

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room
Madison, Wisconsin
Monday, October 10, 2016
9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice
- C. Personal Appearances
- D. Minutes of August 23, 2016 Meeting Page 3
- E. LAB Presentation on GAB Audits
- F. Settlement Schedules Review Page 9
 - 1. Campaign Finance Page 11
 - 2. Lobbying Page 15
 - 3. Statements of Economic Interests Page 17
 - 4. Notice Template Page 23
 - 5. Settlement Offer Template Page 25
- G. Proposed Auditing Schedule Page 27
 - 1. Campaign Finance Page 29
 - 2. Lobbying Page 35
- H. Administrative Rules Update - ETH 6, ETH 21, ETH 26 Page 37
- I. Complaint Process and Procedures Page 47
- J. Advisory Opinion Review Page 53
- K. Statement of Economic Interests (SEI) System Development Page 61
- L. Potential Legislation Page 71
- M. Annual Report Page 83
- N. Administrator's Report Page 111
- O. COGEL Membership and Conference Attendance (verbal report)

P. Closed Session

1. Request for Advice Under Chapter 13
2. Complaints and Investigations
3. Confer with Legal Counsel Regarding Potential Litigation

19.50 & 19.55(3) No employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subchapter III of ch. 13, or ch. 19.

19.85(1)(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

19.85(1)(h) The Commission's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.

Q. Adjourn

The Ethics Commission will convene in open session but may move to closed session under Wis. Stat. § 19.85 (1)(h) to consider the requests for advice under the ethics code, lobbying law, or campaign finance law. This notice is to inform the public that the Commission intends to convene in open session, but may move to closed session. The Commission plans to return to open session to adjourn following that closed session. Wis. Stat. § 19.85 (2).



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

Board Room
212 East Washington Avenue
Madison, Wisconsin
August 38, 2016
9:00 a.m.

Open Session Minutes

Present: Peg Lautenschlager, Katie McCallum, Mac Davis, David Halbrooks, Robert Kinney, and Pat Strachota

Staff present: Brian Bell, David Buerger, Richard Bohringer, Adam Harvell, Kyle Kundert, Molly Nagappala, and Reid Magney

A. Call to Order

Commission Chair Peg Lautenschlager called the meeting to order at 9:06 a.m.

B. Report of Appropriate Meeting Notice

Administrator Brian Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. Personal Appearances

There were no personal appearances by members of the public.

D. Minutes of the July 11, 2016 Meeting

Staff Counsel David Buerger directed Commissioners to the draft meeting minutes on page 3 of the meeting materials. He noted that the time at which the Commission returned to open session had been omitted, and a corrected copy would be provided for Commissioner McCallum to sign.

MOTION: Approve the July 11, 2016 Wisconsin Ethics Commission minutes as corrected. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

E. Campaign Contributions by Commissioners

Chair Lautenschlager directed Commissioners to the staff memorandum on page 9 of the meeting materials.

MOTION: Move this item to a later point on the agenda between items K and L. Moved by Commissioner Davis, seconded by Commissioner Strachota. Commissioner Halbrooks offered a friendly amendment to take up the matter following the closed session items, which was accepted. Motion carried.

F. Electronic Fee Collection

Administrator Bell made an oral presentation based on a written report starting on page 11 of the meeting materials.

MOTION: Adopt as its payment policy option 3 (accept electronic payments, but absorb the cost of the processing electronic payments) and direct the Ethics Commission Staff to work with the State Controller's Office to implement the policy. Moved by Commissioner Strachota, seconded by Commissioner Davis.

Discussion.

The Chair called the question, which failed 4-2.

MOTION: Adopt as its payment policy option 1 (accept electronic payments and charge a surcharge of two percent on all transactions) and direct the Ethics Commission Staff to work with the State Controller's Office to implement the policy. Moved by Commissioner Kinney, seconded by Commissioner Halbrooks.

MOTION: Amend the previous motion to ask the Department of Administration if the Ethics Commission can distinguish between surcharges for different programs. Moved by Commissioner Halbrooks, seconded by Commissioner Davis. The motion carried and the previous motion was amended.

The Chair called the question, and the motion carried unanimously.

G. Settlement Schedule Review

Chair Lautenschlager directed Commissioners to the staff memorandum on page 13 of the meeting materials. Administrator Bell and Ethics Specialist Adam Harvell made an oral presentation and answered questions from Commissioners.

Commissioners discussed the settlement schedule and whether settlement offers should be made by the staff or the Commission.

MOTION: Adopt the tables outlined in the materials as a settlement schedule. Commission authorizes staff to inform parties involved of the table's result relative to their case, and inform them that it is subject to commission approval. Moved by Commissioner Halbrooks, seconded by Commissioner Davis.

Discussion.

Chair Lautenschlager called a recess at 10:45 a.m. The Commission reconvened at 11 a.m.

The Chair called the question, and the motion carried unanimously.

Commissioners asked staff to develop recommendations for simplifying the settlement schedule.

Staff Counsel Buerger asked the Commission to authorize staff to draft a statement of scope for an administrative rule establishing a settlement schedule.

MOTION: Authorize staff to draft a statement of scope for an administrative rule establishing a settlement schedule for violations. Moved by Commissioner Halbrooks, seconded by Commissioner Kinney. The motion carried unanimously.

H. Review of Audit Findings

Administrator Bell and Campaign Finance Auditor Richard Bohringer made an oral presentation based on a memorandum regarding campaign finance audits starting on page 25 of the meeting materials.

The Commission deferred action to the closed session.

I. Delegation of Authority

Staff Counsel Buerger directed Commissioners to the memorandum on page 35 of the meeting materials. Because of the Commission's action under item G, delegation of authority to offer settlement agreements is not necessary.

The Commission took no action.

J. Memorandum of Understanding with the Wisconsin Elections Commission

Chair Lautenschlager introduced the MOUs with the Wisconsin Elections Commission, starting on page 37 of the meeting materials. Elections Administrator Michael Haas and Staff Counsel Nathan Judnic joined the meeting to discuss the amended agreements for shared facilities, staff services, and data. Commissioners discussed financial and media relations services provided by Elections Commission staff that are not covered in the amended MOUs, and directed staff to maintain the status quo during the transition. Commissioners expressed an interest in seeing the agreements amended to include non-disclosure of confidential information.

MOTION: Approve the Data Exchange Agreement, Shared Office Space Agreement, and Shared Staffing Agreement, subject to the addition of language in each agreement covering confidentiality. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

K. 2017 – 2019 Budget Initiatives

Administrator Bell directed Commissioners to budget memoranda starting on page 59 of the meeting materials. Commissioners and staff discussed four budget initiatives:

1. DIN #4001 – Funding for Commissioner Per Diems and Meeting Expenses
2. DIN #4002 – Address Ethics Commission Information Technology Needs
3. DIN #4003 – Campaign Finance Information System Maintenance and Support
4. DIN #4004 – Lobbying Fee Structure Revisions

MOTION: Approve the four budget motions as recommended by staff:

1. Request \$31,600 in GPR limited term employee and miscellaneous salaries base funding for Commissioner per Diems and meeting related expenses.
2. Request \$353,600 in supplies and services base funding for continued support of a full-time contract IT resource for the Ethics Commission. This request is based on the current annual cost of a Solution Architect providing support for the commission of \$176,800 applied over the two-year biennium.
3. Request \$50,000 annually in supplies and services base funding for continued maintenance and support of the Campaign Finance Information System (CFIS).
4. Request revising the lobbying fee structure established under WIS STAT §13.75 in order to address trends of declining revenue, increasing costs, and to ensure that the lobbying program is and remains self-funded and not reliant on general purpose revenue.

Moved by Commissioner Kinney, seconded by Commissioner Halbrooks.

Commissioner Davis asked that the question be divided so #4 can be voted on separately. The Chair divided the question.

Questions 1, 2 and 3: Motions carried unanimously.

Question 4: Motion carried.

L. Administrator's Report

Administrator Bell directed Commissioners to a memorandum starting on page 71 of the meeting materials regarding the authority of the administrator and a review of Legislative Audit Bureau reports.

Chair Lautenschlager called a recess at 12:22 p.m. The Commission reconvened at 12:46 p.m.

Commissioners and Administrator Bell further discussed the audit reports. Chair Lautenschlager said the consensus of the Commission have the administrator invite the State Auditor to make a brief presentation at a future Commission meeting.

Commissioners and Administrator Bell further discussed the proposed motion regarding the administrator's authority. The Commission took no action.

Administrator Bell discussed with the Commission whether to become a member of the Council on Governmental Ethics Laws and attend the organization's annual conference, which would involve out-of-state travel. Chair Lautenschlager said the consensus is to put the matter on the Commission's next meeting agenda.

M. Future Meetings

Administrator Bell directed Commissioners to a memorandum on page 77 of the meeting materials regarding proposed agendas for the remainder of 2016 and proposed meeting dates for 2017. Commissioners provided staff with direction regarding future agenda items. Commissioners discussed proposed meeting dates for 2017.

MOTION: Adopt the following meeting dates for 2017:

Tuesday, March 7, 2017 at 9:00 a.m.
Tuesday, June 6, 2017 at 9:00 a.m.
Tuesday, August 22, 2017 at 9:00 a.m.
Tuesday, December 5, 2017 at 9:00 a.m.

Moved by Commissioner Kinney, seconded by Commissioner McCallum. Motion carried unanimously.

Commissioners discussed possible meeting locations outside of Madison and directed the administrator to research possible locations and the staff costs of having meetings outside of Madison for discussion at the December meeting.

N. Closed Session

Commissioner Davis questioned why certain items were noticed for discussion in closed session under the personnel exception. Commissioners and staff discussed exceptions to the open meeting law for closed sessions. Chair Lautenschlager said the Commission would table any items not appropriate for closed session.

MOTION: Move into closed session pursuant to § 19.50 and 19.55(3) to consider complaints and investigations, and pursuant to § 19.85(1)(h) to consider requests for advice under the ethics

code, lobbying law and campaign finance law. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

The Commission entered closed session at 1:47 p.m. and returned to open session at 3:20 p.m.

E. Campaign Contributions by Commissioners

MOTION: To table discussion of this matter. Moved by Commissioner Halbrooks, seconded by Commissioner Davis.

MOTION: To suspend the rules to discuss the motion to table. Moved by Commissioner Strachota, seconded by Commissioner Kinney. Motion carried unanimously.

Commissioners discussed at length whether they should consider whether to self-impose upon themselves restrictions on political contributions to candidates and committees, which are not currently restricted by state statutes.

Chair Lautenschlager called the question on the motion to table. The motion carried 4-2, with Commissioners Lautenschlager, McCallum, Davis and Halbrooks voting aye, and Commissioners Kinney and Strachota voting no.

O. Adjourn

MOTION: To adjourn. Moved by Commissioner Kinney, seconded by Commissioner Davis. Motion carried unanimously.

The Commission adjourned at 3:40 p.m.

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August 23, 2016 Wisconsin Ethics Commissioners meeting minutes prepared by:

Reid Magney, Public Information Officer

August 29, 2016

August 23, 2016 Wisconsin Ethics Commissioners meeting minutes certified by:

Katie McCallum, Vice Chair

October 10, 2016



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Settlement Schedule Reviews

At the August 23, 2016 Ethics Commission meeting, the Commissioners directed staff to revise the settlement schedules by removing the supporting text. Those revisions are reflected in the documents that follow for standard settlement schedules for campaign finance, lobbying, and statements of economic interests. The documents include only the tables approved at the last meeting, and text that provides reference to the statutory authority and the maximum forfeiture allowed for each type of violation. The redrafted settlement schedule for statements of economic interests could not be reduced to only tables and citations due to the complexity and the waiver process provided in statute.

Staff is requesting that the Commission review the enclosed updated standard settlement schedules, make any desired changes, and approve the revised settlement schedules.

Wisconsin Ethics Commissioners
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Settlement Offer Schedule for Campaign Finance Violations

This document sets out authorized settlement offers for campaign finance violations, in lieu of pursuing court action. It includes recommended settlement amounts for specific situations. The Commission’s authority to make settlement offers is set out in Wis. Stat. § 19.49(1)(b). The Commission may specify settlement amounts for certain violations and may compromise and settle those matters without formal investigation. If an individual or committee chooses not to accept a settlement offer, the Commission may bring a civil action and seek the maximum forfeitures provided by law, including costs and attorneys’ fees. The Commission’s primary interest is providing timely and accurate campaign finance information to the public, and collection of settlements is secondary.

1. Late Filing of Continuing Campaign Finance Reports

(Calendar) Days Late:	First Violation:	Second or Greater Violation:
0-30	Warning	Warning
31-60	\$100	\$200
61-90	\$200	\$300
91-120	\$300	\$400
Over 120	\$500	\$500

Filing deadlines are set by Wis. Stat. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by Wis. Stat. § 11.1400. Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency.

2. Late Filing of Pre-Primary, Pre-Election, and special Post-Election Reports

(Business) Days Late:	Settlement Amount:
1	\$100
2	\$150
3	\$200
4	\$250
5	\$300
6	\$350
7	\$400
8	\$450
9	\$500

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Filing deadlines are set by Wis. Stat. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by Wis. Stat. § 11.1400. Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency.

3. Late Payment of Annual Filing Fees

(Calendar) Days Late:	Settlement Amount:
1-15	Warning
16-45	\$300
46-90	\$500
91 or more	\$800

Fees are set by Wis. Stat. § 11.0102(2). Penalties are set by Wis. Stat. § 11.1400(4). Maximum penalty is \$800.

4. Late/Incomplete Filing of 72-Hour Reports

Late/Incomplete Reporting	Settlement Amount:
	5% of the total amount of unreported contribution

Filing requirements for 72-hour reporting are set by Wis. Stat. §§ 11.0204(7), 11.0304(7), 11.0505, 11.0605, and 11.1001. Penalties are set by Wis. Stat. § 11.1400. Maximum penalty is \$500 for each reporting violation.

5. Incomplete Contribution Information

Calendar Days Late:	Settlement Amount:
Up to 30 days from staff contact	Warning
31+ days from staff contact	\$100 plus 10 percent of contributions with incomplete information

Reporting requirements are set by Wis. Stat. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by Wis. Stat. § 11.1400. Maximum penalty is \$500 per reporting violation.

6. Cash Balance Discrepancies

Calendar Days Late:	Settlement Amount:
Up to 30 days from staff contact	Warning
31+ days from staff contact	\$100 plus 10% of discrepancy

Reporting requirements are set by Wis. Stat. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by Wis. Stat. § 11.1400. Maximum penalty is \$500 per unreported transaction that led to the discrepancy.

7. Exceeding Contributions Limits

Violation Type:	Settlement Amount:
Receiving Excess Contribution	Amount of excess contribution
Furnishing Excess Contribution	If receiving committee forfeits full amount of excess contribution, \$0; else, case-by-case basis

Contribution limits are set by Wis. Stat. § 11.1101. Penalties are set by Wis. Stat. § 11.1400. Maximum penalties for the receiving committee are \$500, plus surrendering the amount of the excess contribution. Maximum penalties for the contributor are \$500 plus treble the amount of the portion of the contribution that exceeds the maximum. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. § 11.1110(2)(b).

8. Prohibited Corporate Contributions

Violation Type:	Settlement Amount:
Receiving Committee	1.5 times amount of contribution
Corporate Contributor	1.5 times amount of contribution

Corporate contributions are limited by Wis. Stat. § 11.1112. Penalties are set by Wis. Stat. § 11.1400(1) and (3). Maximum penalty for the receiving committee is \$500 plus surrendering the amount of the unlawful contribution. Maximum penalty for the corporate contributor is three times the amount of the contribution. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. § 11.1110(2)(b).

9. Prohibited Lobbyist Contributions

Violation Type:	Settlement Amount:
Receiving Committee	Return of the contribution to the lobbyist
Lobbyist Contributor	1.5 times amount of contribution, up to \$1,000

Lobbyist contributions are limited by Wis. Stat. § 13.625. Penalties are set by Wis. Stat. § 13.69(2). Maximum penalty for the receiving committee is \$1,000, plus surrendering the amount of the unlawful contribution. Maximum penalty for the lobbyist is \$1,000. Limitation on lobbyist contributions are set out in Chapter 13 but the settlement offer schedule is set out here. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by Wis. Stat. § 11.1110(2)(b).



Wisconsin Ethics Commission

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Settlement Offer Schedule for Lobbying Law Violations

This document sets out authorized settlement offers for lobbying law violations, in lieu of pursuing court action. It includes recommended settlement amounts for specific situations. The Commission’s authority to make settlement offers is set out in Wis. Stat. § 19.49(1)(b). The Commission may specify penalties for certain offenses and may compromise and settle those matters without formal investigation per Wis. Stat. § 19.49(2)(b)10. If a lobbying principal or lobbyist chooses not to accept a settlement offer, the Commission may bring a civil action and seek the maximum forfeitures provided by law, including costs and attorneys’ fees. If there appears to be an intentional violation of law, the matter may be brought to the Commission for further action. The Commission’s primary interest is providing timely and accurate lobbying information to the public, and collection of civil penalties is secondary.

1. Late filing of semi-annual lobbying report (§13.68) – maximum penalty \$5,000.

Days Late	First Offense	Second or Greater Offense
2 business days	No penalty	Warning
3-5 days	Warning	\$50
6-15 days	Warning	\$100
16-29 days	\$50	\$250
30+ days	\$100	\$500

2. Late reporting of the first communication on a lobbying matter.

Late Reports	Percent of Total Effort	Forfeiture
1st Occurrence of Late Reported Interest	< 10 percent	Warning
	>= 10 percent	\$25 Per Interest
2 nd Occurrence of Late Reported Interest	< 10 percent	\$50 Per Interest
	>= 10 percent	\$100 Per Interest
3 rd or Greater Occurrence of Late Reported Interest	Any	\$100 Per Interest

Lobbying principals are required by WIS. STAT. §13.67(1) to report each legislative proposal, budget bill subject, or lobbying topic through the Eye On Lobbying website within 15 days of the first communication on that matter. WIS. STAT. §13.69(2m) outlines the penalties for late reporting of lobbying activity. The maximum penalty is up to \$25 for the first offense within a three-year period and up to \$100 for a second and subsequent offense within three years from the first violation.

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Statement of Economic Interests - Settlement Offer Schedule for Late Filing, and Procedures for Extensions and Waivers

This document sets out clear written procedures for enforcing the requirement for state public officials to file Statement of Economic Interests by the statutory deadlines set out in Wis. Stat. § 19.43. The Commission's authority for initiating settlement offers is set out in Wis. Stat. § 19.49(1)(b).

The primary interest of the Commission is providing timely and accurate economic information to the public, and collection of penalties is secondary to that goal. In assessing penalties and offering settlements for violations, the Commission may consider mitigating or exacerbating circumstances like the number of previous offenses and the nature of the official's position, and may modify procedures and penalties accordingly.

Filing of Statements of Economic Interests, WIS. STAT. § 19.43.

a. Requests for Extensions of time under WIS. STAT. § 19.43(8)

By statute, officials may request an extension of the deadline to file a Statement of Economic Interests. When an official requests an extension, staff will ask for the request in writing. For reasons of administrative efficiency, staff will grant requests for extensions for 15 days or less. If the official's request is for more than a 15 day extension, staff will grant an extension of 15 days and inform the official that their request for further extension will be presented at the next Commission meeting, along with information on when the official's Statement was filed. If the Commission grants the request for further extension, no penalty will be assessed. If the Commission denies the request for further extension, and the official filed a Statement more than 15 days after the original deadline, the official will be assessed a penalty for late filing under section (d). Staff will not grant extensions to candidates for office required to file a Statement under WIS. STAT. § 19.43(4).

b. Requests for Waivers under WIS. STAT. § 19.43(8)

When an official requests a waiver from filing all or part of their Statement, staff will ask for the request in writing. Staff will inform the official that their request for waiver will be presented at the next Commission meeting, along with information on whether part or all of the official's Statement has been filed. If the Commission grants the request for waiver, the official will not be required to file the portion of the Statement that was

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waived. If the Commission denies the request for waiver, the official will be notified of that denial. If the official fails to file all required information within 15 days of that notification, penalties will be assessed under section (d).

c. Failure to Timely File by Candidates for State Public Office under WIS. STAT. § 19.43(4)

A candidate required to file a Statement that fails to meet the deadline set out in WIS. STAT. § 19.43(4) will be denied ballot placement, and no financial penalty will be assessed.

d. Failure to Timely File by Officials and Nominees under WIS. STAT. § 19.43(1), (2) and (3)

If an official or nominee is required to file a Statement by WIS. STAT. §19.43(1), (2), or (3) and fails to file a Statement within 15 days after written notice from staff, the recommended settlement amount will be \$100. This penalty will increase by \$100 every two weeks, up to a maximum of \$500. If any filer disputes the recommended settlement amount, the issue will be brought to the commission for a decision. If an official or nominee fails to file a statement within 30 days, staff will notify the officials identified in WIS. STAT. § 19.43(7), and instruct the employer to withhold compensation to the individual until the Statement has been filed.

Type of Official	Days Late	Result
Candidate	0+	N/A – Candidate denied ballot placement
Other Official	0-15	Warning
Other Official	16+	\$100 plus \$100 every 15 days
Other Official	30	Compensation temporarily withheld per § 19.43(7)

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

Standards for waiver of financial disclosure requirements

Introduction

Wisconsin's Code of Ethics for State Public Officials requires approximately 2,500 state officials to file a Statement of Economic Interests on an annual basis. Wis. Stats. §§19.43 and 19.44. In general, the requirement applies to all state elected officials, top agency management, legislative service agency employees, and all gubernatorial appointments requiring Senate confirmation, as well as to candidates for state elective office.

The purpose of financial disclosure is twofold: (1) To give the public confidence that a state official is not acting in matters in which the official has a personal financial interest; and (2) To annually make an official think about the official's economic ties so that the individual may avoid conflicts.

Nonetheless, Wis. Stat. § 19.43 (8) provides that the Government Accountability Board may waive any financial disclosure requirement:

19.43 (8) On its own motion or at the request of any individual who is required to file a statement of economic interests, the board may extend the time for filing or waive any filing requirement if the board determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The board shall set forth in writing as a matter of public record its reason for the extension or waiver.

The Board adopts and will apply the following considerations on a case-by-case basis in determining whether or not to grant a waiver of any disclosure requirement.

The position held by the official requesting a waiver.

- Elected officials – Because such individuals generally exercise broad powers and in choosing whether or not to run for office an individual can take financial disclosure requirements into consideration, the Board will closely scrutinize whether it will grant a waiver.
- Full-time appointed officials – Because top management officials also exercise broad powers, albeit in narrower areas than elected officials, the Board will closely scrutinize whether it will grant a waiver.

- Part-time appointed officials – Part-time officials do not exercise the broad powers that elected and full-time officials do. They generally oversee Boards with limited jurisdiction and are more likely than full-time officials to have other jobs and active business interests. Such individuals’ service on state boards is a public service for which they receive little remuneration and, if disclosure would interfere with an individual’s perceived ability to carry on the individual’s private economic endeavors, it could lead to an unwillingness to serve.
- Employees with limited decision making power – Some agencies, such as the G.A.B., the Wisconsin Economic Development Corporation, the Legislative Audit Bureau, and the Wisconsin Housing and Economic Development Authority, require all employees, or all non-clerical employees, to file a statement. These employees may have relatively little control over regulatory and financial matters, and waiver may present less of a threat to the public interest.
- For any official, the Board will weigh heavily the relationship between the official’s governmental duties and the nature of the economic interests that the official does not want to disclose.

The importance of confidentiality with respect to the economic interest sought to be protected.

- While the Code of Professional Conduct does not prohibit an attorney from disclosing clients on a Statement of Economic Interests lawyers are justifiably sensitive to this, especially with respect to clients where the official’s representation is not generally known. The Board will give great weight to this concern. Countervailing considerations to granting a waiver are: (1) whether a client engages in activity related to the official’s regulatory responsibilities; and (2) the extent to which the official’s representation is known to others.
- For a start-up business or in a competitive business situation, the disclosure of customers may be detrimental. The Board will give weight to this consideration, but the harm claimed should not be simply speculative.
- It is unlikely that a relationship with non-Wisconsin entities could present a conflict of interest situation for an official. This appears to be recognized by Wis. Stat. §19.44 (1) (b) which provides that an ownership interest in a company not doing business in Wisconsin is not required to be disclosed. The Board will give great weight to this factor.
- The Board will give great weight to confidentiality requirements imposed by other sources of law.

The number of interests an official has.

- If an official has a great many interests to report, reporting may create a heavy administrative burden on the official. Moreover, it may be that no particular customer, client, or business interest is important if an official has very many such interests. The Board will consider this as a factor in determining whether to grant a waiver.

Conclusion

The Board believes that waivers should be granted cautiously and rarely. No one is compelled to be a state public official – it is always voluntary and the reporting requirements should be known up front. On the other hand, it would be unfortunate if the reporting requirements discouraged an individual from entering public service or had a detrimental effect on an official's economic standing.

The Board views the above considerations as part of a sliding scale of factors. An applicant for waiver should be able to show that undue hardship is not simply speculative. And a requester should establish a showing of hardship by clear and convincing evidence.

When the Board grants a waiver, it will condition it on the requirement that an official recuse himself or herself from any matter that involves or impacts the entity that has not been disclosed whether or not a statutory conflict would otherwise exist.

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:

This letter is to notify you that the staff of the Wisconsin Ethics Commission (“Commission”) believes you or your _____ are in violation of the laws described below. Pursuant to the authority granted to the Commission under Wis. Stat. § 19.49(1)(b), the Commission may settle any civil action or potential action brought or authorized to be brought by it which, in the opinion of the Commission, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted. As such and in accordance with the Commission’s adopted standard settlement schedule, Commission staff will recommend to the Commission at its _____ meeting that the following amount be sought in lieu of prosecution in this case:

Statute Violated	Description	Recommended Settlement Amount

If you wish to dispute this matter, you may appear at the Commission’s _____ meeting via phone, in person, or by written submission. Please be prepared to discuss the details of the violation, and present any mitigating circumstances or reasons why the settlement offer amount should be reduced or waived.

- If you wish to appear by phone, or in person, please contact the Commission by email at ethics@wi.gov, or by phone at (608) 266-8123 at least two weeks prior to the meeting to receive scheduling information.
- If you wish to respond in writing, please submit any such response no later than 14 days before the meeting. A written submission can be sent by email to ethics@wi.gov, or in print and mailed to:

Wisconsin Ethics Commission
ATTN: Staff Counsel
PO Box 7984
Madison, WI 53707-7984

- If you do NOT wish to dispute this matter, please contact our office in writing confirming receipt of this letter, that the violation did occur, and that you do not dispute the recommended settlement amount.

NOTE: DO NOT SUBMIT ANY PAYMENT AT THIS TIME. PLEASE WAIT TO RECEIVE A SETTLEMENT OFFER FROM THE COMMISSION BEFORE SUBMITTING PAYMENT.

If you have any questions regarding this letter, please contact the Commission at (608) 266-8123 or ethics@wi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Bell", with a stylized flourish underneath.

Brian M. Bell, MPA
Commission Administrator
Wisconsin Ethics Commission

In the Matter of

)
)
)
)

SETTLEMENT AGREEMENT

Case # []

This agreement is entered into pursuant to the authority granted in Wis. Stat. § 19.49(1)(b), for the purpose of settling a potential action for a violation of " ". The parties hereto acknowledge and agree as follows:

1. That at all relevant times, was a registered political committee with the Wisconsin Ethics Commission.
2. That
3. That Commission staff
4. That Wis. Stat. § , provides:
5. That the 's was a violation of Wis. Stat. § .
6. That the Commission agrees to compromise and settle this potential action upon payment of .
7. That the has paid in settlement of this matter.

Name Date

STATE OF WISCONSIN Date
WISCONSIN ETHICS COMMISSION
By: Brian M. Bell
Commission Administrator



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Proposed Auditing Schedules, Policies, and Procedures

The following documents outline proposed auditing schedules, policies, and procedures related to campaign finance and lobbying reports. These proposals are based on staff review of statutory requirements and a recent review of past practices.

Staff is requesting that the Commission review the proposed auditing schedules, make any desired changes, and approve the schedules, policies, and procedures for campaign finance and lobbying audits.

Wisconsin Ethics Commissioners
Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Proposed Campaign Finance Auditing Schedule

I. Introduction

Following the implementation of the Campaign Finance Information System (CFIS) database in the fall of 2008, and Eye on Lobbying Database in 2012, Government Accountability Board staff developed procedures for regular audits of common campaign finance violations and lobbying activity. Those procedures were updated on a regular basis based on court decisions and legislative changes. Staff seeks to update and clarify these procedures for future audit activity. Staff is seeking comments, clarifications, and recommendations on the future handling of audits under the Commission's jurisdiction.

II. Overview of Statutory Requirements

Audit Procedures

The Commission is required to audit campaign finance reports to check for violations under WIS. STAT. § 19.49(2g). The statute requires making note of the possible violation, and informing the committee of the issue, but does not detail procedures for resolving the possible violations.

(2g) AUDITING. In addition to the facial examination of reports and statements required under s. 11.1304 (9), the commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred. The commission may examine records relating to matters required to be treated in such reports and statements. The commission shall make official note in the file of a committee, as defined in s. 11.0101 (6), of any error or other discrepancy which the commission discovers and shall inform the person submitting the report or statement. The board [commission] may not audit reports, statements, or records beyond the 3-year period for which a committee must retain records under ch. 11.

Wisconsin Ethics Commissioners
Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

III. Restrictions on Release of Records

The Commission is prohibited from releasing or allowing inspection of certain records including, information related to an investigation or prosecution under Ch. 11, subch. III of Ch. 13, or subch. III of Ch. 19 or any other law specified in WIS. STAT. § 978.05(1) or (2).¹ Records not subject to inspection include anything obtained or prepared by the Commission in connection with an investigation, including the full text of any complaint received by the Commission.² While audits are separated from the confidentiality provisions that specifically apply to complaints, they still may result in an investigation or prosecution, so past practice of the staff has been to release only very general information, such as the number of possible violations identified in an audit. Information identifying a committee, individual, violation, or settlement amount was released only if contained within a signed settlement agreement.

IV. Overview of Audit Procedures

1. Staff will initiate an audit based on the schedule listed below. Some audits, like timely filing of campaign finance reports or payment of filing fees, will occur shortly after a report or payment is due. Others require more data analysis, and will occur as time permits.
2. When conducting an audit, staff will perform a global analysis of all committees or individuals subject to a particular law – for example, all committees required to report cash balances will be audited for cash balance discrepancies, and all candidates on the ballot during the previous election cycle will be audited for contribution limits violations.
3. Most data will be pulled from the CFIS database. For lobbying audits, data is also pulled from the Eye on Lobbying website, and for audits of contribution limit violations, staff will pull a list of candidates on the ballot in a specific election from WisVote.
4. Audit data and documents for each committee or person contacted will be saved in the Ethics H: drive.
5. When possible violations are identified, staff will send out an initial communication to the committee or individual with a request to respond within 30 days. The initial communication will identify the issue and request that it be fixed, or that the committee or person admit that the violation occurred. The initial communication may mention recommended settlement amounts but will not include settlement agreements.
6. On an ongoing basis, staff will work with committees to correct erroneous reports. If a mistake is corrected, staff will close the audit for that committee or person.

¹ [WIS. STAT. § 19.50\(1\)](#)

² [WIS. STAT. § 19.55\(3\)](#)

7. Committees and persons admitting that a violation occurred will be added to the agenda for the next Commission meeting. Committees that wish to appear before the Commission through a written submission, by phone, or in person will be added to the agenda for the next Commission meeting.
8. Once 30 days have passed since the initial communication:
 - a. If the committee or person has not responded, staff will send a second communication with a reminder of the issue.
 - b. Staff will add the audit item to the audit database for tracking.
 - c. Staff will add the item to the agenda of the next Commission meeting to ask the Commission to issue a settlement agreement for the recommended settlement amount.
9. The Commission, at its next meeting, may direct staff to issue a settlement agreement or close the audit as appropriate for each committee or person. If the Commission has not already considered their case, the committee or person may request to appear before the Commission. Once a settlement offer is issued, the committee or person shall have 30 days to pay the settlement offer.
10. If the registrant or individual refuses to accept the Commission's settlement offer or does not respond, the Commission may direct staff counsel to commence a civil action to collect a forfeiture of at least the amount of the settlement offer.
11. The Commission may place some registrants on administrative suspension rather than pursue civil action. This will generally apply to registrants with little activity that cannot be contacted. When staff believes a registrant should be placed on administrative suspension, staff will present the situation for the Commission's approval. If a registrant on administrative suspension wishes to become active again, staff will seek all incurred penalties and all reports, and may request the Commission to initiate a civil action if the registrant does not comply.
12. Commission staff will inform the Commission of all late reports, settlement offers, paid settlements and administrative suspensions, and will compile a yearly summary for each calendar year.

V. Audit Planning for 2016 -2017

- 1) Campaign Finance Reports
Period: Each Required CF Report
Start Date: Each Filing Deadline

Notices to file campaign finance reports are sent by email approximately one month before the report is due, and reminder emails are sent one week and one day before the deadline. Committees that have not filed are contacted the day after the deadline (for election related reports) or within a few days of the deadline (for continuing reports). The settlement amounts for late reports are documented in sections one and two of the Campaign Finance Settlement Schedule.

- 2) Campaign Finance Filing Fees
Period: Yearly
Start Date: January 15

Annual filing fees are due the same date the January Continuing campaign finance report is due, between the 15th and 17th of January. Notices are sent by email approximately one month before the fee is due, and reminder emails are sent one week and one day before the deadline. Committees that have not paid are contacted within a few days of the deadline. The settlement amounts for late filing fees are documented in section three of the Campaign Finance Settlement Schedule.

- 3) Pending Transactions Audit
Period: Yearly
Start Date: February

Committees have the ability to save transactions in the CFIS website, and file them all together when a continuing report or election related report is due. If a committee saves a transaction but does not file it, it is visible to staff, but not visible on the official report available to the general public. Staff generally does an audit of pending transactions as soon as all reports are official filed in the CFIS database, since unfiled transactions may impact all of the other audit results. Committees are given 30 days to respond to the initial staff contact and file the pending transactions, or delete them if they are duplicates. Committees that fail to respond could be penalized under section six of the Campaign Finance Settlement Schedule (Cash Balance Discrepancies), but in practice, no committee has yet been penalized for pending transactions. In 2016, this audit was run in August, and 19 committees were contacted by August 30th. The deadline for response was September 30th.

- 4) Cash Balance Audit
Period: Yearly
Start Date: March

If a committee has a discrepancy of \$100 or more within a report, or between the ending balance and beginning balance of subsequent reports, staff will contact the committee and ask for a resolution within 30 days. Committees that fail to respond could be penalized under section six of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 87 committees were contacted by September 16th. The deadline for response was October 17th.

5) Lobbyist Contribution Audit

Period: Yearly
Start Date: March

Once a year, staff compares a list of campaign contributions to partisan candidates with a list of registered lobbyists. If any matches are found, staff checks to see if the contribution was given before the lobbyist registered or after they surrendered their license. Staff also checks for returned contributions and attempts to eliminate false matches based on people with the same name from different cities. Lobbyists who appear to have made unlawful contributions are contacted and asked to respond within 30 days. Lobbyists that fail to respond, or who have made unlawful contributions, could be penalized under section nine of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 30 lobbyists were contacted by September 16th. The deadline for response was October 17th.

6) Corporate Contribution Audit

Period: Yearly
Start Date: March

Once a year, staff audits CFIS for contributions to candidates, party committees, legislative campaign committees, or PACs from businesses to check for unlawful corporate contributions. We also audit for contributions labeled as coming from individuals containing business identifiers like “Corp” or “Inc.” Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees that fail to respond or that have accepted unlawful contributions, and the businesses that have contributed, could be penalized under section eight of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 15 committees were contacted by September 30th. The deadline for response was October 31st.

7) Employer Information Audit

Period: 2015 Only
Start Date: Waived

In past years, staff conducted a yearly audit of contributions over \$100 to ensure committees had reported the required employer information. Committees were still required to report this information in 2015, but staff recommends that since this information is no longer required as of 1/1/2016, the regular audit for employer information reported in 2015 should be cancelled.

8) Name/Address/Occupation Information Audit

Period: Yearly
Start Date: April 2018

The new law effective 1/1/2016 requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. Committees must also report the occupation of any contributor giving more than \$200 in a calendar year. Staff suggests

that this audit not be run until 2018 (covering calendar year 2017); to give committees time to adjust to the new reporting requirements.

9) Contribution Limits Audit – Spring/Fall

Period: Yearly/Biannual

Start Date: Following April after April Election/August after November Election

The campaign period for spring 2016 candidates (judges) ran until July 31, 2016. Therefore, the final report of the campaign period is not due until January 16, 2017. The campaign period for fall 2016 candidates runs until January 2, 2017. Therefore, the final report of the campaign period is not due until July 17, 2017. After all reports from those periods are entered, and yearly audits have been started, staff will audit the campaign period for each office for violations of the contribution limits by individuals or committees. Staff recommends that we run a yearly audit of the \$12,000 annual contribution limit to parties and segregated funds at the same time as the audit of the spring election cycle from the previous year. Any violations would be penalized under section seven of the Campaign Finance Settlement Schedule.

10) Independent Expenditure Reporting/72 Hour Reporting Audit

Period: Yearly/Biannual

Start Date: September after April Election/May after November Election

For spring elections, after the July report is filed, the 72-hour reporting by candidates and parties can be compared to the committees' regular reports. For fall elections, this would be possible after the January report is filed.

This audit has not been run regularly in the past. It may be a good idea to implement in 2017, to ensure compliance with the new statutes requiring 72-hour reporting of independent expenditures in the 60 days before a primary or election. In the past, audits covered only large contributions to candidate committees in the two weeks before Election Day. A more ambitious audit would cover reporting of independent expenditures in the 60 days before an election. This would involve collecting information from TV stations, radio stations, and newspapers, and comparing that spending to the reports from registered committees and reports from unregistered IEs of over \$2,500 in expenses. Any violations would be penalized under section four of the Campaign Finance Settlement Schedule.

11) Termination Audits

Period: From three years before present through Termination

Start Date: April/October (twice a year)

Termination audits cover a number of issues, such as whether the committee has \$0 cash on hand, and \$0 in outstanding debts and loans, if there is an outstanding filing fee, whether there are cash balance discrepancies, and other issues. These should be performed on a regular basis, but can be postponed as necessary so staff can concentrate on more pressing projects.



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the October 10, 2016 Commission Meeting
TO: Members, Wisconsin Ethics Commission
FROM: Molly Nagappala, Ethics Commission Staff
SUBJECT: Lobbying Program Audit Schedule

I. Introduction

Following the implementation of the Eye on Lobbying Database in 2012, Government Accountability Board staff developed procedures for regular audits of common campaign finance violations and lobbying activity. Those procedures were updated on a regular basis based on court decisions and legislative changes. Staff seeks to update and clarify these procedures for future audit activity. Staff is seeking comments, clarifications, and recommendations on the future handling of audits under the Commission's jurisdiction.

II. Late Statements of Lobbying Activities and Expenditures (SLAEs) Audit

13.68 Principal's expense statement.

(1) STATEMENT. Every principal which is registered under s. 13.64 shall, on or before July 31 and January 31, file with the commission an expense statement covering the preceding reporting period. The statement shall be signed, under the penalty for making false statements provided in s. 13.69 (6m), by an individual identified under s. 13.64 (1) (e) who is authorized to represent the principal. The statement shall contain the following information...

Past practice, on advice of staff counsel, was to extend the deadline to the next business day if it happened to fall on a holiday or weekend. Staff conducts an audit to ascertain which principals do not meet the deadline.

Conducted: every February and August, following each reporting deadline

III. Late 15-Day Reporting Audit

13.67 Identification of legislative and administrative proposals and topics.

(1) Except as authorized under s. 13.621, no person may engage in lobbying as a lobbyist on behalf of a principal and no principal may authorize a lobbyist to engage in lobbying on its behalf unless the principal reports to the commission, in such manner as the commission may prescribe, each legislative proposal, budget bill subject and proposed administrative

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

rule number in connection with which the principal has made or intends to make a lobbying communication or, if the lobbying does not relate to a legislative proposal or proposed administrative rule that has been numbered or a budget bill subject, each topic of a lobbying communication made or intended to be made by the principal. A principal shall describe any topic of a lobbying communication with reasonable specificity, sufficient to identify the subject matter of the lobbying communication and whether the communication is an attempt to influence legislative or administrative action, or both. The principal shall file the report no later than the end of the 15th day after the date on which the principal makes a lobbying communication with respect to a legislative proposal, proposed administrative rule, budget bill subject or other topic not previously reported by the principal under this section during the biennial period for which the principal is registered. The report shall be made by a person who is identified by the principal under s. [13.64 \(1\) \(e\)](#).

The Commission does not have the available resources to conduct audits of each lobbying principal and lobbyist's internal records. Staff audits for 15-day reports submitted after an SLAE deadline, which can be determined with certainty as being late. The Commission would also investigate any formal complaints related to late reporting.

Conducted: every February and August, following each reporting deadline

IV. "Hours, No Dollars" Audit

After every SLAE filing period, staff discovers a small handful of principals who report a certain number of hours spent on lobbying, but do not report a corresponding dollar amount of lobbying-related expenditures. Sometimes this is due to human error on the part of the filer; sometimes a lobbyist has agreed to do some work pro bono; sometimes there is another explanation. Commission IT assists in finding this small group after every SLAE deadline for staff to informally investigate.

Conducted: every February and August, following each reporting deadline

V. Limited Lobbying Audit

Between 10 and 20 organizations pay a \$20 fee to register with the Commission each legislative session as *limited lobbying* principals, meaning that they intend to spend less than \$500 in a calendar year on lobbying-related activities. Such groups are often very small nonprofits, or are occasionally large multinational companies who anticipate having only an extremely minimal lobbying presence in Wisconsin. After the July – December reports are filed each year, staff examine the two reports of the previous year for each limited lobbying principal to ensure that the \$500 limit was not exceeded. In the event that a limited lobbying principal spends more than \$500 in a calendar year on lobbying-related activities, they are required to complete full lobbying registration and pay the appropriate fees.

Conducted: every February, following each reporting deadline



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: David Buerger, Staff Counsel

SUBJECT: Administrative Rule Update

I. Chapters ETH 6 and ETH 21

The text of GAB 6 and GAB 21 transferred to the Ethics Commission as ETH 6 and ETH 21 upon dissolution of the Government Accountability Board. Portions of these chapters no longer apply to the Ethics Commission and therefore need to be amended.

On August 5, 2016, the Commission received approval of the Statements of Scope for ETH 6 and ETH 21 from the Office of the Governor. The Statements of Scope were published in the Administrative Register on August 15, 2016. The required 10-day publishing requirement has been met, and the Commission staff requests permission to draft rules consistent with the approved Statements of Scope for these rules. The Statements of Scope are enclosed with this memorandum.

II. Chapter ETH 26 (Settlement Schedule)

At the Ethics Commission's last meeting it directed staff to draft a Statement of Scope for a proposed rule that would prescribe the categories of offenses which the Commission will agree to compromise and settle without formal investigation upon payment of specified amounts by the alleged offender. Commission staff has prepared a Statement of Scope for your review and approval before submitting it to the Governor.

The draft Statement of Scope is enclosed following this memorandum.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
GOVERNMENT ACCOUNTABILITY BOARD
(WISCONSIN ELECTIONS COMMISSION AND WISCONSIN ETHICS
COMMISSION)¹**

Rule No.: GAB Ch. 6 (EL Ch. 6 upon transfer to Wisconsin Elections Commission and ETH Ch. 6 upon transfer to Wisconsin Ethics Commission)

Relating to: Elections and Ethics Commission staff procedures

Rule Type: Emergency and Permanent

1. Finding/nature of emergency (Emergency Rule only):

The Government Accountability Board/Wisconsin Elections Commission and Wisconsin Ethics Commission propose to amend and repeal portions of GAB Ch. 6 upon transfer of this rule to both Commissions. Current GAB Ch. 6 has been utilized by the entire agency, and portions of this chapter can be used by both the Elections Commission and Ethics Commission upon transfer, effective June 30, 2016. Upon transfer to the new commissions, portions of Ch. 6 that are not applicable to the respective commission would be amended or repealed if necessary. The applicable portions of Ch. 6 would remain. As portions of Ch. 6 for both Commissions may not apply after June 30, 2016, action to align the provisions with the appropriate commission needs to be taken as soon as practicable. A permanent rule, promulgated parallel to the emergency rule to make these changes, using this same Statement of Scope, is intended by the Board/Commissions.

2. Detailed description of the objective of the proposed rule:

The proposed rule will amend or remove portions of Ch. 6 that do not apply to the respective commissions upon transfer on June 30, 2016.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed rule will amend or remove portions of Ch. 6 that do not apply to the respective Commissions upon transfer on June 30, 2016. There is no new policy being proposed, only updating by way of amending or repealing sections of the chapter so they are consistent with the mission of each of the Commissions. The alternative would be to not amend or repeal sections that are not applicable to the respective Commissions. Such inaction could confuse voters, candidates, elected officials and the general public as rules that are not within the subject matter of the respective Commission appear to be active, when in fact there would be no relevancy to the Commission for which the rule appears.

¹ Effective June 20, 2016

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

2015 Wisconsin Act 118, Section 266 (6) directs all current rules of the Government Accountability Board to transfer to the Elections Commission or the Ethics Commission and shall be effective on the date of the transfer, and remain in effect until the Commissions amend or repeal the rules. The Government Accountability Board, and its successor Commissions have the responsibility for the administration of elections, campaign finance, lobbying and ethics of state public officials. ss. 5.05 (1), 19.48 (1), Stats. Pursuant to such responsibility, the Government Accountability Board and the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” s. 5.05(1)(f), Stats. The Ethics Commission may “[p]romulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.” s. 19.48(1), Stats. Finally, the Government Accountability Board/Elections Commission/Ethics Commission “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute[.]” s. 227.11 (2) (a), Stats.

Emergency and 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.

5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

40 hours.

6. List with description of all entities that may be affected by the proposed rule:

Candidates, political parties, other political groups and the general public that file various documents with the new Commissions will be able to continue with the procedures established by the Government Accountability Board.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Government Accountability Board/Elections Commission/Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Government Accountability Board/Elections Commission/Ethics Commission anticipate the rule having no economic impact, which includes no significant impact on small businesses.

Contact person: Nathan W. Judnic
nathan.judnic@wi.gov (608) 267-0953



Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

June 3, 2016
Date Submitted

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
GOVERNMENT ACCOUNTABILITY BOARD
(WISCONSIN ELECTIONS COMMISSION AND WISCONSIN ETHICS
COMMISSION)¹**

Rule No.: GAB Ch. 21 (EL Ch. 21 upon transfer to Wisconsin Elections Commission and ETH Ch. 21 upon transfer to Wisconsin Ethics Commission)

Relating to: Elections and Ethics Commission practice and procedure

Rule Type: Emergency and Permanent

1. Finding/nature of emergency (Emergency Rule only):

The Government Accountability Board/Wisconsin Elections Commission and Wisconsin Ethics Commission propose to amend portions of GAB Ch. 21 upon transfer of this rule to both Commissions. Current GAB Ch. 21 has been utilized by the entire agency, and this chapter can be used by both the Elections Commission and Ethics Commission upon transfer, effective June 30, 2016. Upon transfer to the new commissions, portions of Ch. 6 that are not applicable to the respective commission would be amended if necessary. The applicable portions of Ch. 21 would remain. As portions of Ch. 21 for both Commissions may not apply after June 30, 2016, action to align the provisions with the appropriate commission needs to be taken as soon as practicable. A permanent rule, promulgated parallel to the emergency rule to make these changes, using this same Statement of Scope, is intended by the Board/Commissions.

2. Detailed description of the objective of the proposed rule:

The proposed rule will amend portions of Ch. 21 that do not apply to the respective commissions upon transfer on June 30, 2016.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed rule will amend portions of Ch. 21 that do not apply to the respective Commissions upon transfer on June 30, 2016. There is no new policy being proposed, only updating by way of amending portions of the chapter so they are consistent with the mission of each of the Commissions. The alternative would be to not amend the language that is not applicable to the respective Commissions. Such inaction could confuse voters, candidates, elected officials and the general public as rules that are not within the subject matter of the respective Commission appear to be active, when in fact there would be no relevancy to the Commission for which the rule appears.

¹ Effective June 30, 2016

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

2015 Wisconsin Act 118, Section 266 (6) directs all current rules of the Government Accountability Board to transfer to the Elections Commission or the Ethics Commission and shall be effective on the date of the transfer, and remain in effect until the Commissions amend or repeal the rules. The Government Accountability Board, and its successor Commissions have the responsibility for the administration of elections, campaign finance, lobbying and ethics of state public officials. ss. 5.05 (1), 19.48 (1), Stats. Pursuant to such responsibility, the Government Accountability Board and the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” s. 5.05(1)(f), Stats. The Ethics Commission may “[p]romulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.” s. 19.48(1), Stats. Finally, the Government Accountability Board/Elections Commission/Ethics Commission “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute[.]” s. 227.11 (2) (a), Stats.

Emergency and 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.

5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

40 hours.

6. List with description of all entities that may be affected by the proposed rule:

Candidates, political parties, other political groups and the general public that request advice from the new Commissions will be able to continue with the practices and procedures established by the Government Accountability Board.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Government Accountability Board/Elections Commission/Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Government Accountability Board/Elections Commission/Ethics Commission anticipate the rule having no economic impact, which includes no significant impact on small businesses.

Contact person: Nathan W. Judnic
nathan.judnic@wi.gov (608) 267-0953



Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

June 3, 2016
Date Submitted

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ETHICS COMMISSION**

Rule No.: ETH Ch. 26

Relating to: Ethics Commission Settlement Schedule

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

The Commission proposes a rule to comply with the requirement of Wis. Stat. § 19.49(2)(b)10. This statute requires the Commission to prescribe, by rule, categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Commission may only settle alleged offenses, which in the opinion of the Commission, constitute a minor violation, a violation caused by excusable neglect, or which for other good cause shown is not in the public interest to prosecute. The Commission proposes to extend settlement offers in the following categories: (1) Late filing of continuing campaign finance reports; (2) late filing of pre-primary, pre-election, and special post-election campaign finance reports; (3) late payment of annual campaign finance filing fees; (4) late or incomplete filing of 72-hour campaign finance reports; (5) incomplete contribution information; (6) cash balance discrepancies; (7) exceeding contribution limits; (8) prohibited corporate contributions; (9) prohibited lobbyist contributions; (10) late filing of semi-annual lobbying reports; (11) late reports of lobbying activity; and (12) late filing of statements of economic interest.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Ethics Commission currently does not have a settlement schedule established in administrative code. The Legislative Audit Bureau in Report 14-14 observed that the predecessor Government Accountability Board directed its staff to promulgate administrative rules to establish an updated penalty schedule in administrative code, but the rule was never promulgated. There is no new policy being proposed. The proposed rule will simply enshrine the Commission's most recently adopted settlement schedule. Promulgating the rule would also permit the Commission to authorize the Commission Administrator to settle the specified alleged offenses on its behalf if the alleged offenses in aggregate do not involve payment of more than \$2,500.

The alternative would be to not create such a rule, but instead continue to rely on the Commission's established schedule. Such inaction could lead to confusion among the regulated community as to what offenses the Commission would settle and the amounts to be paid for various offenses as these have varied over time and between the predecessor agencies and the new Commission. Lack of an administrative rule would also limit the ability of the Commission to delegate settlement authority to the Commission

Administrator, which could significantly delay resolution of complaints and audit findings.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Wisconsin Ethics Commission is specifically directed to promulgate this rule pursuant to Wis. Stat. § 19.49(2)(b)10.

10. The commission shall, by rule, prescribe categories of civil offenses which the commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender.

The Commission also has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

Wis. Stat. § 11.1304(17):

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

Wis. Stat. § 19.48(1):

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

Wis. Stat. § 227.11(2)(a):

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Commission estimates that it will use approximately 0.05 FTE staff to develop this rule. This includes time required for research, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings, legislative review and adoption, and communicating the final rule with affected persons and groups. The Commission will use existing staff resources to develop this rule.

5. List with description of all entities that may be affected by the proposed rule:

Candidates, political parties, other registered committees; lobbyists and lobbying principals; state public officials; and the general public may be affected by the proposed rule.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Wisconsin Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Wisconsin Ethics Commission anticipates the rule having no economic impact beyond the specified amounts proposed to be forfeited in the event of a violation. The settlement schedule is designed to deprive the alleged violator of any benefit and serve as a deterrent to violations. This proposed rule includes no significant economic impact on small businesses.

Contact person: David P. Buerger
david.buerger@wisconsin.gov (608) 267-0951

Brian M. Bell, MPA
Administrator
Wisconsin Ethics Commission

Date Submitted



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the October 10, 2016 Meeting
TO: Members, Wisconsin Ethics Commission
FROM: Kyle Kundert, Commission Staff
SUBJECT: Proposed Ethics Commission Complaint Procedures

Proposed Ethics Commission Complaint Procedures

The procedures outlined below are intended to comply with and implement the statutes and administrative rules governing the processing of and resolution of complaints filed with the Ethics Commission. These procedures make use of the Complaint Tracking Database created in SharePoint, which contains separate tracking mechanisms for complaints and audits handled by Commission staff.

A. Complaint Intake

1. A complaint may be received as a paper complaint, fax, email, or through the agency website. When received as a paper (mailed or in-person) or fax complaint, Front Desk staff shall forward the complaint to the Commission Administrator and Staff Counsel if it relates to laws governing campaign finance, lobbying, or the code of ethics for public officials. The Public Information Officer or other staff that receive a complaint shall forward those to the Commission Administrator (“Administrator”) and Staff Counsel.
2. Regardless of the form of the submission, the Administrator or Staff Counsel shall determine whether it constitutes a sworn complaint, which is entered into the Complaint Tracking Database. The Ethics Commission portal of the Database is intended to track complaints under the Commission’s jurisdiction as well as submissions relating to matters outside of its jurisdiction. The Database is not intended to track campaign finance requests for advice.
3. If the submission constitutes a complaint to be included in the Database, the Administrator or staff, at the direction of the Administrator, shall open a record in the database using the proper naming convention. Paper complaints shall be scanned and

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Administrator
Brian M. Bell, MPA

attached to the complaint record, and complaints submitted through the website or by email shall be saved and attached to the complaint file in the Database.

4. When the record is created in the Database, the Database will automatically generate a complaint identification number and the date on which the record was created. The ID number will include a designation for the year in which the complaint was opened. The Database will also create a folder to store documents related to the complaint, which will be linked to the complaint record.

B. Complaint Processing – Ethics Commission

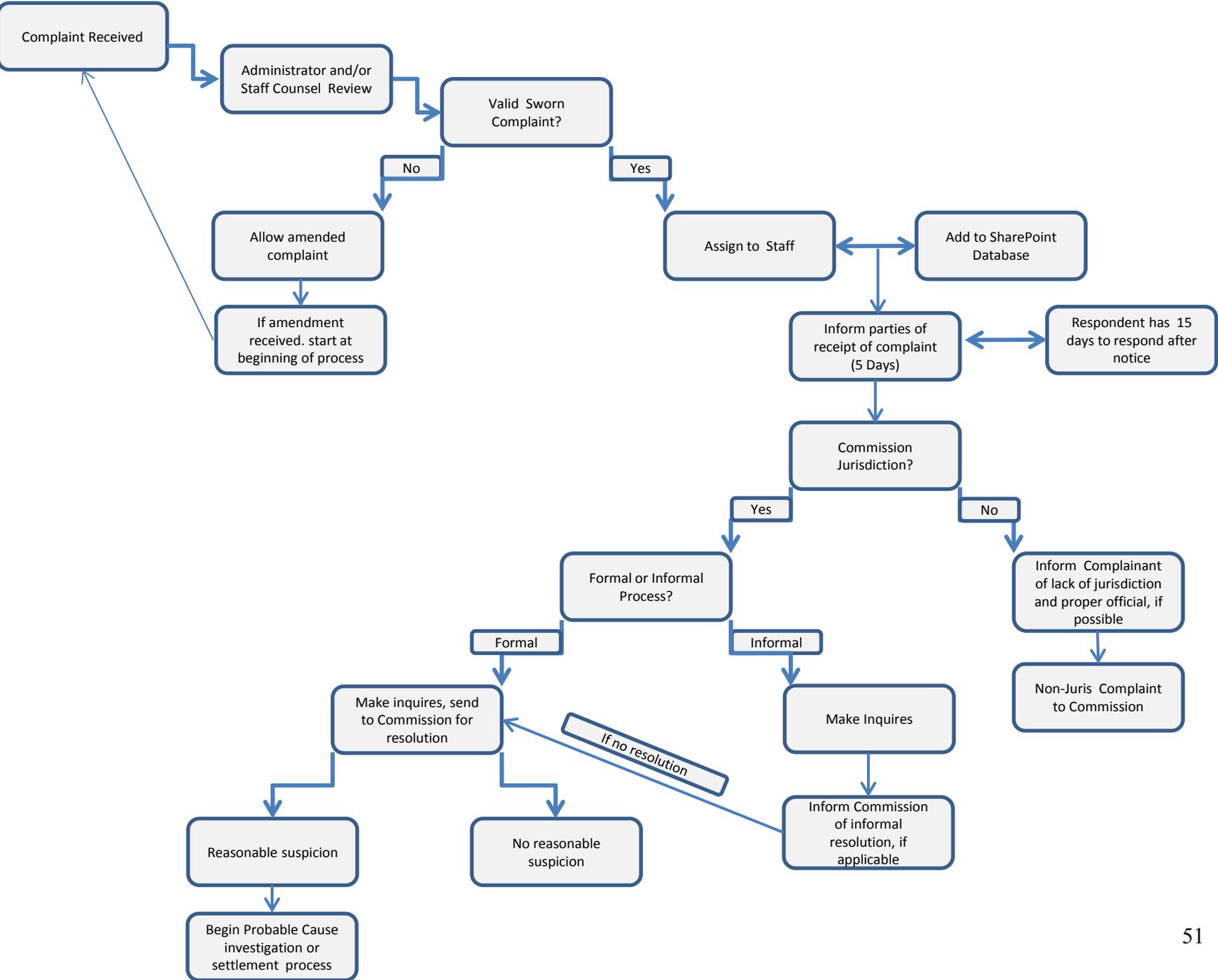
1. Within five days of receiving a complaint, the Administrator or Staff Counsel shall determine whether the complaint involves a matter outside of the agency's jurisdiction or pertains to a local matter. In either case, the Administrator will assign a staff member to generate an email or letter advising the complainant: (1) that the agency does not have jurisdiction regarding the matter, and informing the complainant of any other governmental agency that may be able to assist with the matter, if that information is known; or (2) that the matter should be addressed to a District Attorney. Standardized communications may be utilized to resolve matters outside of the Commission's jurisdiction. Staff assigned to the matter shall attach the complaint and may attach the closing correspondence to the complaint record in the database.
2. Within five days of receipt of a complaint that is within the jurisdiction of the Ethics Commission, staff will verify the receipt of the complaint to the complainant and responding party. The Administrator shall determine whether it may be possible to resolve the complaint through informal fact finding and communication, or if staff should seek the Commission's input regarding, or approval of, a resolution authorizing an investigation pursuant to Wis. Stat. § 19.49(2)(b)3. The decision to utilize the formal Section 19.49 procedures to resolve a complaint shall be made in consultation with Staff Counsel.
3. Before voting on whether to take any action regarding the complaint, other than to dismiss, the Commission shall give the responding party(s) receiving a notice of complaint an opportunity to demonstrate to the commission, in writing and within 15 days after receiving the notice, that the Commission should take no action against the person based on the complaint.
4. Factors favoring the use of the informal resolution process include a complaint, which raises a minor issue of fact or law, involves a straightforward application of settled law, complaints for which staff does not intend to seek a monetary penalty, or for any of the

categories of civil offenses created pursuant to Wis. Stat. § 19.49(2)(b)10. When a complaint is designated for informal fact-finding and resolution, the Administrator shall assign it to a staff member and/or Staff Counsel for processing and resolution.

5. The staff member or Staff Counsel assigned to undertake informal fact finding and resolution of a complaint may make initial contact with the complainant and responding party to obtain any necessary additional facts.
6. The assigned staff member or Staff Counsel shall analyze the facts and relevant law, and determine the proper outcome or resolution, consulting with the Administrator as necessary, and present those findings to the Commission.
7. After the Commission's final determination, the assigned staff member or Staff Counsel shall convey the agency's determination to the complainant and other involved parties. The assigned staff member or Staff Counsel shall notify the Administrator of the resolution of the complaint.
8. When a complaint is designated for the formal Section 19.49 process, the Administrator shall assign it to himself or herself or to Staff Counsel. Factors to be considered in invoking the Section 19.49 procedures include that the complaint involves the potential for the Commission to seek a monetary penalty or prosecution, or involves a significant question of law.
9. After being assigned a complaint to be handled under the formal Section 19.49 process, the assigned staff or Staff Counsel shall complete any necessary preliminary inquiry and research, and, if appropriate, prepare a memorandum and proposed resolution authorizing an investigation for the Commission's review and consideration. Assigned staff shall subsequently proceed as directed by the Commission. If the Commission authorizes an investigation or further inquiry or research, or approves a settlement agreement, assigned staff and Staff Counsel shall continue to resolve the complaint and report its status at subsequent Commission meetings until the resolution of the matter.
10. After completion of all Commission action and investigation regarding the complaint, the assigned staff or Staff Counsel shall draft the appropriate closing documents, if any, for transmission to the parties.
11. Throughout the processing of the complaint, the assigned staff member or Staff Counsel shall document the status and significant information regarding the complaint in the Complaint Tracking Database. This shall include completing the data fields indicating the status of the complaint, the source of the complaint, the subject category, and subcategory

of the complaint, forfeiture and resolution information, and any additional comments. The dismissal letter, settlement agreement, or other communication resolving the matter may be attached to the complaint record in the Database. Assigned staff or Staff Counsel shall also be responsible for maintaining the electronic and paper files for said complaints.

12. The Administrator shall review the status of open complaints on at least a bi-weekly basis to monitor the progress of complaint resolution. The Administrator or designated staff member shall also prepare a summary report for each Commission meeting regarding the status of complaint files that are open or that have been closed since the previous Commission meeting.





Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Commission Staff

SUBJECT: Review of Advisory Opinions

Introduction

The Commission has asked that staff provide an analysis of advisory opinions currently in effect. This memo contains three (3) parts. Part I will review the opinions marked as “partially consistent” by the Government Accountability Board (“Board”). Commission staff is asking that the Commission make a determination as to the legal effect of those opinions. Part II will review several lobbying opinions with campaign finance implications that need to be reviewed as part of the passage of Wisconsin Act 117. Commission staff is asking that the Commission make determinations as to the legal effect of those opinions. Part III will review two lobbying opinions that require the Commission to make an interpretation as to the meaning of a portion of Ch. 13 of the Wisconsin Statutes.

PART I

Partially Consistent Opinions

The following section outlines the advisory opinions that the Board found to be partially consistent with the law. The *Summary* provision contains the synopsis of the opinion as provided to the public by the Board. The *Explanation* provision contains the portion(s) of the opinion that are inconsistent. Staff is asking that the Commission make a determination as to the legal holding and thus effect of the following opinions.

[El. Bd. Op. 74-2](#)

Summary: The Government Accountability Board advises: A committee may make the maximum contribution to a candidate for an election before the primary, provided that no further contributions are made after the primary.

Explanation: The opinion conflicts with current law in that WIS. STAT. §11.1103 changes the applicable campaign period to end on the day before the individual takes office.

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[El. Bd. Op. 74-10](#)

Summary: The Government Accountability Board advises: The name and address of each contributor making a single contribution of \$10 or less need not be recorded by a campaign treasurer, but the treasurer is under a statutory duty to exercise a "good faith" effort to seek to obtain such information if he knows or has reasonable cause to believe that a contributor's aggregate contribution has or will exceed \$10.

Explanation: Under new law, there is no longer a monetary threshold for supplying contributor information if known. §11.1108 (anonymous contributions) §11.0103 (good faith standard). The treasurer needs to make a good faith effort obtain name and address information for contributions at or below the \$10 level.

[El. Bd. Op. 75-5](#)

Summary: The Government Accountability Board advises: Contributions of \$100 or less received in the form of a check drawn on a joint checking account may be assumed to be from the signer of the check absent evidence to the contrary. Contributions over \$100 received in the form of a check drawn on a joint checking account may not be assumed to be from the signer of the check absent evidence to the contrary; instead, the treasurer must affirmatively inquire as to whom the contribution is from. Contributions received in the form of a check drawn on a partnership checking account may not be assumed to be from the signer of the check. The treasurer has a duty to ascertain the identity of the contributor in such instance. Reproduction of personal correspondence by means of a magnetic card typewriter constitutes reproduction by machine. An organization may, pursuant to §11.29 (1), Stats., send nomination papers to its members without reporting such activity.

Explanation: WIS. STAT. §11.1113 now specifies the method for attribution of partnership contributions. The other provisions of this opinion deal with outdated contribution limits and methods of reproduction.

[El. Bd. Op. 76-1](#)

Summary: The Government Accountability Board advises: Use of a hall or room without charge need not be reported as an in-kind contribution if the hall or room is also provided without charge to non-political organizations.

Explanation: This opinion relates to the retirement of debt and spending limits. Spending limits have been found unconstitutional (See: *Buckley v. Valeo*) and debt retirement is not considered in the statute.

[El. Bd. Op. 77-3](#)

Summary: The Government Accountability Board advises: A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national

committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (S), Stats.

Explanation: National party committees are no longer required to register under Wisconsin law. The Wisconsin committee would still be required to report the receipt of a contribution of any services provided by the national party committee. WIS. STAT. § 11.0107.

[El. Bd. Op. 78-2](#)

Summary: The Government Accountability Board advises: The personal campaign committee of a candidate seeking more than one office may ensure compliance with contribution limits by either (a) separate bookkeeping and reporting or (b) adherence to the lowest applicable contribution limit. Such committee may not claim the \$250 reporting exemption if its total activity, attributable to all offices sought, is over \$250. GAB 1.02, Wis. Adm. Code, Sec. 11.05 (2r), Stats.

Explanation: Candidates may still use one account but are no longer required to when running for more than one office. WIS. STAT. §11.1114. Bookkeeping and reporting are substantially similar to the previous statutory provisions.

[El. Bd. Op. 78-6](#)

Summary: The Government Accountability Board advises: The ban on use of filed reports and statements for solicitation of contributions does not prohibit a candidate from using information gained from reports or statements to inform persons of his or her candidacy and inviting questions on political issues.

Explanation: WIS. STAT. §11.1304 (12) now restricts the use of information from filed reports only for commercial purposes.

[El. Bd. Op. 88-3](#)

Summary: The Government Accountability Board advises: Independent insurance agents can establish a commission withholding system that will enable participating insurance companies to forward agents' contributions to an agents' PAC, without attributing any of those contributions, or the expenses of maintaining the system to the participating insurance companies. Separate bookkeeping of each individual agent's contributions and pro-rata expenses must be maintained and reported.

Explanation: Corporations, labor unions and similar groups may not use treasury funds to support an associated PAC. WIS. STAT. § 11.1112. The portion relating to the itemization of contributions now requires source information for all known sources. Additionally, a sponsoring organizations payment of administrative or solicitation costs is not required to be reported by an associated PAC. WIS. STAT. § 11.0101(8) & (10).

[El. Bd. Op. 00-2](#)

Summary: The Government Accountability Board advises: Non-registrants, including corporations, may communicate to the general public their views about issues and/or about a clearly identified candidate, without subjecting themselves to a registration requirement, if the communication does not expressly advocate the election or defeat of a clearly identified candidate; expenditures which are "coordinated" with a candidate or candidate's agent will be treated as a contribution to that candidate; intra-association communications that are restricted to "a candidate endorsement, a position on a referendum or an explanation of the association's views and interests" distributed to the association's members, shareholders and subscribers to the exclusion of all others, are exempt from Ch. 11, Stats., regulation; and a non-partisan, candidate-non-specific voter registration or voter participation drive is not subject to the registration and reporting requirements of ch.11, Stats.

Explanation: Under the new campaign finance law, restrictions on coordination apply only to the coordination of express advocacy. WIS. STAT. §11.1203 (coordination) and case law. (See: *Two Unnamed Petitioners v. Peterson.*)

[2008 GAB 08](#)

Summary: The Government Accountability Board advises: 1) A limited liability company may not give office space to a candidate's legislative campaign committee, even if the candidate is a principal, or the sole, owner of the company. 2) A candidate's legislative campaign committee may rent office space from a company owned by the candidate at a fair market value.

Explanation: The opinion conflicts with current law in that LLCs that are taxed as sole proprietorships (disregarded entities) or partnerships are no longer subject to the limitations on corporate contributions. WIS. STAT. § 11.1113 (Sole proprietors, partnerships, and LLCs)

Sample Options for Part I:

Option 1: The Commission finds that all of the above are inconsistent with current law but will continue, consistent with current practice, to make the opinions available to the public with a designation of inconsistent and a disclaimer as to the legal effect of the opinion.

Option 2: The Commission makes a determination individually as to each opinion above and directs staff to republish those opinions as it sees fit.

Option 3: The Commission makes an alternative recommendation to staff.

PART II

The following section outlines advisory opinions related to lobbying which have a substantial relationship to campaign finance law as changed by Wisconsin Act 117. The Summary provision contains the synopsis of the opinion as provided to the public by the Board. The *Explanation*

provision provides context to opinion as it relates to current law. Staff is asking that the Commission make a determination as to whether the following opinions are consistent or inconsistent. Staff has provided their interpretation of each opinions legal effect.

[1992 Wis Eth Bd 13](#)

Summary: A lobbying principal may, without violating laws administered by the Ethics Board, operate a conduit on behalf of campaign contributors for contributing to partisan elective state officials or candidates for partisan elective state office. A lobbyist may administer a conduit. The Ethics Board recommends that someone other than a lobbyist sign and convey the check provided to the candidate.

Explanation: This opinion confirms the longstanding practice that allows a lobbying principal to operate a conduit. WIS. STAT. § 11.0701 (Conduits).

Staff Opinion: Consistent

[1992 Wis Eth Bd 14](#)

Summary: A candidate for elective state office may not accept anything of pecuniary value, including salary or wages, from a business or organization that employs a lobbyist. An individual employed by a principal may, consistent with statutes administered by the Ethics Board, take a leave of absence from his or her employment during the candidacy as long as the employer does not furnish the candidate with any salary or other benefits that had not already vested in the candidate prior to the candidacy.

[1991 Act 269 amended §13.625, Wisconsin Statutes, to permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy.]

Explanation: This opinion has been codified by WIS. STAT. § 13.625(4).

Staff Opinion: Consistent (but redundant)

[1992 Wis Eth Bd 25](#)

Summary: A lobbyist may make a campaign contribution to a legislator for the purpose of promoting the legislator's candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session.

Explanation: This opinion has been codified by WIS. STAT. § 13.625(1m). The date for circulation of nomination papers is now April 15th.

Staff Opinion: Consistent (but redundant)

[1992 Wis Eth Bd 27](#)

Summary: A political action committee [PAC] that is not controlled by an organization employing a lobbyist, either in law or in fact, may, consistent with laws administered by the Board, make a campaign contribution at any time. A political action committee controlled, either in law or in fact, by an organization employing a lobbyist may make a campaign contribution only when Wisconsin's lobbying laws permit a lobbying principal to contribute directly. Thus, a PAC controlled by a lobbying principal may contribute to a partisan elective state official or to a candidate for election to a partisan state office or to the personal campaign committee of either only in the year of the candidate's election between June 1 and the day of the general election (and, in the case of a candidate for legislative office, only if the legislature has concluded its final floor period, and is not in special or extraordinary session). Because the Ethics Board has not previously had an opportunity to address this point, the Board does not intend to prosecute a complaint against any principal which may, in the past, have made, via a PAC, a campaign contribution during a period in which the principal could not contribute.

Explanation: This opinion prohibits a lobbying principal or organization that employs a lobbyist from contributing to a partisan elective state official via a PAC controlled by said organization, except for during the window specified in statute. This opinion contradicts case law in the area of the First and Fifth Amendments. (See: *Buckley v. Valeo*)¹

Staff Opinion: Inconsistent

[1992 Wis Eth Bd 30](#)

Summary: A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection: 1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or 2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board.

Explanation: This opinion differentiates when a membership communication is deemed a contribution and when it is not. This opinion contradicts WIS. STAT. 11.0101(8)(b) 10 & (10)(b) 1 which specifically exempt membership communications from the definition of contribution and disbursement.

Staff Opinion: Inconsistent

¹ The Federal Election Campaign Act (FECA) of 1971 provided the basic legislative framework for separate segregated funds, popularly referred to as PACs. *Buckley v. Valeo* acknowledged that both contribution and spending limits had First Amendment and Fifth Amendment implications.

[1993 Wis Eth Bd 03](#)

Summary: A lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer.

Explanation: This opinion attempts to prohibit a lobbyist from providing volunteer services to a candidate committee. This opinion has been found unconstitutional by *Barker v. State Ethics Board*. The clause in sub. (1) (b) 3. stating "any other thing of pecuniary value" is unconstitutional insofar as it prohibits uncompensated personal services by lobbyists on behalf of candidates for state office. *Barker v. State Ethics Board*, [841 F. Supp. 255](#) (1993).

Staff Opinion: Inconsistent

[1993 Wis Eth Bd 09](#)

Summary: A state legislator may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting his or her candidacy for federal office only during the year of the election between June 1 and the date of the general election.

Explanation: This opinion has been codified by WIS. STAT. § 13.625(1m). The date for receipt of a contribution is now April 15th or after the final floor periods, whichever is later.

Staff Opinion: Consistent

[2004 Wis Eth Bd 03](#)

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

Explanation: The opinion reinforces WIS. STAT. § 13.625(3) which restricts legislators from soliciting contributions from lobbyists for either personal or PAC contributions.

Staff Opinion: Consistent

[2007 Wis Eth Bd 06](#)

Summary: The Ethics Board advises that a legislator may not ask a lobbyist to pass along information to others about the legislator's desire for a campaign contribution except during the time that the legislator may accept a campaign contribution from a lobbyist. A legislative

campaign committee may solicit a campaign contribution from a lobbyist at any time. A legislative campaign committee's employee, not employed by the Legislature, may solicit a campaign contribution from a lobbyist for a legislative candidate at any time if the committee is acting independent of the legislator for whose campaign the contribution is sought. A lobbyist may arrange a fundraising event for a legislative campaign committee at any time.

Explanation: This opinion reinforces the driving principle of Wisconsin's lobbying law in WIS. STAT. § 13.61, which is meant to place lobbyists out of the campaign fundraising equation until after the Legislature has concluded the final floor period of the legislative session, while simultaneously balancing that principle with the freedoms of the First Amendment and affording sufficient "breathing room" for political speech.

Staff Opinion: Consistent

2008 GAB 06

Summary: The Government Accountability Board advises:

- 1) A PAC may purchase public opinion research from a vendor if the research is for a political purpose, a vendor sells research at a price calculated, at a minimum, to recoup the vendor's costs, and the price at which the vendor sells research to each purchaser is comparable for a comparable product. Such sale would not result in an in-kind contribution to the PAC from the vendor under these circumstances.
- 2) Absent collusion among purchasers, we do not consider other purchasers of the research to be subsidizing an individual PAC's purchase even though it may fairly be said that, without other purchasers, the price of the product may be greater.
- 3) Public opinion research that a PAC uses in determining who to support, how much support to give a candidate, the message the PAC wants to convey about a candidate, and the like is a political purpose.

Explanation: This opinion attempts to define and structure a process for determining the cost of public opinion polls and research. This opinion contains language that is no longer defined and/or regulated in statute (i.e., political purpose) and is counter to WIS. STAT. § 11.1111 valuations of opinion poll results.

Staff Opinion: Inconsistent

Sample Options for Part II:

Option 1: The Commission agrees with all of the staff opinions above and directs staff to republish the opinions.

Option 2: The Commission makes a determination individually as to each opinion above and directs staff to republish the opinions as it sees fit.

Option 3: The Commission makes an alternative recommendation to staff.



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Meeting

TO: Members, Ethics Commission

FROM: Adam Harvell
Ethics Specialist and Campaign Finance Auditor

SUBJECT: Planning for New SEI System

Overview of Current SEI System

The requirement for state officials to file a statement of economic interests is set out in WIS. STAT. §19.43, and the form of the statement is governed by WIS. STAT. §19.44. Elected officials and candidates, appointees, and nominees are required to file based on the definition of *Official required to file* in WIS. STAT. §19.42(10). New filers must generally file within 21 days of beginning their position, candidates must file within 3 days of submitting nomination papers, and continuing officials must file each year by April 30th. Approximately 2,500 officials file each year.

Currently, new filers are emailed a PDF copy of the Statement of Economic Interests and instructions. Most officials fill out the form by hand, although a few create a fillable form to be able to type their responses. We accept returned statements by mail, fax, or email. Staff then enters this data into the Eye on Financial Relationships (EOFR) website, and this data is saved in the SEI database.

For annual filers, staff prints statements pre-filled with the information the official provided the previous year. Statements are mailed in batches based on the officials' due date or other factors. Groups include municipal judges and spring candidates, reserve judges, incoming elected officials, departing elected officials, and other continuing officials. When SEIs are returned, the emailed and faxed forms are printed, and staff enters the updated data into the current system, as time permits, in preparation of the next year's filing.

Issues with the Current SEI Database and Website

The current database was created in 2006 and is becoming outdated. This database and the current process create a number of issues:

- The current database requires double data entry – the official writes information on their SEI, and then the staff must enter the data into the database.

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- The current database cannot generate email notices, leading to reliance on paper forms.
- Paper forms mean that information could be missing or incomplete. Handwriting could be illegible.
- The current SEI database requires a number of extra steps that could be streamlined into a more lean process. The process for printing annual SEI mailings takes two weeks or more for a single person to update queries and reports, print forms, and stuff envelopes.
- The process for posting SEI data on the EOFR website takes up to a full day, twice a year, and is something that could be done automatically.
- Filing paper forms and scanning them for SEI requests takes up significant time and physical storage space for the front desk staff and Ethics staff that could be reduced by storing forms electronically.
- Using a handwritten form is looks unprofessional, and fail to reflect modern expectations and best practices.
- The current database is missing information – because of recall election activity and a shortage of staff, no SEIs were entered for calendar year 2011. In other years, the sections on gifts and expenses that do not carry over to be printed on the next year’s form were not entered.

Benefits of Planned SEI System

There are a number of potential benefits to a new system for tracking SEIs:

- Data entry could be done online by individual officials, or their designees, saving weeks or even months of staff time.
- Data would always be legible, and verified by the person submitting the information or their designee.
- A well designed data entry form would make sure officials provided required information and help answer questions as they arise.
- Thousands of paper files would be gradually eliminated as the records became electronic only.
- Notices could be sent by email, saving printing and postage costs.
- Updates to required forms and the information displayed on the website could be automatic, instead of the manual process currently required.
- Electronic records could solve a number of issues with document storage and responding to SEI Requests.

Progress Toward the New SEI System

On May 19th, Ethics staff reviewed the design for a new, web-based SEI system that would replace the current paper-based system and allow officials to enter their statements online. Staff

has agreed on a basic structure for agency users, officials, ethics staff, and the public to access and enter information, and Kavita has begun work on data transfer and the user interfaces. The first goal for the new system will be to replace the previous paper reports, and allow state public officials to enter their interests directly, instead of requiring staff to do data entry. Future phases will allow for reporting of Investment Board Quarterly Reports, requests to view SEIs, and public posting of the data currently on the Eye on Financial Relationships website.

Cost of Updating the SEI System

The attached Statement of Work documents the requirements of the new system and the estimated number of hours for each stage. Because the system relies on existing staff (including Kavita Dornala for development), costs are built into the agencies current budget. The time required for design and testing may significantly impact other projects that staff would be available to perform.

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

Table of Contents

Document Change Log ii

Revisions..... ii

1. Introduction..... 1

 1.1 Purpose..... 1

 1.2 Wisconsin Statutory Requirements 1

2. Current Process Overview 1

3. Milestones 2

4. Scope..... 2

 4.1 In-Scope 2

 4.2 Out-of-Scope..... 3

5. Deliverables 3

 5.1 SEI Online Reporting Application..... 3

 5.2 Deliverables Schedule..... 4

6. Constraints 5

7. Assumptions..... 5

8. Roles / Required Resource Estimates 5

9. Project Approval 5

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

Document Change Log

Prepared By	Date	Version
Adam Harvell	9/15/2016	1.1

Revisions

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

1. Introduction

1.1 Purpose

Wisconsin State Statutes require certain public officials, candidates, and select personnel to file a statement of economic interest (SEI) with the Wisconsin Ethics Commission. The goal of this project is to modernize the process from one that is significantly reliant on paper documents and manual data entry to one that leverages available technology and enables required filers to complete this reporting requirement electronically and independent of Ethics staff. The project should streamline the user experience, transfer the burden of data entry and records management from staff to filers and agency users, and shift staff efforts from data collection to data analysis and auditing.

1.2 Wisconsin Statutory Requirements

[§19.43 Financial disclosure.](#)

[§19.44 Form of statement.](#)

[§19.48 Duties of the board.](#)

[§19.55 Public inspection of records.](#)

[§19.56 Honorariums, fees and expenses.](#)

[§19.59 Civil Penalties.](#)

[Subch. II of Ch. 137 Electronic Transactions and records; electronic notarization and acknowledgement.](#)

2. Current Process Overview

Ethics staff continues to utilize a process that is significantly reliant on paper-based forms and reporting, manual data entry, and older technology to manage records. For annual filers, staff generates a paper copy of the report based on the information from the previous year and mails it to those required to file. Staff must also verify who is required to file (e.g., reserve judges). Once the filers return the completed/updated forms to the Commission staff must manually enter or update that information back into the database. Wis. Stat. §19.55 requires that filed reports must be available for public inspection (public records requests). The current process requires that the Commission maintain substantial paper records on site, and undertake a labor-intensive process to retrieve records upon request, provide a copy of the paper record, and notify the SEI filer of the public records request for their filed report. A detailed manual outlining the current business processes is available on the H:\ drive here: [H:\ ETHICS Migrated Data\04 - Financial Interests\SEI Procedures Manual.doc.](#)

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

3. Milestones

- G.A.B. management approves SEI modernization S.O.W.
- System design phase
- Ethics Commission management approves updated S.O.W.
- System prototype developed
- Workflow verified
- System walkthrough
- Integration testing
- User acceptance signoff
- Documentation including training materials
- System approved and release to production

4. Scope

4.1 In-Scope

- Allow agency users to access and manage filer contact information and start and end dates, but prevent access to filer's SEI data.
- Create the capability for filers to complete the SEI electronically and paperless.
- Pre-populate fields based on the most recent filed report, or provide the option to start with a blank form.
- Allow Ethics staff to enter information on behalf of required filers from a paper report if necessary.
- Allow filers to enter honoraria and expenses for the next year's SEI filing, and save that information until the next SEI is filed.
- Allow filers to provide an electronic signature, consistent with Wis. Stat. §137.15.
- Permit some filer's SEIs to remain confidential (SWIB members).
- Facilitate sending SEIs for nominees to the Senate Chief Clerk's Office.
- Provide an index of economic interests (allow the public to search for filers who reported a specific economic interest).
- Allow members of the public to electronically request copies of filed reports.
- Allow electronic payment for access to filed reports (most payments would be under \$10).
- Make reports filed through this new application available to requesters in an electronic format, and give Ethics Commission staff or temporary employees the ability to scan in paper SEIs for previous filings.
- Notify filers whose SEIs have been viewed as soon as possible.
- Automate notifications of filing requirements.
- Allow Ethics staff to track candidate SEIs and generate reports of filing status.
- Facilitate the management of notices and penalties for failure to file reports and late filing of reports while maintaining manual staff control.

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

- Allow Ethics Commission staff to manage who is required to file SEIs.
- Allow members of the State of Wisconsin Investment Board to complete quarterly reports per Wis. Stats. 19.43(5)
- Facilitate sending copies of reports filed by SWIB members to the Legislative Audit Bureau.
- Audit reports to compare data between the Agency Legislative Liaisons reports, lobbying reports, and SEIs (start/end dates, reimbursements from lobbying principals).

4.2 Out-of-Scope

- Scanning into the new application copies of reports filed on paper to make them electronically available (would require additional effort – time and budget if added to the scope of the project). We need to decide whether to include this in order to ask for the money in the budget for temporary staff for scanning, or keep it as a separate project that would be done by staff as time is available or in an additional budget request.
- Changes to the Campaign Finance Information application (CFIS)
- Changes to Eye on Lobbying application
- Changes to Wisconsin State Legislative Liaisons Reporting

5. Deliverables

5.1 SEI Online Reporting Application

5.1.1 Management Approves S.O.W.

- Review proposed system
- Agree on development approach

5.1.2 System Requirements and Design

- Develop user login
- Develop database design
- Develop system design
- Develop use cases/test scenarios
- Requirements document approved

5.1.3 System Prototype

- Develop prototype of system with project team
- Prototype design approval
- Develop plan to transition data from old system to new system

5.1.4 Workflow Verification

- Review and revise existing process workflow
- Design new workflow to accommodate new process requirements

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

- 5.1.5 System Walk-Through
 - Walk-through of the system functionality with management to ensure that it meets the requirements
- 5.1.6 Integration Testing
 - IT personnel test integration of the system
- 5.1.7 User Acceptance Testing (UAT) and Sign-Off
 - Project team conducts testing in UAT
 - Management confirms the successful completion of testing
- 5.1.8 Documentation Including Training Materials
 - Develop outreach plan to filers
 - System training materials developed and approved
 - System design documents updated
- 5.1.9 System Approval and Release
 - Final system approval by management
 - System is released to the production environment

5.2 Deliverables Schedule

Project Deliverable	Target Date	Actual Date	Notes
Management Approves S.O.W.	D – 168 (20w)	9/15/2016	Project begins after the completion of the State Agency Liaisons project
System Requirements/Design	D – 140 (16w)	10/13/2016	
System Prototype	D – 77 (11w)	12/15/2016	
Workflow Verification	D – 49 (7w)	1/12/2017	
System Walk-Through	D – 42 (6w)	1/19/2017	
Integration Testing	D-35 (5w)	1/26/2017	
User Acceptance Testing (UAT) and Sign-Off	D-21 (3w)	2/9/2017	Requires two full weeks of testing
Documentation Including Training Materials	D – 7 (1w)	2/23/2017	Requires two full weeks after the completion of testing
System Approval and Release	D – Day (Deployment)	3/2/2017	Allows one full week to ensure all functionality and materials are moved into production

	Statement of Work (SOW)
	Statements of Economic Interests Modernization

6. Constraints

- SEI annual filing deadlines.
- SEI candidate filing deadlines.
- SWIB filing requirements and LAB reporting.
- Manually managing agency updates of required filers (Ethics staff or delegated).
- Records retention requirements.
- Confidentiality requirements

7. Assumptions

- Ethics staff would run the 2017 annual filing using the former process. Staff would enter the 2017 statements into the new system while conducting extensive user testing.

8. Roles / Required Resource Estimates

Role	Role Description	Staff Assigned	Estimated Hours	Rate	Estimated Cost
Project Manager	Handle all project scope, schedule, change order, and validate completion of deliverables	Adam Harvell	80	\$33	\$2,640
Developer	Provide overall solution architecture design and development of the system; migrate data from current structure to the new system	Kavita Dornala	1,000	\$75	\$75,000
System Testers	Test new system and interface	Ethics staff	160	\$33	\$5,280
Training Team	Create training materials integrated with the system	Ethics staff	80	\$33	\$2,640
Totals			1,320		\$85,560

9. Project Approval

Approved by:		Brian M. Bell, MPA	20160915
Administrator	Signature	Printed Name	Date



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Wisconsin Ethics Commission 2017-2018 Session Proposed Legislative Agenda

Introduction

This memorandum presents to the Commission a collection of potential changes to the statutes the Commission administers. These suggestions have been collected from staff experiences through administering the laws; comments from legislators, committees, lobbyists, principals, and state officials; and from public testimony at agency and legislative hearings. Staff is requesting that the Commission review this list of suggestions, to consider its own suggestions, along with any public comment at this meeting. Then staff asks the Commission to direct staff to communicate to the Legislature the items the Commission takes a formal position on, as well as matters where the Commission does not take a formal position, but ask the legislature to make a policy decision. The Commission could also take into consideration its preference for having matters addressed in statute, versus matters the Commission wishes to address through the administrative rulemaking process.

Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)

1. *§13.62(10)*. The current definition of *lobbying* in the statutes does not include gubernatorial nominations or executive orders. As both of these actions could have significant influence on the administration of State Statutes and Administrative Code, the legislature could add gubernatorial nominations and executive orders to the types of actions that lobbyists attempt to influence, and require principals to report on this activity. In practice, many principals already report on gubernatorial nominations and executive orders as topics, roughly 100 times per session. Information on executive nominations subject to Senate confirmation is already available on the legislature's website and could be incorporated into the lobbying website just as bills are now automatically populated. The legislature could create a definition for executive action that would include nominations subject to confirmation and executive orders, and include executive action in the definition of lobbying.
2. *§13.625*. This provision outlines prohibited practices for lobbyists. The construction of this provision meanders back and forth between prohibited and permissible practices. For clarity,

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Administrator
Brian M. Bell, MPA

the State Legislature could revise this provision in order to clarify prohibited and permissible practices. Please refer to the additional memorandum included in the meeting materials regarding proposed language revision for this section of the statutes.

3. §13.68(6). This provision of the statutes requires that the Commission “mail written notices” to lobbying principals and authorized lobbyists of those principals that fail to file timely reports. The legislature could modernize this provision to facilitate more cost-effective means of notification such as email by replacing “mail written notices” with “provide notice by the most effective means available” or other similar language. Commission staff has also requested an opinion from the Attorney General regarding the constitutionality of restricting a principal’s ability to lobby related to their right to free speech.
4. §13.685(4). This provision requires the Commission to provide a definition for lobbying topics by administrative rule. The Legislature could strike this provision and add the definition provided in [ETH 16.03](#) into the statute.
5. §13.685(7). This provision requires the Commission to provide information to legislative clerks related to lobbying. All required information is publicly available on the Commission’s *Eye on Lobbying* website. This provision was enacted prior to the creation of the lobbying website. Commission staff and the Legislative Chief Clerks agree that this provision is unnecessary and could be removed. The State Legislature could consider eliminating this unnecessary provision.

Code of Ethics (Subchapter III, Chapter 19, Wisconsin Statutes)

6. §§16.753, 19.48(11), and 20.9305(2)(e). These provisions require the Commission to “maintain an internet site on which the information required to be posted by agencies under Wis. Stat. § 16.753(4) can be posted and accessed. The information on the site shall be accessible directly or by linkage from a single page on the internet.” This information has historically been available at <http://sunshine.wi.gov/>. Since the enactment of the Wisconsin Contract Sunshine Act, two other sites maintained by the State of Wisconsin provide all of the required information: VendorNet (<https://vendornet.wi.gov/>) and OpenBook Wisconsin (<http://openbook.wi.gov/>). In a 2011 report, the Legislative Audit Bureau similarly noted that this provision was outdated and recommended that the project be terminated.
7. §19.42(12). The current definition of a security used to determine what financial information filers must disclose on a statement of economic interests (SEIs) excludes only certificates of deposit and deposit accounts such as a checking or savings account. There are other types of securities that would be included in the definition provided in Wis. Stat. §551.102(28) that provide no substantial information regarding a person’s economic interests that may influence their official actions. The State Legislature could simplify the SEI reporting and reduce the burden on filers without reducing transparency regarding the economic interests of public officials by excluding defined benefit retirement plans, annuities, and money market funds from the definition of security in this provision of the statutes. The definition could also exclude mutual funds and exchange-traded funds (ETFs). All of these types of securities

consist of a diverse conglomeration of securities not managed under the direct or indirect control or influence of the individual.

8. §19.42(14). This provision of the statutes defines “state public official” for determining who is subject to the state code of ethics. The current definition applies to elected officials only upon assuming office, and would not apply during the period between winning an election and taking the oath of office. For the purposes of clarity and simplification, the State Legislature could expand the definition of state public official to include officers-elect; this definition should match the definition of elective state official in Wis. Stat. §13.62(6). The Legislature could create a definition for officers-elect as *having been issued a certificate of election as stated in §7.70(5)*. It is significant to note that this suggested change would not require any additional SEI filing. The major effect of this potential change would subject officers-elect to the same conflict of interest and gift provisions applicable to serving elected officials.
9. §19.44(1)(g). This section of the statutes outlines the required contents of the statement of economic interests (SEI form). The State Legislature may wish to consider changing the dollar amount thresholds for identifying each individual from whom the filer receives gifts in aggregate of \$50 or more to \$100. This might exclude things like gifts related to birthdays, weddings, baby showers, etc.
10. §§19.45(6) and 19.59(1)(c). These statutory provisions prohibit public officials from taking certain actions that would benefit them or their immediate family members. The State Legislature could consider expanding this prohibition to forbid state and local officials from acting in quasi-judicial matters affecting the employer of the official or the employer of any of their immediate family members. This addresses situations not currently covered by statute’s conflict of interest provisions that potentially present a conflict.
11. §19.45(7)(a)4. This statutory provision allows a state public official, including a lawyer-legislator, to represent a client for compensation before the Department of Revenue on tax matters. The State Legislature may wish to consider repealing this provision to prevent the potential perception that a state public official is using their position to exert undue influence.
12. §19.45(12). A U.S. District Court found this provision unconstitutional. The State Legislature should repeal this provision. *Barnett v. State Ethics Board*, 817 F. Supp. 67 (1993).
13. §§19.49(2)(c)(2) and (2)(d). Section (2)(c)(2) prohibits an employee of the Commission from being a candidate for state or partisan local office. Section (2)(d) prohibits an employee of the Commission from making a contribution to a candidate for state or local office. Together these two provisions are inconsistent. If employees are allowed to be candidates for non-partisan local office, then the prohibition from contributing to their own campaign like other candidates are allowed is likely unconstitutional. The current statutes would not prohibit employees of the Commission from making contribution to non-partisan state office, which are required to register and file reports with the Commission. In order to prevent employees from partisan activity and to prevent potential conflicts of interest, the Legislature should

amend these provisions to limit the candidate and contribution provisions to any state office and partisan local offices.

14. §19.55(3)(e). The State Legislature could create a new provision, which requires the Commission to make public the record of a final disposition of a complaint. Depending on what conclusion the Commission arrives at, current statutes limit what information can be released to the public.

Campaign Finance (Chapter 11, Wisconsin Statutes)

15. §11.0101(7). Listing the committee types that a conduit can give to in the definition makes it unclear whether conduits can give to federal candidates, out-of-state candidates, independent disbursement committees, referenda committees, or recall committees. Since the individual can give to all of those entities on their own, it seems logical that they should be able to do so through the conduit. The Legislature should consider revising this provision to remove the list of committees and instead state *any candidate or committee at the direction of the contributor*.
16. §11.0102(2)(a). The previous statute said only committees required to register *with the board* had to pay filing fees. This statute implicates local recall committees and referendum committees that register with local clerks, not the Ethics Commission. In order to limit the filing fees provision, the Legislature should revise this provision to only committees required to register with the commission under this chapter.
17. §11.0104. The yearly expiration and renewal of exempt status is reasonable for committees that file at the state level. However, for local filing officers, it's time consuming and doesn't accomplish very much. Virtually all local committees are on exempt status, and tend to remain that way as long as that person holds office. The Legislature should add qualifying language that would limit the annual requirement to registrants that file with the Commission.
18. §11.0104(1). This statute exempts committees from filing campaign finance reports if they have under \$2,000 in activity in a calendar year. It talks only about *amending* a registration statement - it does not, however, appear to allow a committee to claim the exemption when it files its initial registration. The Legislature should revise this provision by removing the word *amended* regarding claiming exemption. The Legislature could also consider changing the \$2,000 threshold to \$2,500 in order to be consistent with the threshold for registering most committees in Ch. 11.
19. §11.0104(2). This statute covers committees on exempt status that should not be required to file any reports. The use of the words *continuing reports* leaves the requirements for pre-primary, pre-election, and post-election reports ambiguous. Staff recommends changing *continuing reports* to *campaign finance reports*.
20. §11.0104(4). This provision exempts committees who are exempt from reporting requirements from filing termination reports. The Legislature should consider requiring

termination reports regardless of exempt status to ensure disclosure of how residual funds were disposed.

21. §11.0201(4). Contribution limits cover the entire election period – four, six, or ten years for some candidates. In order to audit contribution limits properly, the entire election period must be covered. Committees should keep records for the entire campaign period plus an additional three years after the election occurs in order to facilitate potential audits. The Legislature could address this by modifying this provision to state that *the treasurer shall maintain records for the entire campaign period in an organized and legible manner for not less than three years after the date of the election in which the candidate committee participates.*
22. §§11.0204(4)(d) and (5)(c), 11.0204(6)(b), 11.0304(4)(d) and (5)(c), 11.0404(2)(d) and (3)(c), 11.0504(4)(d) and (5)(c), 11.0604(4)(d) and (5)(c), 11.0704(4)(b) and (5)(b), 11.0804(4)(d) and (5)(c), and 11.0904(4)(d) and (5)(c). Several provisions regarding which committees are required to file a September continuing report in even years are not clear. Statutes require all partisan candidates and office holders to file the September continuing report, regardless of whether they are on the ballot in that election (e.g., state senators and state constitutional officers). The other provisions appear to limit the requirement to committees that make or accept contributions, make disbursements, or incur obligations to support or oppose one or more candidates (or referendum, in the case of referendum committees) at a partisan primary or general election. The Legislature should clarify the reporting sections of the statutes to either require all committees to file September continuing reports, or to specify a time period that would qualify a committee as having supported or opposed one or more candidates at a partisan primary or general elections (e.g., 60 days prior, during the campaign period, during the calendar year, etc.).
23. §§11.0204(1)(a) 7, 11.0304(1)(a) 7, 11.0404(1)(a) 7, 11.0504(1)(a) 7, 11.0604(1)(a) 7, 11.0804(1)(a) 6, 11.0904(1)(a) 7. These provisions exempt loans made to a committee of \$20 or less from itemized reporting. This conflicts with other contributions, which must be itemized, unless anonymous. The Legislature should remove the language *in an aggregate amount or value in excess of \$20* to require itemization of all contributions.
24. §§11.0204(7), 11.0304(7), 11.0404(7). These provisions establish a start date to begin late reporting, but no date to end them. The current statutes also require 72-hour late reporting of independent expenditures, and that reporting period ends on the day of the primary or election. The Legislature should add to these provisions *that late reporting requirements end on the day of the primary or the election.*
25. §11.0505 (1) (a) and §11.0605 (1) (a). This provision does not define starting and ending points for determining the aggregate spending on express advocacy and could lead to confusion on the requirement to file reports. The Legislature should require committees to begin counting express advocacy expenses 60 days prior to the primary and continue through the date of the election. Committees would aggregate totals separately for the spring and fall election periods.

26. §§11.0601(3)(b) and 11.1203(2)(a) and (b). The registration statute for independent expenditure committees directly prohibits any contributions to candidates, including, presumably, coordinated in-kind contributions. However, the coordination statute mentions independent expenditure committees as entities that can coordinate with candidates. This is a statutory conflict. The Legislature should consider changing §11.1203(2) (a) and (b) to remove the references to independent expenditure committees.
27. §11.1103. The Legislature should revise the citations in this provision to reference §11.1101 (1) to (4), instead of just (1) to (3). This appears to be a drafting oversight that did not account for (4) which addresses *other persons*.
28. §11.1103. Previously, campaign periods ended on December 31st and June 30th, corresponding with the January and June campaign finance reports. Under the current version of statutes, the campaign period ends on the day before the term of office begins. For the November Election the campaign period ends sometime during the first week of January; the campaign period for local officials sometime in April or May; and the campaign period for judges ends July 31st. Since reports covering early January are not due until July, and reports covering July are not due until January, this delays auditing by six months. It's more difficult for candidates to keep a tally of contributions, since one report covers two campaign periods. It's also confusing for local candidates and filing officers. The Legislature should modify this provision to state that campaign periods end on the same date as the last day covered under the first continuing report due after the election. This would reinstate the December 31st and June 30th dates.
29. §11.1103(2). This provision does not address limits that would apply to an active committee of a losing candidate from the day the term of office of the position sought. This would impact committees who cannot or do not terminate their committee, and particularly those with outstanding debts. The legislature could revise this provision to state that the limits of the office sought apply until the committee terminates, or a new declaration of candidacy is filed, at which time the limits of the office sought would apply.
30. §11.1208(2). The term "strictly personal use" is not defined by statute. The Federal Elections Commission does provide a definition of a "personal use," a similar term. The Legislature should codify a definition of "strictly personal use" in statute.
31. §11.1302. This provision requires any committee that makes a donation to a charity or the common school fund to report that activity within five days to their filing officer. With the rewrite of chapter 11, §11.1208(2)(b)(3) specifically allows donations to charity or the common school fund. The original provision was added into statutes at the same time as another provision allowing committees to make donations to charity or the common school fund. Staff cannot identify a public interest that would require the disclosure within five days. In practice, some committees choose to donate contributions received from persons with negative or controversial reputations. CFIS currently allows them to disclose that voluntarily or with their next report. The legislature could remove this provision from statutes.

32. *§11.1303(2)(a)*. This provision limits the requirement for a disclaimer (e.g., paid for by...) to express advocacy. Since express advocacy as defined in §11.0101(11) applies only to communications about candidates, referenda committees would not have to provide a disclaimer under current law. The Legislature could consider whether or not to extend this requirement to referenda committees.
33. *§11.1304(6)(b)*. This provision allows committees with activity of less than \$1,000 over a campaign period (at least two years) to file paper reports. However, §11.0104 allows any committee with less than \$2,000 of activity in a single year to claim exempt status and file no reports at all. Deleting this subsection would eliminate all paper reports, without reducing the number of committees that are legally required to file reports. The Legislature should remove this provision or change it to require that all committees that file with the commission to file electronic reports, or claim the exemption from filing any reports.
34. *§§11.1400(5) and 11.1401(2)*. These provisions imply that the Ethics Commission must act and make a probable cause determination prior to a district attorney acting on a complaint under the Commission's jurisdiction. An opinion of the Attorney General, [OAG 10-08](#), and §978.05 contradict this and state that the Commission and district attorneys have coequal jurisdiction. The Legislature should revise this provision to reflect the coequal jurisdiction of the Commission and district attorneys.



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Proposed Revision of Wisconsin Statute §13.625

This memorandum provides a proposed language revision to Wisconsin Statute §13.625 that would address several issues resulting from the meandering structure of the current language. Staff drafted this language by reorganizing the subsections into four more clearly distinct subsections.

Proposed Language Revision to Wisconsin Statute §13.625

- 1) No candidate for an elective state office, elective state official, agency official, legislative employee of the state, or personal campaign committee of a candidate for state elective office may solicit or accept anything of pecuniary value from a lobbyist or principal, except as permitted under subs. (3) and (4).
- 2) No lobbyist or principal may:
 - a) Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition thereto.
 - b) Contract to receive or receive compensation dependent in any manner upon the success or failure of any legislative or administrative action.
 - c) Furnish to any agency official or legislative employee of the state or to any elective state official or candidate for an elective state office, or to the official's, employee's or candidate's personal campaign committee: lodging, transportation, food, meals, beverages, entertainment, money or anything of pecuniary value, except as permitted under subs. (3) and (4).
- 3) Exemptions to prohibited practices.
 - a) This section does not apply to the furnishing or receipt of a reimbursement or payment for actual and reasonable expenses authorized under s. 19.56 for the activities listed in that section.

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- b) This section does not apply to the solicitation, acceptance or furnishing of anything of pecuniary value by the department of tourism, or to a principal furnishing anything of pecuniary value to the department of tourism, under s. 19.56 (3) (em) or (f) for the activity specified in s. 19.56 (3) (em).
- c) This section does not apply to food, meals, beverages or entertainment provided by the governor when acting in an official capacity.
- d) This section does not apply to the solicitation, acceptance, or furnishing of anything of pecuniary value by the Wisconsin Economic Development Corporation, or to a principal furnishing anything of pecuniary value to the Wisconsin Economic Development Corporation, under s. 19.56 (3) (e) or (f) for the activities specified in s.19.56 (3) (e).
- e) This section does not apply to the furnishing of educational or informational materials by a lobbyist or principal to an elected state official, legislative employee, or agency official, or acceptance thereof by an elected state official, legislative employee, or agency official.
- f) Subsection (2) does not apply to the solicitation of anything of pecuniary value for the benefit of the endangered resources program, as defined in s. 71.10 (5) (a) 2., by an agency official who administers the program.
- g) Subsection (2) does not apply to the solicitation of anything of pecuniary value to pay the costs of remedying environmental contamination, as defined in s. 292.51 (1), by an agency official of the department of natural resources.
- h) Subsection (1) and (2) (c) do not apply to the acceptance or furnishing of anything of pecuniary value that is made available to the general public.
- i) Subsection (1) and (2) (c) do not apply to the solicitation, acceptance or furnishing of anything of pecuniary value by an individual who is a lobbyist or principal to a relative of the individual or an individual who resides in the same household as the individual, nor do subsection (1) and (2) (c) apply to the receipt of anything of pecuniary value by that relative or individual residing in the same household as the individual.
- j) Subsection (1) and (2) (c) do not apply to the compensation or employee benefits provided by a principal to an employee who is a candidate for an elective state office but who does not hold such an office if the employee is neither an agency official nor legislative employee, and if the principal or employee can demonstrate by clear and convincing evidence that the principal's employment of the employee and the compensation and employee benefits paid to the employee are unrelated to the candidacy. If the employee was employed by the principal prior to the first day of the 12th month commencing before the deadline for the filing of nomination papers for the office sought and the employment continues uninterrupted, without augmentation of

compensation or employee benefits, except as provided by preexisting employment agreement, it is a rebuttable presumption that the employment and compensation and benefits paid are unrelated to the candidacy.

- k) Subsection (1) and (2) (c) do not apply if provided by a principal that is a local unit of government to a legislative employee or agency official who is an elected official or an appointed official of that unit of government, or to the solicitation or acceptance thereof by such a legislative employee or agency official, in an amount not exceeding the amount furnished to other similarly situated officials of the same local governmental unit, including the furnishing of a per diem or reimbursement for actual and reasonable expenses.
 - l) Subsection (1) and (2) (c) do not apply to the furnishing of anything of pecuniary value by a principal to an officer or employee of the University of Wisconsin System, or the solicitation or acceptance thereof by such an officer or employee, for service as a member of the governing body of the principal, in an amount not exceeding the amount furnished to other members of the governing body for the same service.
 - m) Subsection (1) and (2) (c) do not apply to the furnishing of anything of pecuniary value by a lobbyist or principal to an employee of that lobbyist or principal who is a legislative employee or an agency official solely because of membership on a state commission, board, council, committee or similar body if the thing of pecuniary value is not in excess of that customarily provided by the employer to similarly situated employees and if the legislative employee or agency official receives no compensation for his or her services other than a per diem or reimbursement for actual and necessary expenses incurred in the performance of his or her duties, nor to the receipt of anything of pecuniary value by that legislative employee or agency official under those circumstances.
 - n) Subsection (1) and (2) (c) do not apply to a lobbyist furnishing uncompensated personal services to campaign committees of candidates for state office.¹
- 4) Furnishing campaign contributions.
- a) Lobbyists or principals may furnish, or be solicited to furnish, a committee contribution to a candidate for state elective office at any time.
 - b) Lobbyists may furnish a personal contribution to their own personal campaign for elective office at any time.

¹ From current statutes: The clause in sub. (1) (b) 3. stating "any other thing of pecuniary value" is unconstitutional insofar as it prohibits uncompensated personal services by lobbyists on behalf of candidates for state office. *Barker v. State Ethics Board*, 841 F. Supp. 255 (1993).

- c) Lobbyists may furnish, or be solicited to furnish, a personal contribution to a candidate for legislative office or an elected partisan state official running for any office if:
 - 1. the legislature has concluded its final floor period,
 - 2. is not in special or extraordinary session,
 - 3. and only between the first day authorized by law for the circulation of nomination papers as a candidate at a general election or special election and the day of the general election or special election.



Wisconsin Ethics Commission

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(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: October 15, 2016

TO: The Honorable Scott Walker, Governor of Wisconsin

CC: Chief Clerk, Wisconsin State Senate
Chief Clerk, Wisconsin State Assembly

FROM: Wisconsin Ethics Commission

SUBJECT: 2016 Annual Report - DRAFT

Introduction

The Wisconsin Ethics Commission is pleased to submit its annual report to the Governor and the chief clerk of each house of the legislature, in accordance with WIS. STAT. §§ [15.04\(1\)\(d\)](#), [19.47\(5\)](#), and [11.1304\(14\)](#). This report provides information on the performance and operations of the Commission and projects, goals, and objectives as developed for the agency budget. This report also includes information required specifically of the Ethics Commission, as well as information provided at the Commission's discretion. Finally, the report also includes information on matters within the Commission's jurisdiction and recommendations for legislation.

Information All Agencies Are Required to Report under [WIS. STAT. §15.04\(1\)\(d\)](#)

Mission

The mission of the Ethics Commission is to enhance representative democracy by furthering Wisconsin's tradition of clean and open government through the administration of Wisconsin's campaign finance, lobbying, and ethics laws, and through the dissemination of information to the public.

Agency Description

The commission is comprised of six members, who serve for 5-year terms. One member is appointed by the senate majority leader; one appointed by the senate minority leader; one appointed by the speaker of the assembly; one appointed by the assembly minority leader; and two are individuals who formerly served as judges for a court of record in this state, who were elected to the positions in which they served, and who are nominated by the governor with the advice and consent of a majority of the members of the senate confirmed. A detailed description

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

of the appointment of commissioners is provided in [WIS. STAT. § 15.62](#). The transition plan from the Government Accountability Board to the Ethics commission put forth by the Department of Administration established a rotational term schedule of the commissioners. The commission elects a chair and vice-chair from its members by a majority vote.

The administrator serves as the agency head, and is responsible for the daily operations of the commission. The commission staff is non-partisan. The commission is responsible for the administration and enforcement of campaign finance, ethics, and lobbying laws. The agency has a staff of 4.55 GPR and 3.45 PR full-time employees.

The commission administers and enforces Wisconsin law pertaining to campaign finance, lobbying, and the Code of Ethics (Wisconsin Chapters 11, campaign finance; Chapter 13 Subchapter III, lobbying; and, Chapter 19 Subchapter III, the code of ethics). The duties of the Ethics Commission are codified in WIS. STAT. §§ [11.1304](#), [13.685](#), and [19.48](#).

Commission activities are arranged by five general functions: general administration; assistance to state public officials, candidates, lobbyists, principals, political committees and officeholders; assistance to local governments; education and training; and enforcement. Within these functional areas, the commission develops policy, issues formal opinions, promulgates administrative rules, prescribes procedures and forms, audits disclosure reports, carries out investigations, conducts hearings and reviews appeals, brings civil actions to assess forfeitures, and related activities.

The commission has four general program areas which are described below:

Campaign Finance

Wisconsin campaign finance law requires candidates for state public office, political action committees, referenda committees, and independent expenditure committees to register with the commission, disclose campaign receipts and disbursements, and abide by certain contribution limits and prohibitions. The commission is responsible for auditing campaign finance reports and enforcing registration and reporting requirements along with limits on the source and amount of campaign funding. Information is available to the public on commission website: <http://ethics.wi.gov/campaign-finance>, and through <http://cfis.wi.gov>.

Lobbying

Wisconsin lobbying law requires registration of businesses, organizations, and individuals that attempt to influence government decisions. Registrants must identify who lobbies on their behalf, issues in which they have an interest, and provide other information, all available to the public on the commission website: <http://ethics.wi.gov/content/lobbying>, and <http://lobbying.wi.gov>.

Ethics

The commission fosters ethical conduct of public officials by advising them about ethics laws and providing information about officials' financial interests to identify any potential conflicts of

interest. State public officials file annual Statements of Economic Interests with the commission, and the trustees and staff of the State of Wisconsin Investment Board file quarterly reports. Information regarding the commission's ethics-related activities is available to the public on the commission website: <http://ethics.wi.gov/content/code-ethics>.

State Purchasing

The Contract Sunshine program is mandated by the Legislature to allow the public to view the process state agencies use to procure goods and services from vendors. Additional information about the program is available on the website: <http://ethics.wi.gov/content/contract-sunshine>.

Programs, Goals, Objectives and Activities

Program 1: Ethics, Campaign Finance and Lobbying Regulation

Goal: Further Wisconsin's tradition of clean and open government.

Objective/Activity: Ensure the accessibility of public information regarding campaign finance, lobbying, and ethics reports filed with the commission, as well as actions taken by the Ethics Commission, by leveraging available technology, creating instructional materials, and providing assistance to candidates, committees, treasurers, lobbyists, principals, state and local officials, and the public.

Goal: Facilitate compliance with the requirements of Wisconsin's campaign finance laws, and ensure reported information is readily accessible to the public.

Objective/Activity: Maintain the Wisconsin Campaign Finance Information System (CFIS); provide training materials and assistance to committees, candidates and treasurers; promptly make reported information publicly available; and conduct timely audits of the system in order to ensure compliance with Wisconsin's campaign finance laws.

Goal: Identify interests influencing legislative activities.

Objective/Activity: Facilitate the registration and reporting requirements codified in chapter 13, subchapter III of Wisconsin Statutes regarding lobbying principals, lobbyists, and state agency legislative liaisons; provide training materials and assistance to lobbyists, principals, and state agency legislative liaisons; allow the public to readily access information regarding who is lobbying, the organizations employing lobbyists, the issues on which they are lobbying, as well their activities and expenditures.

Goal: Provide information to the public on the financial interests of candidates and state officials.

Objective/Activity: Facilitate and enforce the financial disclosure reporting requirements in chapter 19, subchapter III of Wisconsin statutes, make the information available for public inspection, and notify candidates and state officials of requests for their information.

Goal: Enforce statutory requirements. This goal fosters the continued high standards of ethical conduct by state government officials, lobbyists, and lobbying organizations through independent investigation and reassures the public that the State of Wisconsin is equipped to redress conduct that falls short of statutorily established standards.

Objective/Activity: Investigate possible violations of the ethics code, lobbying law, and campaign finance law and seek appropriate remedies or exoneration as circumstances merit.

Performance Measures, Goals, and Performance

The Wisconsin Ethics Commission was required to report on goals established by the GAB for fiscal years 2015 and 2016 as a part of its budget request. The table below includes the new performance measures established by the Wisconsin Ethics Commission that will be used beginning with fiscal year 2017 and moving forward. The Commission’s next annual report will include actual measured performance relative to these goals.

Performance Measure	Goal 2017	Goal 2018	Goal 2019
Percentage of fees received by electronic payment methods	50%	65%	80%
Percentage of campaign finance registrations completed electronically	50%	55%	60%
Percentage of campaign finance reports filed electronically	50%	55%	60%
Percentage of campaign finance reports filed on or before the required date	99%	99%	99%
Percentage of lobbyist time reports completed on or before the required date	99%	99%	99%
Percentage of registered principals completing their Statements of Lobbying Activities and Expenditures (SLAEs) on or before the required date	99%	99%	99%
Percentage of required SEIs filed on or before the required date	99%	99%	99%

Statutory Duties of the Ethics Commission and the Agency’s Compliance

The table in appendix A outlines the statutory duties of the Wisconsin Ethics Commission, as well as provides a summary of the agency’s compliance with those requirements or any unresolved issues related to those duties.

Information the Ethics Commission is required to Report under [WIS. STAT. 19.47\(5\)](#)

Statutory Duties of the Administrator of the Commission

1. *19.46(2)(a)4. At each regular meeting of the commission, the commission administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued.*

The administrator includes an item for requests for advice on every closed session meeting agenda to present the information required under this provision.

2. *19.47(2). The administrator shall appoint such other personnel as he or she requires to carry out the duties of the commission and may designate an employee of the commission to serve as legal counsel of the commission.*

The administrator has designated the staff attorney to serve as legal counsel of the commission. The administrator also makes all other staffing decisions for the commission.

3. *19.47(2). The administrator shall perform such duties as the commission assigns to him or her in the administration of ch. 11, subch. III of ch. 13, and this subchapter.*

The commission has approved the administrator's position description and can decide to review the administrator's performance at any time.

4. *19.47(2). Neither the commission nor any member or employee of the commission, including the commission administrator, may file a sworn complaint for purposes of this subsection.*

The administrator is responsible for reviewing all complaints received by the commission and does not file complaints, nor accept them from commissioners or staff.

5. *19.49(2)(b)4. If the commission authorizes the administrator to investigate any matter without retaining a special investigator, the administrator shall make periodic reports to the commission, as directed by the commission, but in no case may the reporting interval exceed 30 days.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

6. *19.49(2)(b)4. During the pendency of any investigation, the commission shall meet for the purpose of reviewing the progress of the investigation at least once every 90 days. The special investigator or the administrator shall report in person to the commission at that meeting concerning the progress of the investigation.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

7. *19.49(2)(b)4. Unless an investigation is terminated by the commission, at the conclusion of each investigation, the administrator shall present to the commission one of the following:*
 - a. *A recommendation to make a finding that probable cause exists to believe that one or more violations under subd. 1. have occurred or are occurring, together with a recommended course of action.*
 - b. *A recommendation for further investigation of the matter together with facts supporting that course of action.*
 - c. *A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation under subd. 1. has occurred or is occurring.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

8. *19.49(2)(b)5.a. If the commission finds that there is probable cause to believe that a violation under subd. 1. has occurred or is occurring, the commission may authorize the administrator to file a civil complaint against the alleged violator.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

9. *19.49(2)(b)5.a. In such case, the administrator may request the assistance of special counsel to prosecute any action brought by the commission. If the administrator requests the assistance of special counsel with respect to any matter, the administrator shall submit to the commission the names of 3 qualified individuals to serve as special counsel. The commission may retain one of the individuals to act as special counsel.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

10. *19.49(2)(b)10. The commission may authorize the administrator to compromise and settle such alleged offenses in the name of the commission if the alleged offenses by an offender, in the aggregate, do not involve payment of more than \$2,500.*

The commission is in the process of promulgating the necessary administrative rule, but has not authorized the administrator to settle any alleged offenses.

11. *19.49(2)(b)11. If a special investigator or the administrator, in the course of an investigation authorized by the commission, discovers evidence that a violation under subd. 1. that was not within the scope of the authorized investigation has occurred or is occurring, the special investigator or the administrator may present that evidence to the commission. If the commission finds that there is a reasonable suspicion that a violation under subd. 1. that is not within the scope of the authorized investigation has occurred or is occurring, the commission may authorize the special investigator or the administrator to investigate the alleged violation or may elect to authorize a separate investigation of the alleged violation as provided in subd. 3.*

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

12. 19.49(2)(b)12. If a special investigator or the administrator, in the course of an investigation authorized by the commission, discovers evidence of a potential violation of a law that is not administered by the commission arising from or in relation to the official functions of the subject of the investigation or any matter that involves campaign finance, ethics, or lobbying regulation, the special investigator or the administrator may present that evidence to the commission. The commission may thereupon refer the matter to the appropriate district attorney specified in subd. 9. or may refer the matter to the attorney general. The attorney general may then commence a civil or criminal prosecution relating to the matter.

The commission and the administrator are aware of this requirement and would comply when this would be applicable.

Duties of All Individuals Employed by the Commission

Staff Counsel

Under the general supervision of the Administrator of the Wisconsin Ethics Commission, this position is responsible for providing legal advice on the application of campaign finance, election administration, ethics, and lobbying laws to the Commission and its staff along with authoritative and timely advice and information to political registrants, state public officials, county and local corporate counsels, district attorneys, and the public. This position is responsible for preparing legal opinions, enforcement orders, and administrative rules to implement agency policy and authority. This person is responsible for agency investigation and enforcement of campaign finance, ethics, and lobbying law violations. The individual in this position must be able to respond to questions involving complex application of statutes and administrative code in order to promote compliance with applicable laws. The individual in this position conducts policy and legal analysis related to the administration of Wisconsin's campaign finance, election administration, lobbying, and ethics laws, and reviews applicable court decisions for potential impact on the Commission's responsibilities.

This position receives and responds to requests for information and requires the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, this position works with and is privy to statutorily confidential information. Therefore, this position requires an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with [WIS. STAT. § 19.47\(10\)](#). The individual in this position must also possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

Major duties and responsibilities of the Staff Counsel and the approximate allocation of effort include the following:

- A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules, and regulations under the agency's jurisdiction to political registrants, state public officials, county and local corporate counsels, district attorneys, and the public. (40%)
- B. Investigate alleged violations of campaign finance, ethics, and lobby law. (25%)
- C. Represent the agency in election related matters, civil forfeiture actions, and provide litigation support on behalf of the agency. (15%)
- D. Provide general legal services for the agency. (5%)
- E. Implement administrative rule making authority and responsibilities of agency. (5%)
- F. Provide legislative support services for the agency. (5%)
- G. Perform all other duties as assigned by the Administrator (5%)

Office Management Specialist

Under the general supervision of the Administrator of the Wisconsin Ethics Commission, this position provides a wide variety of support for Commission operations. This position manages the day-to-day administrative support operations of the Commission's campaign finance, lobbying, and ethics reporting programs; assists the Administrator with budget development and management; provides forms and records management; serves as the Commission's purchasing and printing agent; conducts liaison activities for the Commission on personnel management matters; provides fiscal accounting support; and prepares special reports and analyses for the Administrator.

The position reports the success of the program's policies and procedures to the Administrator and the Commissioners on a regular basis, and directs staff to develop and implement more effective, efficient ways to achieve the program's goals. This position receives and responds to requests for information and requires the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, this position works with and is privy to statutorily confidential information. Therefore, this position requires an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with [WIS. STAT. § 19.47\(10\)](#).

This position is currently vacant. Major duties and responsibilities of the Office Management Specialist and the approximate allocation of effort include the following:

- A. Operational and Administrative Management of Commission Programs (35%)
- B. Budget, Financial, and Purchasing Activities (25%)
- C. Records Management (20%)
- D. Personnel Management Support (10%)
- E. Perform all other duties as assigned by the Administrator (10%)

Elections/Ethics Specialists

Five positions under the Ethics Commission are classified as either an Elections Specialist or Ethics Specialist. One of these positions is currently vacant. Elections Specialists' responsibilities are mostly related to campaign finance. Ethics Specialists' responsibilities are mostly related to either the lobbying law or the code of ethics. Both Elections Specialists and Ethics Specialist share a similar position description, though the allocation of effort varies with each position, even within each classification.

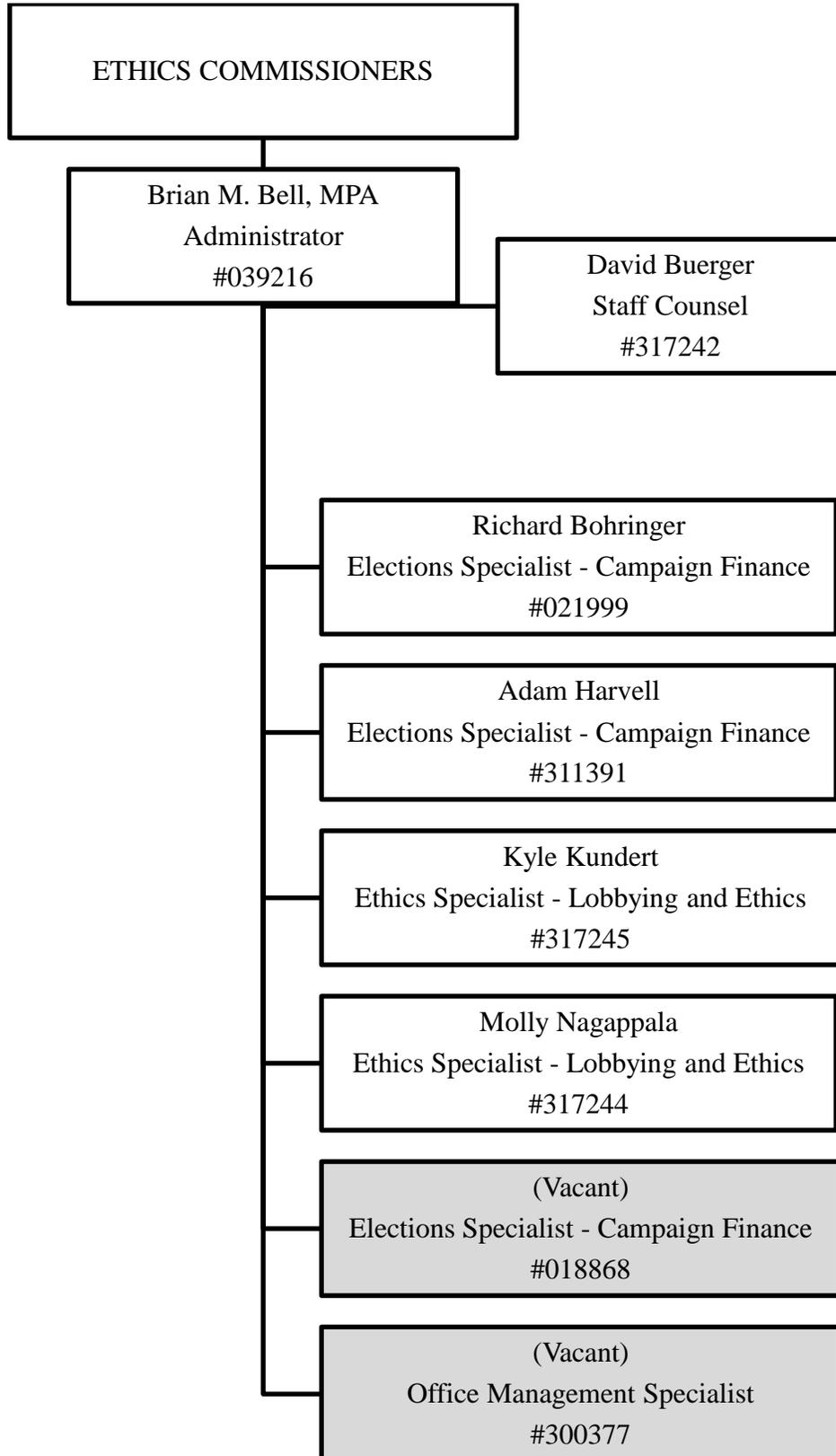
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensuring compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws. The individuals in these positions must be able to respond to questions involving complex application of statutes and administrative code, and assist individuals and organizations to comply with registration/licensing and reporting requirements. The individuals in these positions conduct policy and legal analysis related to the administration of Wisconsin's campaign finance, lobbying and ethics laws, and reviews applicable court decisions for potential impact on the Commission's responsibilities. These positions report to the Administrator and the Commissioners on a regular basis the success of programs, policies, and procedures, and develop and implement more effective, efficient ways to achieve program goals.

These positions receive and respond to requests for information and require the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, these positions work with and are privy to statutorily confidential information. Therefore, these positions require an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with [WIS. STAT. §19.47\(10\)](#).

Major duties and responsibilities of Elections/Ethics Specialists include the following:

- A. Campaign Finance
- B. Lobbying
- C. State of Wisconsin Code of Ethics
- D. Policy and Legal Analysis
- E. Perform all other duties as assigned by the Administrator

Organizational Chart



Summary of Determinations and Advisory Opinions Issued Under [WIS. STAT. § 19.46\(2\)](#)

The Ethics Commission has not issued any formal or informal advisory opinions, nor has it authorized the Administrator or his designee to issue informal written advisory opinions or transmit an informal advisory opinion electronically on its behalf since beginning operations on July 1, 2016.

Summary of Investigations Conducted

The Ethics Commission has not authorized any investigation since beginning operations on July 1, 2016. The table below is provided as an example of how the Commission may report this information in the future, as applicable.

Case #	Description of the Nature of the Investigation	Campaign Finance?	Ethics?	Lobbying?
N/A	N/A			

Recommendations for Legislation

This section will include information approved by the Commission under a separate agenda item at its October 10, 2016 meeting

Statutory Duties of the Ethics Commission and the Agency's Compliance

Statute	Language	Summary
11.0102(2)(a)	Except as provided in pars. (c) and (d), each committee that is required to register under this chapter shall annually pay a filing fee of \$100 to the Commission. The Commission may accept payment under this subsection by credit card, debit card, or other electronic payment mechanism, and may charge a surcharge to that committee to recover the actual costs associated with the acceptance of that electronic payment.	The Commission collects filing fees from all committees required to register with the Commission except candidate committees, and committees that do not expend more than \$2,500 annually.
11.0103(3)(d)	The Commission shall prescribe a simplified, short form for compliance with this section by a committee treasurer who has not engaged in any financial transaction since the last date included on the treasurer's preceding report.	http://www.gab.wi.gov/forms/campaign-finance
11.1304(1)	Prescribe forms for making the reports, statements, and notices required by this chapter. The Commission shall make the forms available free of charge on the Commission's Internet site and shall distribute or arrange for the distribution of all forms for use by other filing officers.	http://www.gab.wi.gov/forms/campaign-finance
11.1304(2)	Upon request, transmit a form described under sub. (1), free of charge, by facsimile or by 1st class mail.	All forms are available online.
11.1304(3)(a)	Prepare and publish for the use of persons required to file reports and statements under this chapter a manual setting forth simply and concisely recommended uniform methods of bookkeeping and reporting.	http://www.gab.wi.gov/campaign-finance/training
11.1304(3)(b)	Prepare, publish, and revise as necessary a manual simply and concisely describing the filing and registration requirements established in this chapter in detail, as well as other major provisions of this chapter and ch. 12.	http://www.gab.wi.gov/campaign-finance/training
11.1304(4)	Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.	http://cfis.wi.gov
11.1304(5)	Assign an identification number to each committee for whom the Commission acts as a filing officer under s. 11.0102 (1) and to each conduit.	CFIS assigns committee ID numbers automatically.

Statute	Language	Summary
11.1304(6)(a)	Except as provided in par. (b), require each committee for whom the Commission serves as filing officer under s. 11.0102 (1) to file each campaign finance report that is required to be filed under this chapter in an electronic format. The Commission shall permit an authorized individual to provide at the time of filing an electronic signature, as defined ins. 137.11 (8), that is subject to a security procedure, as defined in s. 137.11 (13). A committee that files a report under this subsection in an electronic format may file with the Commission that portion of the report signed by an authorized individual rather than submit the electronic signature of that individual. The Commission shall provide complete instructions to any committee that files a report under this subsection.	The Commission audits committees to determine if they meet the threshold to file electronically and requires them to do so. To sign electronically a person provides their name, ID number, password, and PIN. Committees still have the option of providing a written signature.
11.1304(6)(b)	Permit a committee that accepts contributions in a total amount or value of \$1,000 or less during a campaign period to opt out of the requirement to file a campaign finance report in an electronic format as specified in par. (a). In this paragraph, the campaign period of a candidate committee begins and ends as provided under s. 11.1103, and the campaign period of any other committee begins on January 1 of each odd-numbered year and ends on December 31 of the following year.	The Commission audits committees during each campaign period to determine if they meet the eligibility to be exempt from electronic filing of reports.
11.1304(7)	Compile and maintain on an electronic system a current list of all reports and statements received by or required of and pertaining to each committee registered under this chapter.	http://cfis.wi.gov
11.1304(8)	Maintain a duplicate record of any statement submitted by a political action committee under s. 11.0505 or by an independent expenditure committee under s. 11.0605 or by a person under subch. X together with the record of each candidate to whom it relates.	Information filed in CFIS and a duplicate copy is maintained electronically. Paper records filed are store in accordance with current records disposition authorizations.
11.1304(9)	Determine whether each report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter.	Staff conducts audits of all reports filed for compliance with Wisconsin Statutes.
11.1304(10)	Immediately send to any committee or conduit which is delinquent in filing, or which has filed otherwise than in the proper form, a notice that the committee or conduit has failed to comply with this chapter. Whenever a candidate committee has appointed an individual other than the candidate as campaign treasurer, the Commission shall send the notice to both the candidate and the treasurer of the candidate committee.	Notices are sent electronically through CFIS manually by staff, as required.

Statute	Language	Summary
11.1304(11)	Receive and maintain in an orderly manner all reports and statements required to be filed with the state under the federal election campaign act. The Commission shall: (a) Preserve such reports and statements for a period of 6 years from date of receipt. (b) Compile and maintain a current list of all reports and statements pertaining to each candidate who is required to file a report or statement under the federal election campaign act. (c) Promptly compile and release for public inspection a list of all reports received from candidates for national office and from committees supporting or opposing such candidates which are required to be filed with the state under the federal election campaign act, as soon as possible after each deadline for receipt of such reports as provided by federal law.	This information is available on the Federal Elections Commission website. No reports are filed with the Ethics Commission.
11.1304(12)	Make the reports and statements filed under this chapter, including those reports and statements filed under sub. (11), available on the Commission's Internet site for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received. No information copied from such reports and statements may be sold or utilized by any person for any commercial purpose.	Information is immediately available on http://cfis.wi.gov upon being filed, with a disclaimer stating the restricted use specified in statute.
11.1304(13)	Upon the request of any person, permit copying of any report or statement described under sub. (12) by hand or by duplicating machine at cost.	The public can access reports online for free through CFIS in a PDF format.
11.1304(14)	Include in its annual report under s. 19.47 (5) compilations of any of the following in its discretion: (a) Total reported contributions, disbursements, and incurred obligations for all committees registered and reporting under this chapter during the biennium. (b) Total amounts contributed during the biennium, reported by contribution amounts as determined by the Commission, to each type of committee registered and reporting under this chapter. (c) Total amounts expended during the biennium, reported by disbursement amounts as determined by the Commission, by each type of committee registered and reporting under this chapter. (d) Total amounts expended for influencing nominations and elections whenever separate information is reported. (e) Aggregate amounts contributed by any contributors shown to have contributed more than \$100.	At the discretion of the Commission.
11.1304(15)	Prepare and publish from time to time special reports comparing the various totals and categories of contributions and disbursements made with respect to preceding elections.	At the discretion of the Commission.

Statute	Language	Summary
11.1304(16)	Make available a list of delinquents for public inspection.	The Commission has not yet determined a policy for how to complete this requirement.
11.1304(17)	Promulgate rules to administer this chapter.	http://docs.legis.wisconsin.gov/code/admin_code/eth
11.1400(6)	Any elector may file a verified petition with the Commission requesting that civil action under this chapter be brought against any person or committee. The petition shall allege such facts as are within the knowledge of the petitioner to show probable cause that a violation of this chapter has occurred.	The Commission accepts verified petitions under its complaints procedures.
11.1401(2)	Except as otherwise provided in ss. 19.49 (2) (b) 13. and 14. and (h) and 19.554, and only after the Commission has determined probable cause, all prosecutions under this section shall be conducted by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than a individual resides within a county if the person's principal place of operation is located within that county.	The Commission determines whether there is probable cause to refer criminal prosecutions to district attorneys through its complaints procedures.
13.62(4m)	"Budget bill subject" means a subject specified by the Commission that is included in the executive budget bill or bills introduced under s. 16.47.	The Commission uses the budget bill subjects specified by the Legislative Fiscal Bureau for the purpose of lobbying reporting.
13.685(1)	The Commission shall prescribe forms and instructions for preparing and filing license applications under s. 13.63 (1), registration applications under s. 13.64 and the statements required under ss. 13.68 and 13.695.	All forms and instructions are provided on the Eye on Lobbying website.
13.685(2)	The Commission shall prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons who are required to provide information under s. 13.68 (4) or to file statements under s. 13.68 or 13.695	Lobbying manuals and training materials are available on the agency and Eye on Lobbying websites.
13.685(3)	The Commission shall examine each statement filed under s. 13.68.	Staff must review statements through the website before they are accepted and made public.
13.685(4)	The Commission shall, by rule, define what constitutes a "topic" for purposes of ss. 13.67 and 13.68 (1) (bn).	Ethics Administrative Rule 16.03

Statute	Language	Summary
13.685(7)	<p>Beginning with the 3rd Tuesday following the beginning of any regular or special session of the legislature and on every Tuesday thereafter for the duration of such session, the Commission shall, from its records, submit to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report of the names of lobbyists licensed under s. 13.63 and the names of officers and employees of agencies filed under s. 13.695 who were not previously reported, the names of the principals or agencies whom they represent and the general areas of legislative and administrative action which are the object of their lobbying activity. Such reports shall be incorporated into the journal of the senate and a copy filed in the office of the chief clerk of the assembly. The Commission shall also notify the chief clerk of each house that a copy of each statement which is required to be filed under ss. 13.68 and 13.695 is available upon request. Such copy shall be open to public inspection but shall not be incorporated in the journal unless the chief clerk so orders. The Commission shall include in its report under s. 15.04 (1) (d), a summary of the statements it has received under ss. 13.68 and 13.695.</p>	<p>The Commission recently automated this process within the Eye on Lobbying website by automatically generating a report with the required information and emailing it to the Chief Clerks in each house of the State Legislature.</p>
13.695	<p>(1) Each agency shall file with the Commission on or before January 31 and July 31 a statement which identifies the officers and employees of the agency who are paid a salary and whose regular duties include attempting to influence legislative action. The statement shall be attested by the agency head or such person's designee. Each statement shall contain the following information, which shall be current to within 30 days of the filing deadline, and cover the period since the last date covered in the previous statement:</p> <p>(a) The name of the agency filing the statement; (b) The name, title and salary, which is paid by the state, of each officer or employee engaged in such legislative activity, the proportionate amount of time spent on legislative activity and the general area of legislative action which the officer or employee has attempted to influence.</p>	<p>Agencies complete their reporting through a customized application within the Eye On Lobbying website.</p>

Statute	Language	Summary
13.74	<p>(1) The Commission shall cause to have made an examination of all statements which are required to be filed with it under this subchapter and may examine any of the documents used to develop such statements. The Commission shall make official note in the file of a principal of any error or other discrepancy which the Commission discovers. The Commission shall inform the person submitting the report of the error.(2) In the discharge of its duties under this subchapter and upon notice to the party or parties being investigated, the Commission may subpoena and bring before it any person in the state and require the production of any papers, books or other records relevant to an investigation. A circuit court may by order permit the inspection and copying of the accounts and the depositor's and loan records at any financial institution as defined in s. 705.01 (3) doing business in the state to obtain evidence of any violation of this subchapter upon showing of probable cause to believe there is a violation and that such accounts and records may have a substantial relation to such violation. In the discharge of its duties, the Commission may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.</p>	<p>The Commission conducts audits of all lobbying reports consistent with its lobbying program auditing schedule.</p>
13.75	<p>(1g) The Commission shall charge and collect for the following purposes the following amounts: (a) Obtaining a license under s. 13.63 (1) to act on behalf of one principal, \$250, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (am) Obtaining a license under s. 13.63 (1) to act on behalf of 2 or more principals, \$400, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (b) Filing the principal registration form under s. 13.64, \$375. (c) Filing a verified statement under s. 13.621 (5), \$10. (d) Filing an authorization statement under s. 13.65, \$125. (e) Registering an interest in a legislative proposal, proposed administrative rule, budget bill subject or other topic under s. 13.67 (2), \$10, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (1r) The board [Commission] may accept payment under this section by credit card, debit card, or other electronic payment mechanism, and may charge a surcharge to recover the actual cost associated with the acceptance of that electronic payment.</p>	<p>The Commission collects lobbying fees either by paper check or through the Eye on Lobbying website and the State's e-payment application. The site currently allows ACH payments. Staff is working with DOA to expand that to accept credit card payments and charge a convenience fee, based on the Commission's actions at their August 23, 2016 meeting.</p>

Statute	Language	Summary
15.04(1)(d)	Biennial report. On or before October 15 of each odd-numbered year, submit to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report on the performance and operations of the department or independent agency during the preceding biennium, and projecting the goals and objectives of the department or independent agency as developed for the program budget report. The secretary of administration may prescribe the format of the report and may require such other information deemed appropriate. Each department or independent agency shall provide a copy of its biennial report to legislators upon request. Any department or independent agency may issue such additional reports on its findings and recommendations as its operations require. A department or independent agency may, on or before October 15, submit an annual report prepared by it, in place of the biennial report required under this paragraph, if the submission of the annual reports is approved by the secretary of administration or is otherwise required by law.	19.47(5) requires the Commission to report annually the information required under 15.04(1)(d).
19.43	Collect Statements of Economic Interests from appointees, nominees, candidates, and continuing officials, and quarterly reports of economic transactions from Investment Board members and employees.	The Commission collects paper reports from initial filers and enters the information into a database to allow staff to provide a pre-filled version to each filer for their next annual filing.
19.43(7)	If an official required to file fails to make a timely filing, the Commission shall promptly provide notice of the delinquency to the secretary of administration, and to the chief executive of the department of which the official's office or position is a part, or, in the case of a district attorney, to the chief executive of that department and to the county clerk of each county served by the district attorney or in the case of a municipal judge to the clerk of the municipality of which the official's office is a part, or in the case of a justice, court of appeals judge, or circuit judge, to the director of state courts. Upon such notification both the secretary of administration and the department, municipality, or director shall withhold all payments for compensation, reimbursement of expenses, and other obligations to the official until the Commission notifies the officers to whom notice of the delinquency was provided that the official has complied with this section.	This requirement is address within the Commission's settlement schedule for late SEI filings.

Statute	Language	Summary
19.46(2)(a)	These provisions allow the Commission to issue formal or informal opinions on propriety of actions under Chapters 11, subchapter III of Chapter 13, subchapter III of Chapter 19. The opinions must site supported by specific legal authority under a statute or other law, or by specific case or common law authority, and shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority are relevant to the Commission's conclusion and why they are relevant.	The Commission has not yet received any requests or issued any formal or informal advisory opinions.
19.46(2)(b)	<p>1. The Commission may authorize the Commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the Commission, subject to such limitations as the Commission deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the Commission, statute or other law, and case law.</p> <p>2. Any individual may request in writing, electronically, or by telephone an informal advisory opinion from the Commission under this paragraph. The Commission's designee shall provide a written response, a written reference to an applicable statute or law, or a written reference to a formal advisory opinion of the Commission to the individual, or shall refer the request to the Commission for review and the issuance of a formal advisory opinion.</p> <p>3. Any person receiving an informal advisory opinion under this paragraph may, at any time, request a formal advisory opinion from the Commission on the same matter.</p> <p>19.46(2)(a)4 requires the administrator to review informal advisory opinions requested of and issued by the administrator at each regular meeting of the Commission.</p>	The Commission has not yet authorized the Commission administrator or a designee to issue informal advisory opinions or transmit an informal advisory opinion electronically on behalf of the Commission, nor established any limitations to such authority.
19.47(1)	OFFICE. The office of the Commission shall be in Madison, but the Commission may, after proper public notice and in compliance with subch. V, meet or exercise any of its powers at any other place in the state.	The Ethics Commission office is currently located in Madison. The staff is also researching the cost of meeting or exercising any of its powers at any other place in the state.

Statute	Language	Summary
19.47(2)	ADMINISTRATOR. The Commission shall appoint an administrator in the manner provided under s. 15.62 (1) (b). The administrator shall be outside the classified service. The administrator shall appoint such other personnel as he or she requires to carry out the duties of the Commission and may designate an employee of the Commission to serve as legal counsel of the Commission. The administrator shall perform such duties as the Commission assigns to him or her in the administration of ch. 11, subch. III of ch. 13, and this subchapter.	The Ethics Commission appointed Brian Bell as the Administrator. David Buerger is serving as the legal counsel for the Commission.
19.47(3)	Statements of economic interests. All members and employees of the Commission shall file statements of economic interests with the Commission.	All members and employees of the Commission have a current SEI on file.
19.47(4)	ACTION. Any action by the Commission, except an action relating to procedure of the Commission, requires the affirmative vote of at least two-thirds of its members.	The Commission complies with this requirement at each meeting.
19.47(5)	Annual report. The Commission shall submit an annual report under s. 15.04 (1) (d) and shall include in its annual report the names and duties of all individuals employed by the Commission and a summary of its determinations and advisory opinions issued under s. 19.46 (2). Except as authorized or required under s. 19.55 (4) (b), the Commission shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decisions or opinions. The Commission shall identify in its report the statutory duties of the administrator of the Commission, together with a description of the manner in which those duties are being fulfilled. Notwithstanding ss. 19.50 and 19.55 (3), the Commission shall also specify in its report the total number of investigations conducted by the Commission since the last annual report and a description of the nature of each investigation, including whether the investigation related to campaign finance, ethics, or lobbying. The Commission may also include in its annual report any information compiled under s. 11.1304 (14). The Commission shall make such further reports on the matters within its jurisdiction and such recommendations for legislation as it deems appropriate.	Reports are due annually no later than October 15 of each year, per 15.04(1)(d).
19.47(6)	OPERATION. The joint committee on legislative organization shall be advisory to the Commission on all matters relating to operation of the Commission.	No action required.

Statute	Language	Summary
19.47(7)	GUIDANCE FOLLOWING BINDING COURT DECISIONS. Within 2 months following the publication of a decision of a state or federal court that is binding on the Commission and this state, the Commission shall issue updated guidance or formal advisory opinions, commence the rule-making procedure to revise administrative rules promulgated by the Commission, or request an opinion from the attorney general on the applicability of the court decision.	The Commission will comply with this requirement when it becomes applicable.
19.47(8)	STANDING. The Commission has standing to commence or intervene in any civil action or proceeding for the purpose of enforcing the laws regulating campaign finance, ethics, or lobbying or ensuring their proper administration.	No action required.
19.47(9)(a)	Annually, the Commission shall adopt written policies and procedures in order to govern its internal operations and management and shall annually report such policies and procedures to the appropriate standing committees of the legislature under s. 13.172 (3).	The Commission has not yet adopted written policies and procedures (e.g., settlement schedule, audit schedule and procedures, employee performance evaluations standards, etc.)
19.47(9)(b)	Notwithstanding par. (a), the Commission may reconsider at any time any policy or procedure adopted as provided under par. (a). If, upon reconsideration, the Commission revises a previously reported policy or procedure, the Commission shall report the revision to the appropriate standing committees of the legislature under s. 13.172 (3).	13.172(3) directs the Commission to submit reports to the chief clerks in each Legislative house. The Commission would comply where this is applicable.
19.47(9)(c)	The Commission may reconsider at any time any written directives or written guidance provided to the general public or to any person subject to the provisions of ch. 11, subch. III of ch. 13, and this subchapter with regard to the enforcement and administration of those provisions.	13.172(3) directs the Commission to submit reports to the chief clerks in each Legislative house. The Commission would comply where this is applicable.
19.47(10)	EMPLOYEES. All employees of the Commission shall be nonpartisan.	Staff requests the Commission provide guidance on defining the criteria for employees of the Commission to be nonpartisan.
19.47(11)	PAYMENTS. The Commission may accept payment by credit card, debit card, or other electronic payment mechanism for any amounts owed pursuant to the administration of ch. 11, subch. III of ch. 13, or this subchapter, and may charge a surcharge to the payer to recover charges associated with the acceptance of that electronic payment.	The Commission directed staff to implement offering electronic payment for all transactions, to charge a convenience fee for the lobbying program, but absorb the surcharge for all other transactions.
19.48(1)	Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter. The Commission shall give prompt notice of the contents of its rules to state public officials who will be affected thereby.	ETH 1, 6, 15, 16, 21, 25 https://docs.legis.wisconsin.gov/code/admin_code/eth
19.48(2)	Prescribe and make available forms for use under ch. 11, subch. III of ch. 13, and this subchapter, including the forms specified in s. 13.685 (1).	All required forms are available electronically on the Commission's websites.

Statute	Language	Summary
19.48(3)	Accept and file any information related to the purposes of ch. 11, subch. III of ch. 13, and this subchapter which is voluntarily supplied by any person in addition to the information required by this subchapter.	The Commission complies with this requirement.
19.48(4)	Preserve the statements of economic interests filed with it for a period of 6 years from the date of receipt in such form, including microfilming, optical imaging or electronic formatting, as will facilitate document retention, except that: (a) Upon the expiration of 3 years after an individual ceases to be a state public official the Commission shall, unless the former state public official otherwise requests, destroy any statement of economic interests filed by him or her and any copies thereof in its possession. (b) Upon the expiration of 3 years after any election at which a candidate for state public office was not elected, the Commission shall destroy any statements of economic interests filed by him or her as a candidate for state public office and any copies thereof in the Commission's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the individual otherwise requests. (c) Upon the expiration of 3 years from the action of the senate upon a nomination for state public office at which the senate refused to consent to the appointment of the nominee, the Commission shall destroy any statements of economic interests filed by him or her as a nominee and any copies thereof in the Commission's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the nominee otherwise requests. This paragraph does not apply to any individual who is appointed to state public office under s. 17.20 (2).	The Commission complies with this requirement and applicable records disposition authorizations.
19.48(5)	Except as provided in s. 19.55 (2) (c), make statements of economic interests filed with the Commission available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.	SEIs are available for public inspection in accordance with this provision, and copies can be made at a cost of \$0.25 per page.
19.48(6)	Compile and maintain an index to all the statements of economic interests currently on file with the Commission to facilitate public access to such statements of economic interests.	The Commission maintains an indexed archive of paper records filed, as well as an electronic database for maintaining reported information and preparing pre-populated forms for filers' upcoming reports.
19.48(7)	Prepare and publish special reports and technical studies to further the purposes of ch. 11, subch. III of ch. 13, and this subchapter.	At the discretion of the Commission.

Statute	Language	Summary
19.48(8)	Report the full name and address of any individual and the full name and address of any person represented by an individual seeking to copy or obtain information from a statement of economic interests in writing to the individual who filed it, as soon as possible.	The Commission complies with this requirement as applicable.
19.48(9)	Administer programs to explain and interpret ch. 11, subch. III of ch. 13, and this subchapter for state public officials, and for elective state officials, candidates for state public office, legislative officials, agency officials, lobbyists, as defined in s. 13.62, local public officials, corporation counsels and attorneys for local governmental units. The programs shall provide advice regarding appropriate ethical and lobbying practices, with special emphasis on public interest lobbying. The Commission may delegate creation and implementation of any such program to a group representing the public interest. The Commission may charge a fee to participants in any such program.	Staff creates and maintains training manuals, FAQ documents, presentations, seminars, training sessions, webinar events, and other instructional programs that help explain and interpret the statutes the Commission administers, and provide advice on compliance.
19.48(10)	Compile and make available information filed with the Commission in ways designed to facilitate access to the information. The Commission may charge a fee to a person requesting information for compiling, disseminating or making available such information, except that the Commission shall not charge a fee for inspection at the Commission's office of any record otherwise open to public inspection under s. 19.35 (1).	Information regarding the programs the Commission administers is readily available and accessible free of charge on the Commission's websites, and can customize the compilation and dissemination of information through IT support available through a contractor.
19.48(11)	Maintain an Internet site on which the information required to be posted by agencies under s. 16.753 (4) can be posted and accessed. The information on the site shall be accessible directly or by linkage from a single page on the Internet.	http://sunshine.wi.gov http://ethics.wi.gov/content/contract-sunshine
19.49	Follow statutory procedures for complaints outlined within this provision of statutes.	The complaint procedures are on the October 10, 2016 meeting agenda for approval.
19.49(2)(b)10	The Commission shall, by rule, prescribe categories of civil offenses which the Commission will agree to compromise and settle without formal investigation upon payment of specified amounts by the alleged offender.	The Commission has begun the process to promulgate such a rule.
19.49(2)(c)1)	No individual who serves as the administrator may have been a lobbyist, as defined in s. 13.62 (11). No such individual may have served in a partisan state or local office.	The Commission Administrator has never been a lobbyist or ever served in a partisan state or local office.

Statute	Language	Summary
19.49(2)(c)(2)	No employee of the Commission, while so employed, may become a candidate, as defined in s. 11.0101 (1), for a state or partisan local office. No individual who is retained by the Commission to serve as a special investigator or as special counsel may, while so retained, become a candidate, as defined in s. 11.0101 (1), for any state or local office. A filing officer shall decline to accept nomination papers or a declaration of candidacy from any individual who does not qualify to become a candidate under this paragraph.	Employees of the Commission are aware of this prohibition. One employee is a candidate, as defined by statute, for a non-partisan local office, as a Village Board Trustee.
19.49(2)(d)	No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or a special counsel may, while so employed or retained, make a contribution, as defined in s. 11.0101 (8), to a candidate for state or local office. No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or as special counsel, for 12 months prior to becoming so employed or retained, may have made a contribution, as defined in s. 11.0101 (8), to a candidate for a partisan state or local office.	Employees of the Commission are aware of the prohibition against making contributions to candidates for state or local office while employed by the Commission, and for making contributions to candidates for partisan state and local offices during the 12 months prior to employment with the Commission. However, the prohibition on employees making contributions to their own campaign for non-partisan local office may be unconstitutional.
19.49(2g)	In addition to the facial examination of reports and statements required under s. 11.1304 (9), the Commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred.	Staff conducts regular audits each calendar year. The proposed schedule is on the October 10, 2016 meeting agenda.
19.50	Except as specifically authorized by law and except as provided in sub. (2), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subch. III of ch. 13, or this subchapter or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the Commission that is not subject to access under s. 19.55 (3) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the Commission prior to presenting the information or record in a court of law.	Commissioners and staff maintain confidentiality of all applicable information.

Statute	Language	Summary
19.55(1)	The Commission shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the Commission's possession to provide his or her full name and address, and if the individual is representing another person, the full name, and address of the person which he or she represents. Such Commission shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.	The Commission complies with this requirement as applicable.
19.55(2)(c)	Statements of economic interests and reports of economic transactions which are filed with the Commission by members or employees of the investment board, except that the Commission shall refer statements and reports filed by such individuals to the legislative audit bureau for its review, and except that a statement of economic interests filed by a member or employee of the investment board who is also an official required to file shall be open to public inspection.	Staff refers statements from SWIB employees and members to the legislative audit bureau when they are filed.
19.57	Conferences, visits, and economic development activities. The Wisconsin Economic Development Corporation shall file a report with the Commission no later than April 30 annually, specifying the source and amount of anything of value received by the Wisconsin Economic Development Corporation during the preceding calendar year for a purpose specified in s. 19.56 (3) (e), and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.	WEDC provides these reports to the Commission, which are retained according to the standard records disposition authorizations.
19.575	Tourism Activities. The department of tourism shall file a report with the Commission no later than April 30 annually, specifying the source and amount of anything of value received by the department of tourism during the preceding calendar year for a purpose specified in s. 19.56 (3) (em) and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.	The Department of Tourism provides these reports to the Commission, which are retained according to the standard records disposition authorizations.

Statute	Language	Summary
19.851	(1) Prior to convening under this section or under s. 19.85 (1), the ethics Commission and the elections Commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The ethics Commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (h) for convening in closed session. The elections Commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (h) for convening in closed session. No business may be conducted by the ethics Commission or the elections Commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).(2) The Commission shall hold each meeting of the Commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the Commission in closed session under this section.	The Commission complies with this requirement as applicable.
20.9305(2)(e)	The governor shall post on the Internet site maintained by the ethics Commission under s. 16.753 all of the following: 20.9305(2)(e)1. 1. A copy of any contingency fee contract entered into under this subsection and of the corresponding determination under par. (a) during the period beginning 5 days after the contract is entered into and ending when the contract and all of its extensions expire or are terminated. 2. Notice of the amount of any contingency fees paid under a contract entered into under this subsection during the period beginning 15 days after payment is made and ending 365 days after the payment is made.	The Commission complies with this requirement relate to contract sunshine.
49.857(2)	(a) The department shall establish a system, in accordance with federal law, under which a licensing authority is requested, and a licensing agency or credentialing board is required, to restrict, limit, suspend, withhold, deny, refuse to grant or issue, or refuse to renew or revalidate a license in a timely manner upon certification by and in cooperation with the department, if the individual holding or applying for the license is delinquent in making court-ordered payments of support or fails to comply, after appropriate notice, with a subpoena or warrant. (b) Under the system, the department shall enter into a memorandum of understanding with a licensing authority, if the licensing authority agrees, and with a licensing agency.	MOU with DCF is carried over from the GAB; checks with DCF are currently being conducted.

Statute	Language	Summary
73.0301(2)	<p>Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:73.0301(2)(a)1. 1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (d) 7.2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.</p>	MOU in place with DOR for lobbyist license checks; checks are being conducted.
108.227(2)	<p>(a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of workforce development under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:</p> <ol style="list-style-type: none"> 1. Request the department of workforce development to certify whether an applicant for a license or license renewal or continuation is liable for delinquent contributions. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (e) 7. 2. Request the department of workforce development to certify whether a license holder is liable for delinquent contributions. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. 	MOU with DWD is carried over from the GAB; DWD is still developing their system to fully implement this provision.
778.135	<p>Campaign finance, lobbying, and ethics forfeitures; how recovered. Notwithstanding s. 778.13, whenever any action or proposed action by the elections Commission under s. 5.05 (1) (c) or the ethics Commission under s. 19.49 (1) (b) is settled as a result of agreement between the parties without approval of the court, the moneys accruing to the state on account of such settlement shall be paid to the Commission and deposited with the secretary of administration.</p>	Forfeitures received are transferred through the Department of Administration and the Bureau of Public Lands to the Common School Fund.



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Ethics Commission Administrator's Report

Agency Budget Request

On September 15, 2016, staff submitted the agency's fiscal year 2017-19 budget request. Since our last meeting on August 23rd, we have completed a thorough review of past expenditures, along with planned future expenditures, and proposed cost savings. From this review, we have drafted a proposed operating budget. Based on the projected operating budget the Ethics Commission will be able to meet all of its expenditure obligations, address each item covered by the four decision items we discussed at the last meeting, and fill our two vacancies, all within the available appropriations and while taking into account the standard budget adjustments. Staff also anticipates that the Ethics Commission will have room within its operating budget to address some potential unforeseen or undetermined costs, such as potential charge backs to state agencies for the STAR program (Finance, Procurement, and Human Capital Management systems). A copy of the proposed operating budget for the Commission is enclosed at the end of this report.

Because the Commission has the available resources within its allocated appropriations, we did not need to ask for any additional funding support. If the Legislature were to do something that would require the Commission to expend additional resources, such as additional changes to the campaign finance laws that would require us to make further changes to CFIS, we could at that time submit a request for one-time funding under WIS. STAT. §13.10 if we did not have the available resources within our budget.

This budget request did include two optional decision items that the Commission has not previously seen, but these are fairly straight-forward and simple requests. The first is a request to decrease our spending authority in the materials and services appropriate by \$7,000 annually. The Commission does not take in enough revenue on this line to be able to expend the full amount, so this request is to reflect our true capacity from this revenue source. The second item is to change the gifts and grants appropriation to a continuous appropriation. We currently have \$17,617 sitting in this appropriation account, though we do not have any spending authority for it right now. Switching this to a continuous appropriation would allow the Commission to retain those funds in case we need them. If it is not switched, those funds could be lapsed back into the general fund.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

The Commission's budget request is available to the public on the Department of Administration's website, along with all agency budget requests here:

<http://doa.wi.gov/Divisions/Budget-and-Finance/Biennial-Budget/Agency-Budget-Requests-September-15-2016/>. A PDF copy of the Ethics Commission's budget request can be found here: <http://doa.wi.gov/Documents/DEBF/Budget/Biennial%20Budget/2017-19%20Agency%20Requests/521-ETHICS%20combined.pdf>.

Outreach to Stakeholders

The Administrator has begun conducting outreach meetings with some of the Commission's stakeholders. As of September 15th, the Administrator has met with the legal counsel in the Office of the Governor, the office of Senate Majority Leader Fitzgerald, Senate Minority Leader Schilling, Speaker Vos, Assembly Minority Leader Barca, Senator LeMahieu, Senator Kapenga, Senator Taylor, Senator Stroebel, Representative Hutton, the Legislative Fiscal Bureau, and members of the Association of Wisconsin Lobbyists (AWL). Meetings are also planned with the Chief Clerks of the Senate and Assembly, and the Legislative Reference Bureau. Requests for meetings have also been sent out to every Senator who is not up for reelection this year, or is running unopposed. Meeting requests will also be sent to current Senators running in contested races following the general election, pending on the outcome of those races. These meetings have consistently been constructive, positive, and help to establish productive working relationships. Similar meetings will continue to be scheduled where feasible with members of the Assembly and other constituencies in order to continue building positive and productive open relationship to enhance the Commission's ability to execute its responsibilities and better serve the State of Wisconsin.

Commission Administration

Personnel Management

Commission staff continues to work with the Division of Personnel Management, Department of Administration (DOA) on several personnel matters. First, we have submitted revised position descriptions (PDs) for each staff position for review and approval. These revised PDs more accurately reflect the major efforts and allocation of time spent by staff on those efforts.

Second, we have requested to make all staff position exempt from the Fair Labor Standards Act (FLSA). Currently only Election Specialists positions are non-exempt. Ethics Specialist must be exempt, but Elections Specialist can have either status. Because the staff members in both classifications meet the criteria for exempt and the work responsibilities are so similar, making all staff exempt provides greater equity and consistency.

Third, we have requested to reclassify the position held by Molly Nagappala from an Elections Specialist to an Ethics Specialist because the vast majority of her time is spent on the Lobbying program, which falls under the Ethics Specialist Classification. That would also give the Commission two employees classified as Ethics Specialist, while having three positions classified as Elections Specialists.

Fourth, we have request to begin the recruitment for both vacant positions – one Elections Specialist, and one Office Management Specialist. We are awaiting further assistance from DOA to continue that process, but hope that we can get both positions filled expeditiously.

State of Wisconsin Share Services

On September 7, 2016, the Administrator attended a Wisconsin Shared Services Strategy Meeting hosted by the Department of Administration (DOA). Opening remarks were made by the Governor, and both the Secretary and Deputy Secretary of the Department of Administration. Faculty from Harvard University led a presentation and discussion on suggestions for how the State of Wisconsin might implement shared services. No formal decisions have yet been made. The conversations focused on human resources, though DOA was required to consult with state agencies on developing a plan for assuming responsibility for services relating to human resources, payroll, finance, budgeting, procurement, and information technology for any agency.

Records Management

Staff met with employees of the Wisconsin Historical Society to discuss records management. Discussion include special records disposition authorizations(RDAs) for the Commission, standard RDAs, best practices, and a pilot program for managing electronic records. The next steps needed are for staff to conduct an inventory of existing paper records, and then determine under the RDAs which records must be retained, archived, or destroyed. Staff will also review its electronic records and apply the same schedules. There is also a potential to work with the Wisconsin Historical Society as a part of their pilot program for managing electronic records. Completing the review and processing of paper records will be essential prior to the expiration of the Commission's current office space lease at the end of 2018.

Commission Public Website and Social Media

Commission staff continues to work with the Division of Enterprise Technology, Department of Administration to explore solutions that leverage available technologies and services, while also reducing costs.

Consistent with the practices of other state agencies, Commission staff has established accounts on Facebook, Twitter, Google+, and YouTube in order to improve the accessibility and availability of information from the Commission to the public, state officials, committees, lobbyists and principals, and the media.

Staff is working with Wisconsin Interactive Network (WIN) under an available state contract to develop an improved public website with enhanced content management features. As part of the terms of the contract to offer application development, WIN offers a template-based content management public site development and hosting to state agencies at no cost. Several other agencies are already taking advantage of this service. Hosting of the current site costs the agency approximately \$1,110 annually. Additional information on the agencies participating and the services provided is available here: <https://webmasters.wi.gov>.

Campaign Finance

CFIS Maintenance and Support Contract

The last contract for maintenance and support of the Campaign Finance Information System expired at the end of the last fiscal year, June 30. The contract was with PCC Technology, Inc., which was awarded the initial contract following a 2007 Request for Proposals. They developed CFIS using proprietary software. In order to execute a new contract to ensure continued maintenance, support, and to finish implementation of required changes under 2015 Wisconsin Acts 117 and 118, we must follow the State of Wisconsin procurement laws and policies. Because the foreseeable life of the services rendered exceed \$50,000 (the initial contract for development, maintain and support for four years was over \$2.5 million), and because the site is maintained using proprietary software, we must request a sole-source justification waiver from the Office of the Governor.

This waiver would authorize procurement outside of the normal bidding process. This is common in cases involving proprietary software. If we receive the waiver, we can then continue negotiating the terms of a new contract with the vendor. The State Bureau of Procurement, Department of Administration is processing our request for purchasing authority.

July Continuing Reports

As of September 26, 2016, 33 committees out of 1,171 required to file have not filed their 2016 July Continuing Report. This includes 12 candidate committees, two party committees, two conduits, 11 PACs, and six independent expenditure committees (note: some of the PACS and independent expenditure committees may not be required to be registered under the new statutes). The deadline for filing the July Continuing Report was July 15, 2016.

2016 Pre-Primary Reports

As of September 26, 2016, one committee has still not filed the required Fall Pre-Primary Report (Jared William Landry for State Senate, #0105778). The candidate did not win the primary, and thus is not on the general election ballot. The deadline for the Fall Pre-Primary Report was August 1, 2016.

September Continuing Reporting Requirements

As of September 28, 2016, 581 committees have filed the September continuing report, and 85 candidates have not yet filed. The deadline for filing the September continuing report was September 27, 2016. The September Continuing Report includes all activities since the last filed report through August 31st. Staff provided instructions to all registered committees regarding the requirement to file the September Continuing report. The requirement is addressed similarly under each section of the statutes that related to the various committee types. Staff advised that all partisan candidate committees are required to file the report. Staff also advised that all other committee types would be required to file the September Continuing Report if they had

contributed to a partisan candidate after June 30 (the end of the reporting period for the July Continuing Report, which all committees are required to file), and that the report should include all activity since the last report filed by the committee. Clarifying which committees are required to file the September Continuing Report and the information required for that report is identified in the potential legislation document under a separate agenda item.

2016 Fall Pre-Election Reports

The 2016 fall pre-elections reports will be due by October 31st. This report will cover activity from September 1, 2016, or the date of the last filed report, through October 24, 2016. The requirements for pre-elections reports are addressed in [Wis. STAT. §11.0103\(4\)](#).

Lobbying

Legislative Liaison Reports, January-June 2016

State Agency Legislative Liaison reports covering January 1st to June 30th were due by August 1st. All reports have now been received and the information is available online: <https://lobbying.wi.gov/Who/StateAgencies/2015REG/SearchNames>.

Statements of Lobbying Activities and Expenditures (SLAE), January-June 2016

There were 774 lobbying principals required to file the period-3 SLAE. As of September 26, 2016, two principals have not yet completed their reports: MICAH and United Council of UW Students. Of those principals that have filed, 39 did so after the July 31, 2016 deadline. The table below shows the standard settlement schedule and the number of committees in each category. A complete listed will be presented in closed session for the Commission's review.

Days Late	Committees	First Offense	Committees	Second or Greater Offense
2 business days	16	No penalty	0	Warning
3-5 days	1	Warning	1	\$50
6-15 days	16	Warning	2	\$100
16-29 days	1	\$50	1	\$250
30+ days	1	\$100	2	\$500

Statements of Lobbying Activities and Expenditures (SLAE), July-December 2016

The next lobbying reports due will be the Statements of Lobbying Activities and Expenditures for the final six-month period of the 2015-2016 Legislative Session, covering July 1 through December 31, 2016. The deadline for completing the report, along with the lobbyist time reports is January 31, 2017.

Principal Registration, Lobbyist Licensing, and Authorizations for the 2017-2018 Session

Consistent with past practices, on December 1, 2016, Ethics Commission staff will open lobbying principal registration, lobbyist licensing, and lobbyist authorizations for the 2017-2018

Legislative Session within the Eye on Lobbying website: <http://lobbying.wi.gov>. Website users will also be able to sign up for the FOCUS subscription service, which provides email notifications regarding bills, administrative rules, budget bill subjects, lobbying topics, and the activities of lobbying principals. We hope to have the ability to accept credit card payments for the lobbying program implemented prior to the beginning of registration, licensing, and authorizations for the 2017-2018 session.

Code of Ethics / Statements of Economic Interest / Financial Disclosure

Statements of Economic Interests

On a regular basis, staff continues to process SEIs for newly nominated and appointed officials, and responds to requests to view statements.

State of Wisconsin Investment Board Quarterly Reports

The next quarterly reports are due by November 1, 2016 and will cover July 1 through September 30, 2016. Staff will then deliver copies of filed reports to the Legislative Audit Bureau.

Contract Sunshine

In order to comply with its requirements under Contract sunshine, the GAB maintained a separate website that allowed agencies to report required information. GAB staff was also taking information from an FTP server, manipulating the data, and then posting it back to the contract sunshine website.

The Ethics Commission inherited this responsibility under [WIS. STAT. §19.48\(11\)](#). A 2011 audit of Contract Sunshine by the Legislative Audit Bureau (LAB) note that there was considerable overlap between the requirements of contract sunshine and the Department of Administration's (DOA) requirements carried out as two website – VendorNet and OpenBook Wisconsin. LAB recommended repealing the contract sunshine requirements once the DOA websites provided the information they are required to have available.

Staff has begun communications with DOA and agency contract sunshine representatives to find and implement improved solutions that will facilitate compliance, maintain public access to information, and improve efficiency. Currently staff has a webpage hosted on the Ethics Commission's public site that provides a place to post information reported by other agencies, as well as a standard format for doing so. That information is available on the Ethics Commissions website here: <http://ethics.wi.gov/content/contract-sunshine>.

Design of a new SEI system

This information is provided as a separate report to the Commission.

Appropriation Budget \$1,425,800.00
 Operating Budget \$1,425,800.00
 Difference \$0.00

APPR	Department	Account	FY17 Total	Account Description	Expense Type	Notes
10100	5210002000	7000000	\$66,200.00	Classified Civil Srvc Salaries	Salary	
10100	5210003000	7000000	\$130,800.00	Classified Civil Srvc Salaries	Salary	
12300	5210004000	7000000	\$147,100.00	Classified Civil Srvc Salaries	Salary	
10100	5210002000	7079000	\$14,800.00	Exceptional Performance Awards	Salary	
12300	5210004000	7079000	\$11,200.00	Exceptional Performance Awards	Salary	
10100	5210002000	7100000	\$51,400.00	Unclassified Civil Srvc Salary	Salary	
12300	5210002000	7100000	\$51,400.00	Unclassified Civil Srvc Salary	Salary	
10100	5210002000	7150000	\$15,000.00	Classified Limited Term Employee	LTE	
10100	5210001000	7175000	\$10,900.00	Per Diem - Unclassified	LTE	
12300	5210001000	7175000	\$10,900.00	Per Diem - Unclassified	LTE	
10100	5210002000	7200001	\$17,600.00	Fringe Benefit Variances	Fringe	Fringe Estimates for Vacancies, etc.
12300	5210004000	7200001	\$17,600.00	Fringe Benefit Variances	Fringe	Fringe Estimates for Vacancies, etc.
10100	5210003000	7221000	\$500.00	Wage Continuation Insurance	Fringe	
12300	5210004000	7221000	\$200.00	Wage Continuation Insurance	Fringe	
10100	5210003000	7230000	\$8,900.00	Social Security	Fringe	
12300	5210004000	7230000	\$8,200.00	Social Security	Fringe	
10100	5210003000	7231000	\$2,100.00	Medicare Coverage - Government	Fringe	
12300	5210004000	7231000	\$2,000.00	Medicare Coverage - Government	Fringe	
10100	5210003000	7240000	\$35,700.00	Health Insurance	Fringe	
12300	5210004000	7240000	\$34,000.00	Health Insurance	Fringe	
10100	5210003000	7241000	\$200.00	ETF Administrative Fees	Fringe	
12300	5210004000	7241000	\$200.00	ETF Administrative Fees	Fringe	
10100	5210003000	7245000	\$0.00	Health Savings Account Contributions	Fringe	
12300	5210004000	7245000	\$0.00	Health Savings Account Contributions	Fringe	
10100	5210003000	7246000	\$0.00	Health Savings Acct Admin Fee	Fringe	
12300	5210004000	7246000	\$0.00	Health Savings Acct Admin Fee	Fringe	
10100	5210003000	7247000	\$1,000.00	Health Insurance Op Out	Fringe	
12300	5210004000	7247000	\$1,000.00	Health Insurance Op Out	Fringe	
10100	5210003000	7250000	\$500.00	Life Insurance	Fringe	
12300	5210004000	7250000	\$300.00	Life Insurance	Fringe	
10100	5210003000	7269000	\$12,600.00	Other Retirement	Fringe	
12300	5210004000	7269000	\$11,200.00	Other Retirement	Fringe	

APPR	Department	Account	FY17 Total	Account Description	Expense Type	Notes
10100	5210003000	7270000	\$11,100.00	Pension Obligation Bond Payment	Fringe	
12300	5210004000	7270000	\$7,900.00	Pension Obligation Bond Payment	Fringe	
10100	5210001000	7300000	\$4,000.00	Travel	Supplies/Services	Commissioners
10100	5210002000	7300000	\$1,700.00	Travel	Supplies/Services	Staff Travel
10100	5210001000	7301000	\$1,000.00	Trv In-State Catered Meals	Supplies/Services	Commissioners
10100	5210002000	7301000	\$1,000.00	Trv In-State Catered Meals	Supplies/Services	Staff Meals while traveling
10100	5210002000	7325000	\$1,000.00	Fleet Charges - State Fleet	Supplies/Services	Staff Vehicle Use
10100	5210002000	7350000	\$1,000.00	Tuition & Fees NonRpt Training	Supplies/Services	Staff Training
10100	5210002000	7370000	\$4,000.00	Telephone & Other Telecom Equipment	Supplies/Services	Phone bill
10100	5210002000	7375000	\$200.00	Long Dist Telephone Charges	Supplies/Services	Long Distance Phone Charges
10100	5210002000	7415000	\$52,300.00	Rental of Space - Private Owned	Supplies/Services	Office Rent
12300	5210004000	7415000	\$22,400.00	Rental of Space - Private Owned	Supplies/Services	Office Rent
10100	5210002000	7460000	\$1,600.00	Rental of Other Equipment	Supplies/Services	Copier Lease
10100	5210002000	7465000	\$400.00	Operating Lease - Other Equipment	Supplies/Services	Copier Maintenance
10100	5210003000	7600000	\$27,000.00	IT Services - State Agencies	Supplies/Services	DET - Campaign Finance/Ethics
12300	5210004000	7600000	\$18,000.00	IT Services - State Agencies	Supplies/Services	DET - Lobbying
10100	5210003000	7611000	\$1,000.00	IT Internal Services - Application Hosting	Supplies/Services	DET - Eye On Financial Disclosure
10100	5210003000	7650000	\$78,000.00	IT Services - Private	Supplies/Services	Kavita Dornala (TAPFIN)
12300	5210004000	7650000	\$78,000.00	IT Services - Private	Supplies/Services	Kavita Dornala (TAPFIN)
10100	5210003000	7650000	\$50,000.00	IT Services - Private	Supplies/Services	CFIS maintenance and support (PCC)
10300	5210001000	7780000	\$225,000.00	Legal Services - Special Counsel	Supplies/Services	Special Prosecutors / Investigatons
10100	5210003000	7800000	\$1,500.00	Postage	Supplies/Services	Mailing SEIs / CFIS Notifications
12300	5210004000	7800000	\$100.00	Postage	Supplies/Services	Mailing Lobbying Settlements
10100	5210001000	7805000	\$500.00	Freight & Handling	Supplies/Services	Ship Meeting Materials
10100	5210002000	7805100	\$1,000.00	DOA Central Mail Services	Supplies/Services	Central Mail Office Charges
10100	5210002000	7820000	\$1,000.00	Dues & Memberships	Supplies/Services	COGEL x2
10100	5210002000	7880000	\$123,000.00	Miscellaneous Services	Supplies/Services	GPR - Miscellaneous
12000	5210002000	7880000	\$31,700.00	Miscellaneous Services	Supplies/Services	CFIS Filing Fees
12100	5210002000	7880000	\$0.00	Miscellaneous Services	Supplies/Services	Gifts and Grants
12200	5210002000	7880000	\$11,500.00	Miscellaneous Services	Supplies/Services	Materials & Services - Copies
10100	5210001000	7880380	\$200.00	Photocopies	Supplies/Services	Prepare Meeting Materials
10100	5210002000	7990000	\$200.00	Printing - External (Commercial)	Supplies/Services	Busines Cards
10100	5210002000	8070100	\$5,000.00	Office Supplies	Supplies/Services	Staples