submitted values are:

Name: Noreen Johnson
Street Address: 4331 N 65th St
City: Milwaukee
State: wi
Zip Code: 53216
E-mail:
Telephone:
Comments:

This rule is a good thing. It is reasonable that the Chief Election official be in control of his/her election site and not the observers. The best rule is the one that states the observer cannot use the cell phone while in the voting site.

The results of this submission may be viewed at:
<http://gab.wi.gov/node/1439/submission/633>

Haas, Michael R - GAB

Subject: FW: Here is my report on my experience as an election observer. No legal issues. I thanked the poll workers for a boring day :).

-----Original Message-----

From: Our Family [mailto:pjdykman@chorus.net]
Sent: Wednesday, November 24, 2010 8:32 AM
To: voting@cityofmadison.com; GAB HelpDesk
Subject: Here is my report on my experience as an election observer. No legal issues. I thanked the poll workers for a boring day :).

Here is my report on my experience as an election observer. No legal issues. I thanked the poll workers for a boring day :).

There were a number of ballots rejected by the machine that had to be replaced with another ballot. The signs on how to mark a ballot were placed on the wall above the voting "booths", quite above eye level. Only one "booth" had the sign inside the "booth". The two main problems in that regard were not marking correctly, either at an angle instead of level or not connecting the sides all the way, and voting a party ballot but also one office for the other party. The voters had to be told each time there were issues on both sides of the ballot.

The poll workers and especially the chief inspectors need training by the GAB (or city clerk) on setting up the room, placing of signage, and on work flow. (I think I read an article after the election that quoted the GAB as of the same opinion on the same issue.) My polling place this time was not organized very well. I assume that it is not easy to find persons willing to be chief inspectors but I think 20 years in the job might be too much. In addition, his hearing loss was one of his and the other workers' problems.

The chief inspector is required by the city clerk to fill out a report on diversity of poll workers, including age. The form has age ranges but he asked for exact ages, something that some of the workers didn't appreciate saying out loud. Just having them point to the age range they are in would be fully adequate.

New registrations and address changes were done at the first table coming into the room, quite close to the door. The new registration table was asked about 80% of the time where to vote if already registered. I would think that the tables should be set up to have the first table for the most number of voters and the second table for the least number of voters.

There were no signs telling people that they needed to reregister if their address had changed since the last time they voted. A number of voters had to be sent from the already registered table back to the first table to change their address. The signs for the already registered table were facing out but the voters came to it from the end and could not tell that A-L voters stopped at the first two workers and the M-Z voters at the last two workers. Most everyone had to ask where to go next to get their ballot. Most voters had to be told to put only the white ballot in the machine and put the blue privacy cover in a pile and the marking pen in the box. No signs. One person was so confused and was told different things by workers at different tables that he left (I think with the ballot). When picking up the blue privacy covers and returning them to the ballot table, the one poll worker took all of them each time. One worker was smart enough to leave one in the pile to show where they were to be left. I think the city clerk could have more types of formal (metal signs on stands) to help things go more smoothly.

There were not enough ballot marking "booths" at times so some voters had to wait or use the tables used by the workers or other desk type tables in the room without privacy screens, not that they seemed to mind though.

The two 17 year high school students who served as poll workers did a fine job-noticeably better than the two 75 year old poll workers. It worked best when one student and one 75

year old were paired, not well when the two 75 year olds were paired. (I am retired too and might be slower too.) The substitute who was called in for a no show did a fine job too as did two of the workers with more poll experience.

I think one of the students was in a civics/history/political science class at Edgewood. I strongly urge you to publicize this opportunity better and strongly encourage schools and maybe community centers to have classes where part of the curriculum is taking the poll worker training and serving as a poll worker.

Quite a few voters, especially younger voters and African-American voters, asked for "I Voted" stickers but there were none. Providing the stickers and getting business and other organizations to pay for the stickers would be a very good idea.

Five local restaurants served free coffee and cocoa outside. Good idea that could be encouraged. In 2008, the retirement center hosting the polls provided food. Another good idea that could be encouraged

I arrived at the polling place at 6:30 and was told by the chief inspector that I could not be in the polling place until 7 am. Your training should cover that situation.

I enjoyed the enthusiasm that everyone including the poll workers had for first time voter-cheering them as they put the ballot in the machine. It was interesting that it was usually mothers who brought in their 18-19 year old sons to make sure they voted. It was more likely their 18-19 year old daughters came with their friends. I don't know how you could encourage that but it is another good idea to be encouraged by someone.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE 10-130

AN ORDER to repeal and recreate chapter GAB 4, relating to observers at a polling place or other location where votes are being cast, counted, canvassed, or recounted.

Submitted by **GOVERNMENT ACCOUNTABILITY BOARD**

11-08-2010 RECEIVED BY LEGISLATIVE COUNCIL.

12-03-2010 REPORT SENT TO AGENCY.

RNS:JKR



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Clearinghouse Director

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CLEARINGHOUSE RULE 10-130

Comments

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

1. Statutory Authority

a. Section 7.41, Stats., provides that the Government Accountability Board (GAB) may promulgate rules regarding the proper conduct of observers at polling places, municipal clerks' offices, or alternative sites under s. 6.855, Stats. The proposed rule addresses observer conduct at central counting locations, absentee ballot canvass locations, absentee voting locations under s. 6.875, Stats., and recount locations. Further, the proposed rule addresses the conduct of disability advocate observers who assess compliance with s. 5.25 (4) (a), Stats. The GAB might explain its authority to govern conduct of observers at the locations not described in s. 7.41, Stats.

b. Section 12.03 (4), Stats., defines "electioneering" as any activity which is *intended to influence voting* at an election. Section GAB 4.01 (16) provides that conversation with election officials or other electors concerning a candidate, party, or question appearing on the ballot is electioneering. The GAB might consider providing, instead, that conversation with election officials or other electors concerning a candidate, party, or question appearing on the ballot, *if the conversation is intended to influence voting at the election*, is electioneering.

2. Form, Style and Placement in Administrative Code

a. In the introductory clause, "Wis. Adm. Code" should be removed. [s. 1.02 (1), Manual.]

- g. In s. GAB 4.01 (12), a comma should be inserted after "s. 5.35 (5)". [s. 1.07, Manual.]
- h. In s. GAB 4.05 (1), "2" should replace "two". [s. 1.01 (5), Manual.]
- i. In s. GAB 4.06 (1), a comma should be inserted before "including".
- j. In s. GAB 4.07 (2), it appears that "or" should replace the first "the" on the last line.
- k. In s. GAB 4.08 (6), "their" should be removed.

State of Wisconsin \ Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, 3rd Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE GORDON MYSE
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of December 13-14, 2010

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel

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

SUBJECT: Impartial Justice Act -- Calculation of Supplemental Grants

In addition to the issues outlined in the Board packet, staff has identified questions regarding the calculation of supplemental grants, or matching funds, to participating candidates which are based upon independent disbursements. Supplemental grants based upon independent disbursements are governed by §11.513(2), Stats., which states as follows:

When the aggregate independent disbursements made or obligated to be made by a person against an eligible candidate for an office or for the opponents of that candidate exceed 120 percent of the public financing benefit for that office in the primary election campaign period or the election campaign period, the board shall immediately certify to the state treasurer the name of that candidate together with the amount of a supplemental grant that shall become payable to that candidate. The supplemental grant shall be equivalent to the aggregate independent disbursements made or obligated to be made by a person, but not to exceed, exclusive of any amount to which a candidate is entitled under s. 11.512(2), an amount equal to 3 times the public financing benefit payable to a candidate for the applicable office at the primary or other election for which the benefit is received. The state treasurer shall then immediately credit that candidate with an additional line of credit for the amount certified.

Because several candidates have now expressed an interest in participating in the Democracy Trust Fund, Board staff has begun to anticipate the type of calculations which will be necessary to determine the supplemental grants which would be available based upon independent expenditures. As noted in the above language, such grants may be triggered by the aggregate independent disbursements made against a participating candidate or in support of an opposing candidate. Due to the possible combinations of disbursements supporting or opposing various candidates, it is important for the Board to make clear how those calculations will be made, for the benefit of candidates, independent organizations, and the public.

Attached are several examples which illustrate issues that may arise in determining the amount of supplemental grants available to participating candidates in a four-way primary based upon independent expenditures. The examples list the amount of theoretical disbursements made by independent organizations, and whether the disbursements support or oppose specific candidates. The examples then list the supplemental grant which would be issued to each candidate under the staff's interpretation of §11.513(2), Stats. Under that interpretation, a candidate is entitled to a supplemental grant if the total of disbursements opposing the candidate and the total of disbursements supporting one of the opponents in the primary campaign exceeds \$120,000 (120 percent of the base grant of \$100,000).

Under current law, independent disbursements which benefit more than one candidate are reported on a pro-rated basis and applied to each candidate supported by the disbursement. Consistent with that practice, Example D illustrates a situation where independent disbursements oppose two candidates in one advertisement. Assuming that the disbursement is reported as opposing each candidate equally, the corresponding supplemental grant for each of the two candidates is shown as one-half of the independent disbursement. An alternative interpretation would dictate that each of the candidates opposed receive an amount equal to the total of the independent disbursement.

Board staff will provide further explanation of the attached examples at the Board meeting. The Board should consider the attached sample scenarios and provide any input and direction it sees fit to staff to guide staff's implementation of the Impartial Justice Act.

Recommended Motion

Direct staff to calculate Democracy Trust Fund supplemental grants to participating candidates consistent with the attached recommended determinations.

Democracy Trust Fund Disbursement Calculation Worksheet

Example A

Candidate	Independent Expenditure Group A Spending	Independent Expenditure Group B Spending	Independent Expenditure Group C Spending	Total IE Supporting Opponent	Total IE Opposing Candidate	Grant Amount Disbursed to Candidate
1	Oppose Candidate 1 \$200,000			-	\$200,000	\$200,000
2						-
3						-
4						-

Democracy Trust Fund Disbursement Calculation Worksheet

Example B

Candidate	Independent Expenditure Group A Spending	Independent Expenditure Group B Spending	Independent Expenditure Group C Spending	Total IE Supporting Opponent	Total IE Opposing Candidate	Grant Amount Disbursed to Candidate
1	Oppose Candidate 1 \$70,000			\$80,000	\$70,000	\$150,000
2						\$0.00
3						\$0.00
4	Support Candidate 4 \$80,000					\$0.00

Democracy Trust Fund Disbursement Calculation Worksheet

Example C

Candidate	Independent Expenditure Group A Spending	Independent Expenditure Group B Spending	Independent Expenditure Group C Spending	Total IE Supporting Opponent	Total IE Opposing Candidate	Grant Amount Disbursed to Candidate
1	Support Candidate 1 \$60,000	Support Candidate 1 \$70,000	Oppose Candidate 1 \$80,000	\$90,000	\$80,000	\$170,000
2		Oppose Candidate 2 \$40,000		\$220,000	\$40,000	\$260,000
3		Oppose Candidate 3 \$40,000	Support Candidate 3 \$90,000	\$130,000	\$40,000	\$170,000
4				\$220,000	\$0.00	\$220,000

Democracy Trust Fund Disbursement Calculation Worksheet

Example D

Candidate	Independent Expenditure Group A Spending	Independent Expenditure Group B Spending	Independent Expenditure Group C Spending	Total IE Supporting Opponent	Total IE Opposing Candidate	Grant Amount Disbursed to Candidate
1	Oppose Candidate 1 \$150,000			\$0.00	\$150,000	\$150,000
2		Oppose Candidates 2 & 4* \$100,000		\$0.00	\$50,000	\$0.00
3			Oppose Candidates 3 & 4* \$150,000	\$0.00	\$75,000	\$0.00
4		Oppose Candidates 2&4* \$100,00	Oppose Candidates 3&4* \$150,000	\$0.00	\$125,000 (50 + 75)	\$125,000

* Assumes combined expenditures are prorated equally between candidates.

4825 Bayfield Terrace
Madison, WI 53705
October 13, 2010

Mr. Nathaniel E. Robinson
Elections Division Administrator
Wisconsin Government Accountability Board

Dear Mr. Robinson:

At the August 30, 2010 GAB meeting, staff proposed developing an improved method of voter registration. As described by staff, this method will have advantages for voters, and could be implemented without changing Wisconsin statutes.

However, as proposed, it will violate the Help America Vote Act (HAVA), which states:

“...each State, acting through the chief State election official, shall implement, in a **uniform and nondiscriminatory** manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list...”

The proposal is a web-assisted, print, sign, and mail registration form. It will result in more accurate registrations, and more timely entry into the voter registration system. It will help to reduce extra steps for the voter by preventing incomplete forms, and by reducing typographical errors leading to matching failures.

In violation of HAVA, your staff proposal (from the August 30, 2010 Board meeting, page 84) states:

“Only voters with a valid Wisconsin driver license or State-issued Identification Card (ID) will be able to participate in this process, ...”

This would be discrimination against those without a driver's license or identification card issued by the Department of Transportation. A detailed report on the driver's license status of Wisconsin residents is at <http://www4.uwm.edu/eti/2007/VoterID.htm>

Your staff report cited two precedents for this type of system: Delaware and the District of Columbia. However, both of these jurisdictions allow any eligible citizen to use this system.

A representative of the District of Columbia Board of Elections and Ethics has stated that any eligible citizen could use their online system.

The Delaware website states:

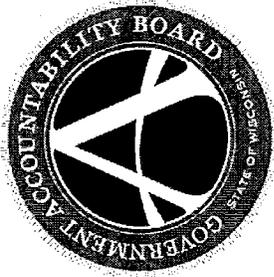
“We ask you to provide a valid Delaware Driver's License number or Delaware ID Number. If you have neither, we ask you to provide a Social Security Number. “

<https://registertovote.elections.delaware.gov/voterreg/TermsAgreement>

Your development team should take all needed steps to make this improved registration system available to all eligible applicants without discrimination.

Sincerely,
Paul Malischke

Wisconsin Government Accountability Board 2011 Meeting Calendar



Government Accountability Board information

GAB Members:

- Judge Gordon Myse, Chair
- Judge Thomas Barland, Vice Chair
- Judge Gerald Nichol, Secretary
- Judge Michael Brennan
- Judge Thomas Cane
- Judge David Deininger

GAB Director and General Counsel:

Kevin J. Kennedy

Elections Division Administrator:

Nathaniel E. Robinson

Ethics & Accountability Division Administrator:

Jonathan Becker

Wisconsin Government Accountability Board

212 East Washington Avenue / Post Office Box 7984

Madison, Wisconsin 53707-7984

Reception: 608-266-8005

Facsimile: 608-267-0500

Help Desk: 608-261-2028

Web site: <http://gab.wi.gov>

E-mail: gab@wi.gov

For more information, contact:

Public Information Officer

Reid Magney, 608-267-7887

reid.magney@wi.gov

January *							February							March						
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9	10	11	12	13	14	15	13	14	15	16	17	18	19	13	14	15	16	17	18	19
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10	11	12	13	14	15	16	15	16	17	18	19	20	21	12	13	14	15	16	17	18
17	18	19	20	21	22	23	22	23	24	25	26	27	28	19	20	21	22	23	24	25
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31																				

October							November							December						
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23	24	25	26	27	28	29	27	28	29	30				25	26	27	28	29	30	31
30	31																			

* Teleconference meeting

The Government Accountability Board generally meets at 9:30 a.m. in Madison. Meeting dates are highlighted in black on the above calendar. Meeting locations and times may change, so check the G.A.B. website prior to the meeting or call 608-266-8005.

Last updated: 12/10/10

March 2011

March 2011

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April 2011

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	March 1	2	3	4	5
7	8	9	10	11	12
14	15	16	17	18	19
21	22	23	24	25	26
	Middleton - Spring Break 3/21-3/25				
28	29	30	31		
9:30am Government Accountability Board Meeting	8:30am Government Accountability Board Meeting	Monroe - Spring Break 3/28 - 4/1			

April 2011

April 2011

May 2011

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Monroe - Spring Break 3/28 - 4/1

Madison - Spring Break 4/18 - 4/22

June 2011

June 2011

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26	27	28	29	30		

July 2011

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31						

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		June 1	2	3	4
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