

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

101 E. Wilson Street, Wisconsin Room

Public Appearances by Teleconference Only: (608) 316-9000, 7103049#

<https://meet.wisconsin.gov/juliee.nischik/MW30LHZZ>

Madison, Wisconsin

Tuesday, August 18, 2020, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of Minutes of Prior Meetings
 - 1. Open Session Minutes for Meeting on June 16, 2020 Page 3
- D. Personal Appearances
- E. Requests for Advice to be Issued by the Commission
 - 1. 2020 RA 10 General Public Exception and Permissible Use of Attendance Criteria Page 9
 - 2. 2020 ETH 05 Village Contracting with Company Employing Department Head’s Spouse Page 29
- F. Lobbying Website Demonstration
- G. SEI Candidates Module Demonstration Page 39
- H. Adoption of Guidance Documents – SEI Manuals Page 41
- I. Administrative Rules Update and Hearing Page 63
- J. Attorney General Opinion Request Page 85
- K. FY21 Lapse Plan Page 91
- L. Biennial Budget Draft 2021 – 23 Page 95
- M. Reissuance of Lobbyist License During Same Legislative Session Page 103
- N. Legislative Recommendations for 2021 – 2022 Legislative Session Page 111
- O. Annual Report Page 183
- P. Staff Report Page 257
- Q. Consideration of Future Agenda Items
- R. Closed Session
 - 1. Requests for Advice
 - 2. Complaints and Investigations
 - 3. Personnel Matters
- S. Adjourn

Future Ethics Commission Meetings Scheduled:

- Friday, September 11, 2020, time TBD
- Tuesday, October 13, 2020 at 9:00 AM
- Tuesday, December 8, 2020 at 9:00 AM
- Tuesday, February 23, 2021 at 9:00 AM
- Tuesday, May 11, 2021 at 9:00 AM
- Tuesday, July 27, 2021 at 9:00 AM
- Tuesday, October 12, 2021 at 9:00 AM
- Tuesday, December 14, 2021 at 9:00 AM

The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. 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 following that closed session, as outlined in the above agenda. WIS. STAT. § 19.85(2).

WIS. STAT. §§ 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.

WIS. STAT. § 19.85(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

- (c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (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.
- (h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

WIS. STAT. § 19.851(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.



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

Teleconference and at
101 E. Wilson Street
Wisconsin Room
Madison, Wisconsin
June 16, 2020
9:00 a.m.

Open Session Minutes

Present: Pat Strachota, David Halbrooks, Paul Connell, Mac Davis, Scot Ross and Timothy Van Akkeren

Staff Present: Daniel Carlton, David Buerger, Richard Bohringer, Harry Broderick, Colette Greve, Adam Harvell, Julie Nischik, and Caroline Russell

A. Call to Order

Commission Chair Pat Strachota called the meeting to order at 9:00 a.m.

B. Report of Appropriate Meeting Notice – Administrator

Commission Administrator Daniel Carlton notified the Commission appropriate meeting notice had been provided to the public and news media. Staff Counsel David Buerger noted the amended agenda was posted within 24 hours of the meeting and advised the Commission to create a record of the reasons justifying the “good cause” exception. Commission Chair stated there was good cause and that the reasons could be placed in the record at that agenda item.

C. New Commissioner – Scot Ross

Commission Chair Strachota introduced the new Commissioner, Scot Ross.

Commissioner Ross introduced himself and provided a statement.

Commissioner Davis raised a point of order.

Addressing the point of order, Commission Chair Pat Strachota interrupted the statement by Commissioner Ross, asking that the statement remain on the topic of introducing himself.

Commissioner Ross finished his statement.

D. Selection of Chair and Vice Chair

MOTION: To nominate David Halbrooks as Chair of the Commission beginning July 1, 2020. Moved by Commissioner Davis, seconded by Commissioner Connell. Motion carried unanimously.

MOTION: To nominate Pat Strachota as Vice Chair of the Commission beginning July 1, 2020. Moved by Commissioner Van Akkeren, seconded by Commissioner Ross. Motion carried unanimously.

E. Approval of Minutes of Prior Meetings

MOTION: To approve the minutes from the open session meetings on February 25, 2020, March 10, 2020, April 20, 2020, and May 8, 2020. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

- 1. Open Session Minutes for Meeting on February 25, 2020**
- 2. Open Session Minutes for Meeting on March 10, 2020**
- 3. Open Session Minutes for Meeting on April 20, 2020**
- 4. Open Session Minutes for Meeting on May 8, 2020**

F. Personal Appearances

Two people were present to address agenda items in open session. Mike Wittenwyler, representing himself, was present for agenda items G and K, and, on behalf of the Association of Wisconsin Lobbyists, was present for agenda item H. Joe Kreye, representing the Legislative Reference Bureau, was present to provide comment on item G.

G. Review of 2017 ETH 03

Commission Administrator Daniel Carlton presented the memo on page 15 of the meeting materials.

Joe Kreye, of the Legislative Reference Bureau, provided the legislative history of 2015 Wisconsin Act 117.

Mike Wittenwyler, who requested the opinion, was present to request the Commission reconsider the advice provided in the opinion.

MOTION: To revise the opinion in 2017 ETH 03 to conclude that a PAC or “Other Person” can contribute each year \$12,000 to the general fund and an additional \$12,000 to the segregated fund of a political party or legislative campaign committee. Moved by Commissioner Connell, seconded by Commissioner Van Akkeren. Motion carried unanimously.

Commissioner Davis directed staff to revise the opinion for review by the Chair and Vice Chair prior to publication.

H. Requests for Advice to be Issued by the Commission

1. 2020 RA 05 Contributions to Partisan Elective State Officials by Lobbyists

Ethics Specialist Colette Greve presented the memo on page 33 of the meeting materials.

Mike Wittenwyler, who requested the opinion, was present to request clarification on the opinion.

MOTION: To adopt the formalized opinion as drafted. Moved by Commissioner Davis, seconded by Commissioner Ross. Motion carried unanimously.

2. 2020 RA 10 General Public Exception and Permissible Use of Attendance Criteria

Commission Administrator Daniel Carlton presented the memo on page 61 of the meeting materials.

Mike Wittenwyler, who requested the opinion, was present to seek clarification on hosting events for legislators.

MOTION: To revisit the opinion at the August 18, 2020 meeting. Moved by Commissioner Connell, seconded by Commissioner Ross.

The Commission discussed the opinion, the relevant statutes, and how the opinion may be revised in the future. Commissioner Halbrooks requested the Commission review the recording from the February meeting, to further aid the discussion at the next meeting.

Motion carried 5-1, Commissioner Davis voted no.

The Commission took up item K next.

Commission Chair Pat Strachota indicated there was good cause to add this item to the agenda for consideration at the open session meeting. Commissioner Halbrooks agreed, and indicated if not for the public health emergency, this would have been posted with 24 hours' notice.

MOTION: The Commission had good cause to take up this item without 24 hours' notice. Moved by Commissioner Connell, seconded by Commissioner Halbrooks. Motion carried 5-1, Commissioner Davis voted no.

Commission Administrator Daniel Carlton presented the memo from the supplemental materials.

The Commission directed staff to include this topic for discussion at a future meeting.

MOTION: To authorize staff to use the Lobbying system to submit a new application for the lobbyist. Moved by Commissioner Halbrooks, seconded by Commissioner Van Akkeren. Motion carried unanimously.

I. Administrative Rules Update and Hearing

Staff Counsel David Buerger presented the memo on page 71 of the meeting materials.

Commission Chair Pat Strachota opened the public hearing for ETH 1. No comments were provided by the public in person or via phone.

MOTION: To close the public hearing. Moved by Commissioner Connell, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: For ETH 1, the Commission approved the revised draft rule and associated documents and directed staff to submit them to the Governor's Office for final approval prior to submission to the Legislature. Moved by Commissioner Connell, seconded by Commissioner Halbrooks. Motion carried unanimously.

MOTION: For ETH 21, the Commission approved the notice of preliminary public comment period and hearing to be held at the Commission's meeting on August 18, 2020. Moved by Commissioner Van Akkeren, seconded by Commissioner Connell. Motion carried unanimously.

MOTION: For ETH 26, the Commission approved the draft rule and associated documents and directed staff to submit them to the legislative council rules clearinghouse. Moved by Commissioner Van Akkeren, seconded by Commissioner Davis. Motion carried unanimously.

J. Review of Ethics Opinion of Previous Boards

Ethics Specialist Colette Greve presented the memo on page 111 of the meeting materials.

MOTION: To reaffirm Eth. Bd. Ops. 95-07 and 03-16. Moved by Commissioner Van Akkeren, seconded by Commissioner Davis. Motion carried unanimously.

MOTION: To withdraw Eth. Bd. Ops. 03-08 and 13-01, and convert the informal opinion, 2019 RA 50, to a formal opinion for review at the August 18, 2020 meeting. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

K. Reissuance of Lobbyist License During Same Legislative Session

This item was taken up earlier in the meeting.

L. Staff Report

Commission Administrator Daniel Carlton presented the memo on page 131 of the meeting materials. The Commission took no action.

M. Consideration of Future Agenda Items

No future agenda items were discussed.

N. Closed Session

MOTION: To go into closed session for the purpose of discussing requests for advice, complaints, and personnel matters. Moved by Commissioner Connell, seconded by Commissioner Halbrooks. Motion carried unanimously.

- 1. Requests for Advice**
- 2. Complaints and Investigations**
- 3. Personnel Matters**

O. Adjourn

MOTION: To adjourn. Moved by Commissioner Van Akkeren, seconded by Commissioner Connell. Motion carried unanimously.

Meeting adjourned at 3:54 p.m.

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June 16, 2020 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

August 18, 2020

June 16, 2020 Wisconsin Ethics Commission meeting minutes certified by:

Pat Strachota, Vice Chair

August 18, 2020



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: Request for Advisory Opinion – Application of Open to the General Public Exception (2020 RA 10)

FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Answer the questions presented and direct:
 - a. The Administrator prepare and issue an informal opinion based on today's discussion;
 - b. An informal opinion be prepared for consideration and issuance by the Commission at its October meeting; or
 - c. A formal opinion be prepared for consideration and issuance at its October meeting.
2. Request more specific factual representations prior to providing guidance; or
3. Decline to provide the requested advice.
 - a. If so, does the Commission choose to refer the matter to the Attorney General?
 - b. If so, does the Commission choose to refer the matter to the standing legislative oversight committees?

I. Introduction

Attorney Wittenwyler sent a request for advice positing two hypotheticals. The request was solely focused on the applicability of the lobbying laws in subch. III, Ch. 13, of the Wisconsin Statutes. For purposes of this memo and the request, the campaign finance laws and provisions of subch. III, Ch. 19 of the Wisconsin Statutes are not examined. The first question involved whether a covered person, who is a member of an organization (that is a principal), could accept a thing of value that is being offered to all members of the organization at a membership event. The second question regarded an event put on by a lobbyist or principal that was not a membership event. The attendance criteria for the event would consist of members of groups that are interested in public policy issues, other entities or people interested in the public policy issues, and covered persons. In the case of the first question, staff had sufficient precedent to provide guidance related to the membership event. The Administrator issued 2020 RA 06 as an informal opinion to address that question. However, in reviewing the second question, there was not sufficient precedent to address this via informal opinion issued by the

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

Administrator. The Administrator prepared the memorandum attached (“Attachment A”) in preparation for that discussion.

At the Commission meeting on June 16, 2016, the Commission heard from staff and Attorney Wittenwyler concerning the issues presented by the second question. After the presentations, the Commission directed staff to review the Commission’s precedent and further review Attorney Wittenwyler’s arguments and prepare further information for the meeting on August 18, 2020. Specifically, the Commission was interested in the distinction between the applicable statute’s use of “give” and “furnish.”

II. Discussion

There are several provisions that are implicated by this request. The first two provisions to focus on a lobbyist or principal giving something of pecuniary value pertinent provisions to this discussion. As the legislative changes at issue directly impact these provisions, they will be discussed first. Then, the memo’s focus will turn to the prohibition on a covered official soliciting or accepting something of value from a lobbyist or principal.

A. Application of WIS. STAT. § 13.625(1) & (2)

First, there is the prohibition on lobbyists providing things of value to covered officials in [WIS. STAT. § 13.625\(1\)](#). Second, there is the prohibition on principals providing things of value to covered officials in [WIS. STAT. § 13.625\(2\)](#). Currently, [WIS. STAT. § 13.625\(1\)](#) provides, in pertinent part:

(1) No lobbyist may:

- (a) Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition thereto.
- (b) Give 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 candidate committee of the official, employee, or candidate:
 - 1. Lodging.
 - 2. Transportation.
 - 3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may deliver a contribution or make a personal contribution to a partisan elective state official or candidate for national, state or local office or to the candidate committee of the official or candidate; but a lobbyist may make a personal contribution to which sub. (1m) applies only as authorized in sub. (1m).

The current version of [WIS. STAT. § 13.625\(2\)](#) states:

No principal may engage in the practices prohibited under subs. (1) (b) and (1m). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages, or any other thing of pecuniary value which is also made available to the general public.

Wisconsin law generally prohibits a lobbyist¹ from giving anything of pecuniary value to an agency

¹ WIS. STAT. § [13.62\(10\)](#), [\(10g\)](#), [\(11\)](#), [\(12\)](#).

official², legislative employee³, elective state official⁴, candidate for state elective office⁵, or the candidate committee⁶ of any such official, employee, or candidate (“covered person”). WIS. STAT. § [13.625\(1\)\(b\)](#) and [\(1m\)](#). The Commission and its predecessor agencies have held that this restriction remains applicable even when the covered person offers payment to the lobbyist in exchange for the item or service. [WIS. STAT. § 13.625\(3\)](#), [1997 Wis Eth Bd 12](#), ¶ 5 (reaffirmed by the Government Accountability Board on January 15, 2009; reaffirmed by the Ethics Commission on June 18, 2019), [Guideline ETH-1211](#), [80 Op. Att’y Gen. 205 \(1992\)](#). [WIS. STAT. § 13.625\(2\)](#), then extends those prohibitions to a lobbying principal, but also provides a unique exception that allows principals to furnish transportation, lodging, food, meals, beverages, or any other thing of pecuniary value if it is made available to the general public.

As he has argued in the past, Attorney Wittenwyler points to a change made to [WIS. STAT. § 13.625\(1\)](#) by [2015 Act 117](#) to argue that the prior interpretation is no longer applicable. Specifically, Attorney Wittenwyler argues that the change from “furnish” to “give” in [WIS. STAT. § 13.625\(1\)](#) has legal significance and that the Commission’s interpretation of that law should change.

Section 34 of [2015 Act 117](#) reads:

SECTION 34. 13.625 (1) (b) (intro.) of the statutes is amended to read:

13.625 (1) (b) (intro.) ~~Furnish~~ Give 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~~ candidate committee of the official, employee, or candidate:

The above provision notably removes the term “furnish” and replaces it with the term “give.” Interestingly, this is the only subsection that the Legislature changed from “furnish” to “give.” The word “furnish” still appears in WIS. STAT. § [13.625\(2\)](#), [\(6\)](#), [\(6g\)](#), [\(6r\)](#), [\(6s\)](#), [\(6t\)](#), [\(7\)](#), [\(9\)](#), and [\(10\)](#).

Since this amendment, the statute now contains two different words in relation to lobbyists and lobbying principals providing things to officials, “furnish” and “give.” These two words are not defined in Wisconsin Statutes Chapter 13. The courts direct that statutory interpretation begin with the language of the statute; if the meaning is plain, the inquiry does not go further. *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 45. Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially defined words or phrases are given their technical or special definitional meaning. *Id.* Statutory language is interpreted in the context in which it is used; not in isolation but as a whole; in relation to the language of surrounding or closely related statutes; and reasonably, to avoid absurd or unreasonable results. *Id.* at ¶ 46. A common and accepted meaning can be determined by reference to a dictionary definition. *Id.* at ¶ 53.

To get further clarification on the drafting of these statutory sections and determining the definitions of certain words, staff reached out to the Legislative Reference Bureau (“LRB”). The LRB provided staff with the following excerpts from their drafting manual:

² [WIS. STAT. § 13.62\(1\)-\(3\)](#).

³ [WIS. STAT. § 13.62\(8m\)](#).

⁴ [WIS. STAT. § 13.62\(6\)](#).

⁵ WIS. STAT. §§ [5.02\(23\)](#), [11.0101\(1\)](#), [13.62\(5g\)](#), [13.62\(6\)](#).

⁶ WIS. STAT. §§ [11.0101\(2\)](#), [13.62\(5j\)](#).

2.03(2)(a)

(a) When deciding whether to insert a definition of a word or phrase into a statutory unit, consider whether the word or phrase is critical to correctly interpreting the statute, whether the word or phrase is self-defining, and whether the word or phrase is defined in standard or legal dictionaries or in case law.

2.03(2)(b)

(b) If the word or phrase is not defined, the common and approved usage of a nontechnical word or phrase is presumed to be the usage intended, and this usage will be determined by reference to a recognized dictionary. See *Xcel Energy Servs. v. Labor & Indus. Review Comm'n*, 2013 WI 64, ¶30, 349 Wis. 2d 234 and *State v. Kuntz*, 160 Wis. 2d 722, 740 (1991).

The LRB informed staff that they do not require use of one specific dictionary when it comes to defining words, but rather utilize both Webster’s New International Dictionary and Black’s Law Dictionary in their drafting work.

There are several definitions found in the dictionary for the word “give.” The following are several of the most relevant definitions:

- To make a present of;
- To put into the possession of another for his or her use;
- To execute and deliver;
- To convey to another;
- To provide by way of entertainment;
- To yield possession by way of exchange;
- To offer for consideration, acceptance, or use;
- To cause one to have or receive;
- To allow one to have or take; and
- To make gifts or presents.⁷

Staff also referenced *Black’s Law Dictionary* (9th Edition), in looking at the definition of “give.” The most pertinent definition provided in this dictionary is “to voluntarily transfer to another without compensation.”

As for the word “furnish” Merriam Webster’s Dictionary provides two definitions: “To provide with what is needed” and “Supply, give.”⁸

Staff also referenced Black’s Law Dictionary Free Online Legal Dictionary (2nd Edition). The definition of “furnish” included in that dictionary is “To supply; provide; provide for use.”⁹

⁷ Merriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/give> (last visited July 30, 2020).

⁸ Merriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/furnish> (last visited July 30, 2020).

⁹ Black’s Law Dictionary Free Online Legal Dictionary (2nd Edition), <https://thelawdictionary.org/furnish/#:~:text=As%20used%20in%20theliquor%20laws.520%3B%20State%20v.> (last visited July 30, 2020).

In addition to these definitions, it is important for the Commission to consider additional precedent related to the interpretation of these provisions. The precedent that our advisory opinions and guideline point to as authority on the issue of whether a lobbyist or principal may provide things of value is an Attorney General Opinion, [80 Op. Att’y Gen. 205 \(1992\)](#). After discussing the definition of “furnish,” the Attorney General opined:

In 77 Op. Atty. Gen. 160 (1988), this office opined that a state officer or employe could not accept compensation from a principal in exchange for services as a member of the board of directors of the principal. In 1989 Wisconsin Act 338, the Legislature amended the lobbying law to limit its application to elected state officials, legislative employes, candidates for state office and agency decision-makers. The fact that the Legislature amended the statute in response to the attorney general opinion, but did not change the general prohibition against a lobbyist or principal furnishing something of pecuniary value and a state official from accepting something of pecuniary value, is persuasive evidence that the Legislature wanted to prohibit the furnishing of a thing of pecuniary value even if something of pecuniary value was furnished in return.¹⁰

...

Under section 13.625(2) a principal may furnish something of pecuniary value to a state official if the item or service is normally available to the general public on the same terms and conditions. Section 13.625(1) prohibits lobbyists from furnishing and officials from accepting anything of pecuniary value. There is no exception in that subsection for things of pecuniary value which are also made available to the general public. The law is unambiguous; lobbyists may not furnish to an official, and an official may not accept from a lobbyist, an item or service of pecuniary value even if that item or service is available to the general public. Therefore, an official may purchase banking services and may receive loans from a bank which hires a lobbyist if the services and loans are provided to the official on the same terms and conditions that the services and loans are provided to the general public. Similarly, an official could purchase legal services from or sell legal services to an association, corporation or partnership that employs a lobbyist if such services are provided on the same terms or conditions to the general public. Sec. 13.62(12), Stats. A lobbyist cannot, however, provide legal services to an official or purchase legal services from an official even if the services are available to the general public on the same terms and conditions.¹¹

The Attorney General’s opinion from 1992 clearly establishes the precedent that furnishing something of value is prohibited even if there is a corresponding exchange of something of pecuniary value in return. The opinion goes further to discuss the general public exception and establish the test the Commission adopted concerning whether things are being made available to the general public. This Attorney General’s Opinion is one of the primary sources of the Commission’s opinion precedent and is cited in its current [Guideline ETH-1211](#) addressing limitations on acceptance of things of value.

When the Commission considered revisions to [Guideline ETH-1211](#) last year, Attorney Wittenwyler raised essentially the following argument: “Give” means something different than “furnish” and the Legislature changed the pertinent prohibition from “furnish” to “give.” As a result of this change,

¹⁰ [80 Op. Atty. Gen 205, 206 \(1992\)](#).

¹¹ [80 Op. Atty. Gen 205, 207-208 \(1992\)](#).

Attorney Wittenwyler argues that the Legislature intended to allow lobbyists and principals to furnish things as long as something of pecuniary value was given in return.

During the review and revision of [Guideline ETH-1211](#), the Commission's staff considered the similarity between the definitions of the two terms and argued that the interpretation should not deviate from the past precedent. The Commission adopted the revised version of the Guideline and maintained the precedent that a lobbyist or principal could not give anything of value to a covered official, even in exchange for something of pecuniary value.

At the last meeting, the Commission considered this opinion request and whether the request would fit within the exception allowing principals to furnish something of value to covered officials if the thing is being made available to the general public. Attorney Wittenwyler again argued that the change from furnish to give necessitates a different result. Staff agreed that there is some merit to the argument. As a result, the Commission requested staff to provide information from its prior considerations and to review the pertinent legislative history.

Reviewing the definitions above, it is clear that "give" and "furnish" are somewhat interchangeable. Depending on which dictionary and/or definition is selected, both terms could be read to either include or exclude an exchange of an item for another item. However, the Commission is not reading these statutory provisions in a vacuum. Staff inquired of the LRB whether there was any documentation that would show the legislative intent behind this change. Staff was advised that there was nothing in the drafting files that demonstrates why the Legislature made these changes.

As that inquiry did not yield any guidance, the Commission is left with the plain text of [2015 Act 117](#) and the context in which those changes were made. At the outset of this analysis, it is important to note that the Legislature would have known of the Attorney General Opinion discussed above and the predecessor agencies' interpretation of the statute in reliance thereon. Additionally, it is generally accepted that, when a legislative body changes a word in a statute, it does so because it intends a different interpretation. In this case, there is a strong argument that the statute was changed for the purpose of allowing an exchange of things of pecuniary value while maintaining the prohibition on gifts. Knowing that the pertinent opinion precedent prohibited furnishing things of value even in exchange for something in return, the Legislature changed the word from "furnish" to "give." While the various definitions of these words render those words somewhat interchangeable, this does not appear to be a change of words simply in favor of a different synonym. The Legislature knew the precedent prohibited both giving and an exchange of things of pecuniary value. By changing from "furnish" to "give," it is likely that the Legislature meant to abandon the interpretation that even an exchange of things of pecuniary value was prohibited. It would not have changed the term meaning for the same result to apply. So, in examining the definitions and knowing the past precedent, there is a strong argument that the Legislature changed to "give" for the purpose of abandoning the precedent that prohibited an exchange of things of pecuniary value. It would appear that this change, which is deemed intentional and meaningful under the law, was intended to bring about the result that a lobbyist or principal providing something of value without receiving something in return is prohibited whereas providing something of value is not prohibited when something is given in return.

However, there are equally strong arguments based on rules of statutory construction that this interpretation could not be correct. The Commission is required to give full effect to all of the statutes.

By the change to “give,” the Legislature essentially created two classes of providing things of pecuniary value. First, there is the class of gifts. It is impermissible for lobbyists and principals to give anything to a covered official. Second, there is the class of items that a lobbyist or principal may “furnish.” Under the argument above, furnishing is always permissible.¹² This cannot logically be.

The prohibition is expressed in [WIS. STAT. § 13.625\(1\)\(b\)](#). It is then made applicable to principals in [WIS. STAT. § 13.625\(2\)](#). So, the general rule is in [WIS. STAT. § 13.625\(1\)\(b\)](#) and the remaining provisions in [WIS. STAT. § 13.625](#) thereafter are either cross referencing the prohibitions or are exceptions to the general rule in [WIS. STAT. § 13.625\(1\)\(b\)](#). If the general rule was changed so that the general rule is that gifts are prohibited but “furnishing” is allowed, any provision that uses “furnish” thereafter is rendered moot because “furnishing” is always allowed under the general rule. As a result, the general public exception for principals in [WIS. STAT. § 13.625\(2\)](#) is inert; it is mere surplusage. It would no longer matter whether it is a principal or a lobbyist; nor would the circumstances matter. Further, the other specific exceptions for “furnishing” in [\(6\)](#), [\(6g\)](#), [\(6r\)](#), [\(6s\)](#), [\(6t\)](#), [\(7\)](#), [\(9\)](#), and [\(10\)](#) would likewise be rendered meaningless. Generally accepted principles of statutory construction would not allow such a reading.

Additionally, if it is assumed that the Legislature prohibited gifts but allowed furnishing, how does the Commission reconcile [WIS. STAT. § 13.625\(6\)](#)? That provision allows lobbyists and principals to furnish things of pecuniary value to covered officials that are the official’s relative or roommate. This provision has historically been understood to allow a covered official’s relative and roommate to give things to them for free. The same is the case with [WIS. STAT. § 13.625\(6t\)](#) which allows “furnishing of educational or informational material.” If the change is as described above, since these provisions only address furnishing, does that now mean that relatives and roommates can no longer give gifts to covered officials that are their relative or roommate? Does it mean that covered officials have to pay for informational materials? It would probably be inappropriate for the Commission to interpret gifts and educational/informational materials to be permissible under this use of “furnish” but not the others. The Commission must use the terms “give” and “furnish” consistently throughout the statute.

B. Application of WIS. STAT. § 13.625(3)

When providing advice, it is incumbent upon the Commission to consider all statutes within its jurisdiction where possible. In the context of this advice, it is also important for the Commission to consider the application of [WIS. STAT. § 13.625\(3\)](#), which provides:

No candidate for an elective state office, elective state official, agency official, or legislative employee of the state may solicit or accept anything of pecuniary value from a lobbyist or principal, except as permitted under subs. [\(1\) \(b\) 3.](#), [\(1m\)](#), [\(2\)](#), [\(4\)](#), [\(5\)](#), [\(6\)](#), [\(7\)](#), [\(8\)](#) and [\(9\)](#). No candidate committee of a candidate for state office may accept anything of pecuniary value from a lobbyist or principal, except as permitted for such a candidate under subs. [\(1\) \(b\) 3.](#), [\(1m\)](#), [\(2\)](#), and [\(6\)](#).

This provision prohibits a covered official from soliciting or accepting anything of pecuniary value from a lobbyist or principal unless it falls within one of the cross-referenced subsections. It also

¹² There is a much greater policy discussion to be had concerning what level of compensation/reimbursement/exchange would be satisfactory. Is it based on actual cost? Retail value? For purposes of brevity, this memo will not explore that path.

prohibits candidate committees of candidates for state office from accepting anything of pecuniary value from a lobbyist or principal unless it falls within one of the exceptions in the enumerated subsections in the second sentence. For purposes of this request, the Commission’s attention should be focused on the prohibition in the first sentence.

It is important to remember that this request concerns a covered official attending an event put on by a lobbyist or principal and whether the official can accept food, meals, and beverages. In the request, it is stated that none of the other exceptions in [WIS. STAT. § 13.625](#) applies. This is significant because [WIS. STAT. § 13.625\(3\)](#) says that acceptance is prohibited “except as permitted under” the subsections cross-referenced. One of the cross-referenced subsections is [WIS. STAT. § 13.625\(1\)\(b\)3.](#) which provides:

(1) No lobbyist may:

...

(b) Give 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 candidate committee of the official, employee, or candidate:

...

3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may deliver a contribution or make a personal contribution to a partisan elective state official or candidate for national, state or local office or to the candidate committee of the official or candidate; but a lobbyist may make a personal contribution to which sub. (1m) applies only as authorized in sub. (1m).

[WIS. STAT. § 13.625\(1\)\(b\)3.](#) contains two parts. First, it contains the express prohibition on accepting food, meals, beverage, money, or any other thing of pecuniary value. Second, it creates two exceptions: a) lobbyists are allowed to deliver contributions to partisan elective state officials or their committees on behalf of others at any time, and b) lobbyists can make personal contributions during the “window.” Food, beverage, meals, money, or any other thing of pecuniary value are prohibited under [WIS. STAT. § 13.625\(1\)\(b\)3.](#) There is nothing permitting them in that subsection. Since they are not permitted by [WIS. STAT. § 13.625\(1\)\(b\)3.](#), food, meals, and beverage cannot be accepted by a covered official under [WIS. STAT. § 13.625\(3\)](#), unless one of the other exceptions cited therein applies (i.e., the honorarium exception).

One might raise the argument that “accept” should be read to allow furnishing the food, meals, beverage, money, or other thing of value while prohibiting a lobbyist or principal from giving them to a covered official. The Commission has not yet opined on this issue.

Chapter 13 of the Wisconsin Statutes does not define the term “accept.” Merriam-Webster lists six definitions of “accept.” The most pertinent to this analysis is “to receive (something offered) willingly.”¹³ The example used for this definition is “accept a gift.” While the example used involves gift, that does not necessarily limit application of the definition just to gifts. However, it is important to recognize that this is one common understanding of that term.

¹³ Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/accept> (last visited on August 5, 2020).

The online version of Black’s Law Dictionary does not have a definition of accept. However, it has definitions for “acceptance.” It defines “acceptance” as:

1. Agreements: Two parties agree to the terms of a contract. If it is denied a counter off [sic] is made until the agreement is reached. Upon agreement the contract is legally binding when it is signed.
2. Commerce: When a buyer accepts goods delivered.
3. Documentary credit: Agreeing to pay a bill by signing under the word accepted.
4. Legal: When an agent officially authorized acts on an agreement.
5. Shipping: The act of sending a good to a recipient.¹⁴

Interestingly, the legal definition in the context of commerce states when a buyer accepts goods delivered. So, it appears that “accept” could be interpreted to apply in scenarios where someone is accepting a “gift” and in scenarios where someone is accepting something in exchange for compensation.

There are arguments for and against this reading. The policy underpinning the lobbying law is to eliminate the potential corrupting influence of lobbyists and principals providing things of value to covered officials. Additionally, the law prohibits even asking for (soliciting) anything of pecuniary value. The law used to be that any furnishing, regardless of whether compensation was exchanged, was prohibited. Under that version, whether it was permissible to “accept” would not have been determined by whether there was an exchange. It was simply whether the official took control over the thing of pecuniary value and whether doing so fit within any enumerated exceptions. That would lend itself to an interpretation that any acceptance is prohibited regardless of whether there is an exchange. However, it is equally obvious that, if the Legislature intended to generally allow furnishing but not giving, it would not make sense to read [WIS. STAT. § 13.625\(3\)](#) to prohibit acceptance where furnishing is otherwise permitted.

III. Conclusion

In light of the foregoing, the appropriate resolution to this inquiry is not clear. It is clear that the Legislature intended to change from “furnish” to “give.” It expressly did so in 2015 Act 117. However, in light of the ramifications of that change, it is not clear whether or how the Commission could give effect to that change. The Commission clearly should not read substantial portions of that statute out of existence. This would appear to be required if the Commission were to try to apply this change to WIS. STAT. §§ [13.625\(1\)\(b\)](#), [\(2\)](#), and [\(3\)](#). Therefore, the Commission is left with the choice to interpret these provisions as best it can or to decline an opinion and refer this matter to the Legislature for clarification. While at times the Commission and its predecessors have referred matters to the Attorney General, it does not appear that a different interpretation could be reached without substantial intellectual gymnastics that ignore basic canons of statutory construction. Therefore, referral to the Attorney General would not appear to be a worthwhile pursuit.

Enclosures: Meeting Memo for June 16, 2020 (including the request)

¹⁴ Black’s Law Dictionary Free Online Legal Dictionary (2nd Edition), <https://thelawdictionary.org/acceptance/> (last visited August 5, 2020).



Wisconsin Ethics Commission

Attachment

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on June 16, 2020
TO: Members, Wisconsin Ethics Commission
FROM: Daniel A. Carlton, Jr., Administrator
SUBJECT: 2020 RA 10; Application of Open to the General Public Exception

FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Answer the questions presented and direct:
 - a. The Administrator prepare and issue an informal opinion based on today's discussion;
 - b. An informal opinion be prepared for consideration and issuance by the Commission at its August meeting; or
 - c. A formal opinion be prepared for consideration and issuance at its August meeting.
2. Request more specific factual representations prior to providing guidance; or
3. Decline to provide the requested advice.

I. Introduction

Attorney Wittenwyler sent a request for advice positing two hypotheticals. The first involved whether a covered person, who is a member of an organization, could accept a thing of value that is being offered to all members of the organization at a membership event. The second question regarded an event that was not a membership event. This attendance criteria for the event would consist of members of groups that are interested in public policy issues, other entities or people interested in the public policy issues, and covered persons. In the case of the first question, staff had sufficient precedent to provide guidance related to the membership event. The Administrator issued 2020 RA 06 as an informal opinion to address that question. However, in reviewing the second question, there was not sufficient precedent to address this via informal opinion issued by the Administrator. Below is a discussion of the applicable law, the question presented, and questions for the Commission to consider.

II. Discussion

Wisconsin law generally prohibits a lobbyist¹ from giving anything of pecuniary value to an agency

¹ WIS. STAT. § [13.62\(10\)](#), [\(10g\)](#), [\(11\)](#), [\(12\)](#).

official², legislative employee³, elective state official⁴, candidate for state elective office⁵, or the candidate committee⁶ of any such official, employee, or candidate (“covered person”). WIS. STAT. § [13.625\(1\)\(b\)](#) and [\(1m\)](#). The Commission and its predecessor agencies have held that this restriction remains applicable even when the covered person offers payment to the lobbyist in exchange for the item or service. [WIS. STAT. § 13.625\(3\)](#), [1997 Wis Eth Bd 12](#), ¶ 5 (reaffirmed by the Government Accountability Board on January 15, 2009; reaffirmed by the Ethics Commission on June 18, 2019), [Guideline ETH-1211](#), [80 Op. Att’y Gen. 205 \(1992\)](#).

[WIS. STAT. § 13.625\(2\)](#), then extends those prohibitions to a lobbying principal, but also provides an exception unique to lobbying principals:

(2) No principal may engage in the practices prohibited under subs. [\(1\) \(b\)](#) and [\(1m\)](#). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages, or any other thing of pecuniary value which is also made available to the general public.

The Commission adopted the following test used by its predecessor agencies to determine when a thing of pecuniary value is available to the general public:

1. It is available to anyone who wants it and who meets the criteria for eligibility;
2. The criteria are:
 - a. Established and readily identifiable; and,
 - b. Drawn without the purpose or effect of giving a preference to or conferring an advantage upon an agency official, legislative employee, or elective state official; and,
3. There is no offer or notice of availability directed to an agency official, legislative employee, or elective state official with the effect of conferring an advantage not also given other who meet the criteria.

[WIS. STAT. § 13.625\(2\)](#), [1997 Wis Eth Bd 12](#), ¶ 8 (reaffirmed by the Government Accountability Board on January 15, 2009; reaffirmed by the Ethics Commission on June 18, 2019), [Guideline ETH-1211](#), [80 Op. Att’y Gen. 205, 212 \(1992\)](#).

Under this test, a lobbying principal may limit its offer to those who meet certain eligibility criteria as long as the criteria are: (a) established and readily identifiable, and (b) drawn without the purpose or effect of giving a preference to, or conferring an advantage upon, an enumerated official or employee. Accordingly, a lobbying principal may limit its offer to certain persons or types of persons that include covered persons when the above test is met (e.g., persons of a certain age or living in a certain geographic area). See [1996 Wis Eth Bd 6, 3 n.3](#).

The inquiry is drafted such that elements 1., 2.a., and 3 of the test are clearly met. As was the case in 2020 RA 06, what is being contemplated is whether food, drink, and potentially other items of de minimis value (i.e., pens, buttons, etc.) is being made available to the general public and, therefore, may be accepted by

² [WIS. STAT. § 13.62\(1\)-\(3\)](#).

³ [WIS. STAT. § 13.62\(8m\)](#).

⁴ [WIS. STAT. § 13.62\(6\)](#).

⁵ WIS. STAT. §§ [5.02\(23\)](#), [11.0101\(1\)](#), [13.62\(5g\)](#), [13.62\(6\)](#).

⁶ WIS. STAT. §§ [11.0101\(2\)](#), [13.62\(5j\)](#).

covered persons. In this case, the event is not a membership event and the covered persons do not otherwise meet the eligibility criteria. (The request provides that all attendees will be offered and have equal access to these items. Therefore, the phrase attendance criteria is used instead of the phrase “eligibility criteria” that is used in the test.) Rather, it is an event hosted by an organization with a particular interest. Others with the same interest would also be welcomed. Additionally, the attendance criteria could include a class of covered persons (such as all legislators) or it could target individual covered persons.

The overarching question presented is whether including covered persons in the attendance criteria means that the attendance criteria were drawn with the purpose or effect of giving a preference to or conferring an advantage on the covered person(s). Staff discussed this request in more detail via telephone with Attorney Wittenwyler. During that conversation, two approaches were posited: The first approach was to create the attendance criteria that included all legislators. The second approach was creating the attendance criteria that included specific, named officials.⁷

Before delving into the question of whether these hypotheticals have the effect of giving a preference or conferring an advantage upon a covered person, there is another question the Commission might consider addressing: Is it possible to have attendance criteria that do not include covered persons and still invite a covered person(s) to be a part of the event without contravening the test? For example, The Wisconsin Birdwatchers Association is a principal that is active statewide. It is going to have a statewide meeting that includes all organizations that are interested in birds. The criteria say nothing about a covered person attending. However, the organization invites a Senator that does not meet the attendance criteria. Has the organization constructively included the Senator as part of the attendance criteria simply by inviting him/her? Or is it just an invite to attend the event?

The following definitions will be helpful in the Commission’s consideration of this request.

According to Merriam-Webster’s Online Dictionary, the most pertinent definitions of “preference” include:

- 1a. The act of preferring; the state of being preferred;
- 1b. The power or opportunity of choosing;
2. One that is preferred;
3. The act, fact, or principle of giving advantages to some over others; or
4. Priority in the right to demand and receive satisfaction of an obligation.

According to Merriam-Webster’s Online Dictionary, the most pertinent definitions of “advantage” include:

1. Superiority of position or condition;
2. A factor or circumstance of benefit to its possessor; or
3. Benefit or gain, especially a benefit resulting from some course of action.

In the first proposed scenario, it is posited that the attendance criteria include all members of the Legislature and that each member would receive the same notice in the same manner as all others that

⁷ For this to be possible, the notice of the event would have to be provided to all attendees using the same method of communication and at the same time.

meet the attendance criteria. The Commission could logically answer that this is permissible or that it is prohibited. If the Commission concluded that it was permissible, it would be based on the rationale that, by including all legislators, the criteria were not drawn to give a preference or advantage to “an agency official, legislative employee, or elective state official” because no preference was given to a specific, identified covered person. Alternatively, the Commission could conclude that, since the class “legislators” is a known, identified group of individuals, there is a de facto preference or advantage by specifically including all legislators.

Regarding the second proposed scenario, it appears logical that the Commission would conclude that including a specifically identified covered person in the attendance criteria would result in a preference for that individual’s attendance. However, if the Commission determines that the organization can create attendance criteria that does not include any covered person, but may still invite a covered without changing the attendance criteria, it could be possible to invite a specific, covered official without running afoul of the test.

Staff is looking for guidance on how to answer these questions. If the Commission wants to provide guidance concerning these matters, it can answer the questions above and staff can prepare either an informal opinion or a formal opinion. If the Commission directs an informal opinion to be issued, it can be done by the Administrator. This would provide an immediate, effective response while allowing the Commission to review it at its meeting in August and make any revisions that might be necessary. The Commission could also decide to issue an informal and request a draft of the informal be presented at the Commission’s meeting in August. Finally, the Commission could also direct staff to prepare a formal opinion for consideration and adoption at its August meeting. A formal opinion would be published on the Commission’s website.

Enclosures: Request

February 6, 2020

VIA HAND DELIVERYWisconsin Ethics Commission
101 East Wilson, Suite 127
Madison, WI 53703**Application of Lobbying Law to Events
that are Accessible to the General Public**

Dear Chairperson Strachota:

Pursuant to Wis. Stat. § 19.46(2), we are seeking the Wisconsin Ethics Commission's (the "Commission's") opinion regarding the application of Wis. Stat. § 13.625(2) to an organization that is a registered lobbying principal under Wis. Stat. § 13.64. Specifically we are seeking confirmation that a lobbying principal makes transportation, lodging, food, meals, beverages and other things of pecuniary value available to the general public under Wis. Stat. § 13.625(2) when the item or service is made available to all members of the organization or to all attendees at an event sponsored by the organization as long as the event notice and criteria for attendance meet the test established by the Commission.

BACKGROUND

Under the Wisconsin lobbying law, lobbyists and lobbying principals are generally prohibited from giving lodging, transportation, meals, beverages, money or any other things of pecuniary value to the following individuals:

- Agency officials;¹
- Legislative employees;
- Elective state officials;

¹ An agency official is a member, officer, employee or consultant of any agency who as part of such person's official responsibilities participates in any administrative action in other than a solely clerical, secretarial or ministerial capacity. Administrative action means the proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any rule promulgated under Chapter 227 of the Wisconsin Statutes. An agency includes, any board, commission, department, office, society, institution of higher education, council, or committee in the state government, or any public authority created by statute. It does not include a council or committee of the legislature. Wis. Stat. § 13.62(1)-(3). It is common for professional or trade associations ("associations") to recommend individuals for service on boards, councils and commissions. In fact, in several instances statutes require service by a representative of a specific association or an individual recommended by a specific association. *See e.g.*, Wis. Stat §§ 15.107(6); 15.135(4); 15.137(1); 15.185(5); 15.197(12); 15.227(15); 15.313(2); 15.377(8); 15.406(6); 15.407(13); 15.497(2); 15.675(1); 15.915(1).

- Candidates for elective state office; and,
- Candidate committees of an official, employee or candidate.²

Under the Commission's interpretation of state law, these covered officials are likewise generally prohibited from soliciting or accepting anything of pecuniary value from a lobbyist or lobbying principal, even in exchange for payment.³ The lobbying law contains specific exceptions to these prohibitions,⁴ including an exemption when a lobbying principal provides transportation, lodging, food, meals, beverage or any other things of pecuniary value to a covered official which is also made available to the general public.⁵

According to the Commission, a thing of pecuniary value is made available to the general public under the following circumstances:

- It is available to anyone who wants it and who meets the criteria for eligibility;
- The criteria are:
 - Established and readily identifiable; and,
 - Drawn without the purpose or effect of giving preference to or conferring an advantage on an agency official, legislative employee or elective state officials; and,
- There is no offer or notice of the event, item or service directed to an official that would convey an advantage to the official.⁶

ANALYSIS

The Commission advises that "something is available to the general public if it is accessible to the general public."⁷ However, general public does not include "everyone in the world or even all residents of Wisconsin."⁸ The Commission's interpretation is consistent with the dictionary definition of "public" which means, among other things, "a group of people who have common interests or characteristics, specifically the group at which a particular activity or enterprise

² Wis. Stat. § 13.625(1), (2).

³ Wis. Stat. § 13.625(3); ETH 1211.

⁴ See Wis. Stat. § 13.625(4)-(10).

⁵ Wis. Stat. § 13.625(2).

⁶ ETH-1211 (rev. Mar. 2019) citing Wis. Stat. §§ 13.625(2), 19.56(3)(b); 80 Op. Att'y Gen. 205, 212 (1992); 1991 Wis. Eth Bd. 3, 1991 Wis. Eth Bd. 9, 1997 Wis. Eth Bd. 12.

⁷ 1996 Wis. Eth Bd. 6, note 3 citing *American Mut. Liability Ins. Co. v. Fisher*, 58 Wis. 2d 299, 303, 206 N.W.2d 152 (1973).

⁸ 1996 Wis. Eth Bd. 6 note 3.

aim.”⁹ Accordingly, the general public may be limited to certain persons or types of persons, including covered officials when the above test is met.

Member-Only Events

A covered official who is a member of an organization that is a lobbying principal may accept things of pecuniary value from the organization at a member-only event as long as all of the following is true:

- The event is open to all members of the organization and any thing of pecuniary value provided at the event is available to every attendee who wants it.
- The organization’s membership criteria are established in bylaws, policies or other organization documents and readily identifiable. Criteria by its very meaning means that an organization may appropriately limit membership based on certain traits or standards.¹⁰ For example, membership may be limited to a person with a specific professional license or a person who is a member of an affiliated organization, who is located in a specific geographical area or who is of a certain age. Covered officials are excluded from accepting a thing of pecuniary value from an organization of which he or she is a member only when membership criteria is drawn with the purpose or effect of giving preference to or conferring an advantage on an agency official, legislative employee or elective state officials.¹¹
- The covered official receives the same offer or notice of the event made to all members of the organization and the notices provides all members the same access to the event and things of value provided at it.¹²

Other Events

A covered official may accept things of value at an event sponsored by a lobbying principal if all of the following is true:

- The event is open to anyone who meets the attendance criteria and any thing of pecuniary value provided is available to every attendee who wants it.
- The criteria for attendance are established and readily identifiable on any notice publicizing the event. As with membership criteria, attendance criteria may be

⁹ Merriam-Webster.com, 2020.

¹⁰ See Merriam-Webster.com (2020); Criterion means a standard on which a judgment or decision may be based or a characterizing mark or trait.

¹¹ The Commission may wish to clarify whether the membership criteria of an association of government agencies or of government officials gives a preference or confers an advantage on a covered official under this test.

¹² See 1996 Wis. Eth Bd. 6.

appropriately limited to specific persons or types of persons. As long as the attendance criteria is not limited to solely covered officials, the organization gives no preference and confers no advantage to those covered officials. For example, the attendance criteria for a reception intended to facilitate discussions between covered officials and constituents on public policy issues may include organization members and employees, members and employees of other organizations that share a common interest, specific elected officials and employees of specific branches of government or state agencies.

- The covered official receives notice of the event made to all persons who meet the attendance criteria and that notice provides all attendees the same access to the event and things of value provided at it. For example, no portion of the event may be open only to covered officials and no thing of value available at the event may be given only to covered officials.

CONCLUSION

In sum and based on the forgoing, we are seeking the Commission's confirmation that a lobbying principal has made a thing of pecuniary value available to the general public under the following circumstances.

- A covered official who is a member of an organization that is lobbying principal may accept things of pecuniary value at a member-only event sponsored by the principal when the following is true:
 - The event is open to all organization members and any thing of pecuniary value provided is available to every attendee who wants it;
 - The organization's membership criteria are clearly established and readily identifiable; and,
 - The covered official receives the same offer or notice of the event made to all members of the organization that provides for the same access to the event and things of value provided at it.
- A covered official may accept things of pecuniary value at an event sponsored by a lobbying principal when the following is true:
 - The event is open to anyone who meets the attendance criteria and any thing of pecuniary value provided is available to every attendee who wants it;
 - The criteria for attendance is not limited solely to covered officials and such criteria are established and readily identifiable on any notice publicizing the event; and,

- The covered official receives notice of the event made to all persons who meet the attendance criteria and such notice does not provide the covered official greater access to the event and or to things of value provided at it.

Please let us know if you have questions or need any additional information. We look forward to receiving the Commission's reply.

GODFREY & KAHN, S.C.



Mike B. Wittenwyler
Jodi Jensen

cc: Dan Carlton

21841084.1

From: [Haseleu, Jessica](#)
To: [Carlton, Daniel - ETHICS](#)
Cc: [Jensen, Jodi](#)
Subject: WEC - Advisory Opinion Request
Date: Thursday, February 6, 2020 10:34:16 AM
Attachments: [image001.png](#)
[WEC AO Lobbying Law Gen Public Events.pdf](#)

Hi Dan: Please see the attached. The original will be filed with your offices.

Thank you -

Jessica Haseleu | *Legal Executive Assistant*

608.284.2263 direct

JHaseleu@gklaw.com

GODFREY & KAHN S.C.

One East Main Street, Suite 500 | Madison, Wisconsin 53703-3300

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2020 ETH 05

VILLAGE CONTRACTING WITH COMPANY EMPLOYING DEPARTMENT HEAD'S SPOUSE

You are an attorney who represents a Village. You are seeking advice as to whether a Village department head may enter into a contract with a Company that employs the department head's spouse if the spouse is not an owner or manager of the company and will not benefit financially from the contract. You also ask whether the spouse is "associated," as defined in [WIS. STAT. § 19.42\(2\)](#), with the spouse's employer. Finally, you ask whether hypothetical or potential benefits or financial gain are prohibited by the Local Code of Ethics.

Summary:

The Commission first advises, based on the known facts provided in your request, that the department head may enter into the contract on behalf of the Village with the Company. The Commission also advises that the department head exercise caution and be mindful of the common law duty of undivided loyalty to the Village when acting in their official capacity related to the contract with the Company. If any of the facts described herein change, this advice may no longer be applicable.

Second, the Commission advises that, under the facts of your inquiry, the spouse is not "associated" with her employer as that term is defined in [WIS. STAT. § 19.42\(2\)](#). The term "associated" requires more than mere employment. It requires an individual to be a director, officer, trustee, have a certain ownership interest, or to be an authorized representative or agent. The Spouse in this case does not have any of those roles.

Lastly, the Commission advises that hypothetical or potential benefits are not generally prohibited by the Local Code of Ethics. The precedent established by the Commission's predecessor agencies requires more than mere conjecture or speculation. The Local Code of Ethics restricts substantial benefits and financial gain that are measurable and demonstrable. It does not prohibit hypothetical or potential benefits or financial gain.

Analysis

You advised that the head of the Village department is a local public official under [WIS. STAT. § 19.42\(7w\)\(d\)](#), and that the department head has the authority to enter into contracts for professional services, which are not subject to bidding procedures. The head of the department's spouse ("Spouse") is an employee of a private company ("Company"), which has more than 60 employees and several office locations across Wisconsin. The Spouse has no ownership interest in the Company. The Spouse is not an officer, director, or trustee of the Company. The Spouse is not in a managerial or supervisory position. The Spouse's compensation is driven solely by the projects to which the Spouse is assigned, which are generally projects for a state agency in other counties. You further advise that the Spouse does not have any supervisory role in the projects they are assigned to or on the job sites of such projects. The Spouse has a supervisor that the Spouse reports to for each assigned project and has no authority to bind the Company. The Company pays the Spouse wages and benefits, but the Company is reimbursed in full for those wages and benefits by the state agency, as part of their contracts with the state agency. You advise that there is no profit

sharing plan or bonus system which would result in the Company's revenue from a contract entered into with the Village accruing to the Spouse, and that the Spouse's compensation is determined solely on the basis of the contracts and projects to which the Spouse is assigned.

You also advise that the department head believes that the Company and certain employees of the Company (other than the Spouse) are best suited to provide services to the Village for certain projects. The Spouse would not be providing the services and neither the department head nor their Spouse are aware of any financial gain or benefit that the Spouse would receive if the Village contracted with the Company.

The department head is a local public official under [WIS. STAT. § 19.42\(7w\)\(d\)](#). As such, the department head is subject to the restrictions set forth in the Local Code of Ethics, [WIS. STAT. § 19.59](#). The department head, by entering into a contract on behalf of the Village, will be taking official action. The relevant provisions of the Local Code of Ethics are as follows:

[WIS. STAT. § 19.59\(1\)\(a\)](#) provides in relevant part:

No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

[WIS. STAT. § 19.59\(1\)\(b\)](#) provides:

No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

[WIS. STAT. § 19.59\(1\)\(c\)](#) provides:

Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

Further, the terms "immediate family" and "associated," are specifically defined in Chapter 19:

[WIS. STAT. § 19.42\(7\)](#) provides:

"Immediate family" means:

- (a) An individual's spouse; and
- (b) An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

[WIS. STAT. § 19.42\(2\)](#) provides:

“Associated,” when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

Application of WIS. STAT. §§ 19.59(1)(a) and 19.59(1)(c)

These provisions in the Local Code of Ethics prohibit a local public official from:

- using his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated; [WIS. STAT. § 19.59\(1\)\(a\)](#).
- taking any official action substantially affecting a matter in which the official, an immediate family member, or an organization with which the official is associated has a substantial financial interest, or [WIS. STAT. § 19.59\(1\)\(c\)](#).
- using his or her office or position in a way that produces or assists in the production of a substantial benefit, direct, or indirect, for the official, his or her immediate family, or an organization with which the official is associated. [WIS. STAT. § 19.59\(1\)\(c\)](#).

As the department head is not associated with the company, the only way in which these provisions will apply to this case would be if the Spouse, an immediate family of the local official, is “associated” with the Company as defined in [WIS. STAT. § 19.42\(2\)](#). You advise that the Spouse is an employee of the Company, not an officer, director, or trustee, and does not own or control any equity in the Company. The only question then is whether the Spouse is an authorized representative or agent. These terms are not defined in Chapter 19 of the Wisconsin Statutes. The courts direct that statutory interpretation begin with the language of the statute; if the meaning is plain, the inquiry does not go further. *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 45. Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially defined words or phrases are given their technical or special definitional meaning. *Id.* Statutory language is interpreted in the context in which it is used; not in isolation but as a whole; in relation to the language of surrounding or closely related statutes; and reasonably, to avoid absurd or unreasonable results. *Id.* at ¶ 46. A common and accepted meaning can be determined by reference to a dictionary definition. *Id.* at ¶ 53.

A definition found in the dictionary for agent is “one who is authorized to act for or in place of another.” Merriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/agent> (last visited July 31, 2020). Authorized and authority are defined as “one endowed with authority.” Merriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/authorized> (last visited July 31, 2020). Representative is defined as “one that represents another or others, such as one that represents a business organization or one that represents another as an agent, substitute, or delegate usually being invested with the authority of the principal.” Merriam Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/representative> (last visited July 31, 2020). Together, authorized

representative, could be considered to mean one endowed with authority to represent another, for example an individual given the authority to represent a business organization.

While the Spouse may have some degree of decision-making authority with respect to their assigned tasks, they do not act in a supervisory or managerial role and have no authority to bind the Company in things such as contractual matters or major decision making. The Spouse does not fit within the general definitions of agent or authorized representative, meaning that they have been granted some type of authority to act on behalf of the Company. Your interpretation of “authorized representative or agent” is that, at a minimum, it means that an individual has a supervisory or managerial type position and that any broader reading of the phrase would encompass any employee and result in nearly anyone with a connection to the organization being deemed “associated.” This is a correct interpretation. The Legislature explicitly included a definition of associated and as part of this definition specifically referenced ownership, equity interest, leadership roles, and roles with authority to represent the organization, as that which makes an individual “associated” with an organization. As you state in the request, any broader interpretation would render the statutory definition meaningless.

Neither the department head nor their Spouse is associated, within the meaning of the statute, with the Company. Therefore, WIS. STAT. § [19.59\(1\)\(a\)](#) or [\(c\)](#) does not restrict the department head from taking official action where only the interests of the Company are implicated. However, as the Spouse is a paid employee of the Company, the remaining question is whether the department head’s official action would result in the Spouse receiving financial gain, anything of substantial value or benefit, directly or indirectly.

The department head’s Spouse’s compensation is something of substantial value and personal benefit, therefore, the Local Code of Ethics would restrict the official from taking official action that would affect the Spouse’s compensation. You advise that there is no financial gain or substantial benefit, value, or financial interest that the Spouse will receive as a result of the Village contracting with the Company, because the Spouse’s compensation is only based on the contracts and projects that the Spouse is assigned and there is no profit sharing or bonus plans that would result in the Company’s revenue from a contract with the Village indirectly accruing to the Spouse. If these facts are true, and there is not financial gain or substantial benefit as a result of the contract, then the department head could take official action to enter into the contract.

In addition to these known facts, you ask whether the Local Code of Ethics prohibits official action if a benefit or value is speculative in nature and provided a hypothetical scenario for the Commission’s consideration. In this hypothetical, the Spouse’s supervisor oversees the Spouse and has responsibility related to the contract with the Village. While there is no evidence that this will take place, the hypothetical posits that the office manager could see the Spouse as a more valuable employee because of the relationship with the Village department head. Opinions of our predecessor agencies found that measurable and demonstrable, not speculative benefits or financial interests or gain, are to be considered when determining if conflicts of interest exist and if a local official may participate and take official action. [2002 Wis Eth Bd 01](#), [2005 Wis Eth Bd 05](#).

Under the hypothetical posited, the potential effect is only speculative in nature. Without more, it is mere conjecture. Therefore, the department head would not be prohibited from taking official

action. However, if the Spouse were to receive a substantial benefit or financial gain as a result of the contract between the Village and Company, the department head would be restricted from taking official action and entering into the contract with the Company.

One other hypothetical to consider is, if the contract with the Village were to establish a basis or precedent for other contracts that the Spouse may be assigned and that precedent would be of substantial value, provide financial gain to the Spouse, or substantially benefit the spouse the department head should refrain from entering into the contract. If the effect of the contract remains merely conjecture or is inconsequential, as demonstrated in the facts provided, then the official may enter into the contract. *See* [2002 Wis Eth Bd 04](#).

Application of WIS. STAT. § 19.59(1)(b)

The final question is whether the compensation that the Spouse receives as an employee of the Company may reasonably influence the department head's official action of entering into the contract with the Company and, therefore, present a potential conflict under [WIS. STAT. § 19.59\(1\)\(b\)](#).

Subsection 19.59(1)(b) prohibits the official from:

- Soliciting or accepting, directly or indirectly, anything of value if it could be reasonably expected to influence the official's vote, official actions, or judgment, or
- Solicit or accept, directly or indirectly, anything of value if it could reasonably be considered a reward for the official action or inaction of the local official.
- This subsection does not include a restriction on the official's immediate family or an organization with which the official or their immediate family are associated.

You cite [2013 GAB 01](#)¹ in the request for advice as a somewhat analogous set of facts, a city council member participating in official action with a business which employed their spouse. The GAB opined that [WIS. STAT. § 19.59\(1\)\(b\)](#) did not apply to that particular circumstance because the official was not receiving anything of value directly from the business. Unlike [WIS. STAT. § 19.59\(1\)\(a\)](#) or [\(c\)](#), subsection [\(1\)\(b\)](#) does not include restrictions on substantial benefit or financial gain for the local official's immediate family. Consistent with that opinion, [WIS. STAT. § 19.59\(1\)\(b\)](#) does not apply in this case. The only thing that could possibly be considered to be received here is the Spouse's salary. However, as was the case in [2013 GAB 01](#), it is Spouse that is receiving the thing of value (e.g., her salary) not the department head. Therefore, [WIS. STAT. §19.59\(1\)\(b\)](#) is inapplicable.

¹ At the June 16, 2020, Commission Meeting, the Commission withdrew 2013 GAB 01. While the advice contained in the opinion reached the correct answer based on the facts presented, that opinion was withdrawn because it incorrectly applied WIS. STAT. § 19.59(1)(b) by conflating the Commission's role regarding the common law duty of undivided loyalty with the statutory analysis. The Commission decided to convert this informal opinion to a formal opinion to replace 2013 GAB 01 because of its correct application of WIS. STAT. § 19.59(1)(b) while appropriately advising caution as to the common law duty of undivided loyalty.

Common Law Duty of Undivided Loyalty

As noted in [2013 GAB 01](#), a local public official owes a common law duty of loyalty. While the Commission does not have jurisdiction to opine on or enforce this common law duty, it and its predecessors have both advised caution when it appears that that duty may be implicated. As noted above, in that opinion the official was not accepting anything. The spouse was accepting salary from the business they were employed by, and for this reason the GAB included in the opinion a note of caution. The city council member benefited from their spouse's salary and GAB opined that this could reasonably affect the city council member's judgment. As such GAB cautioned that the city council member be mindful of the common law duty of undivided loyalty to the city when participating in official action.

The Commission advises the same caution for the department head of the Village as their Spouse is employed by the Company that the Village wishes to engage with in business. The department head should be mindful of the common law duty of undivided loyalty to the Village when acting in their official capacity. They may wish to recuse from any official action or not enter into the contract if they feel that they may have conflicting loyalties.

Conclusion

The Commission first advises, based on the known facts provided in your request, that the department head may enter into the contract on behalf of the Village with the Company. The Commission also advises that the department head exercise caution and be mindful of the common law duty of undivided loyalty to the Village when acting in their official capacity related to the contract with the Company. If any of the facts described herein change, this advice may no longer be applicable.

Second, the Commission advises that, under the facts of your inquiry, the spouse is not "associated" with her employer as that term is defined in [Wis. STAT. § 19.42\(2\)](#). The term "associated" requires more than mere employment. It requires an individual to be a director, officer, trustee, have a certain ownership interest, or to be an authorized representative or agent. The Spouse in this case does not have any of those roles.

Lastly, the Commission advises that hypothetical or potential benefits are not generally prohibited by the Local Code of Ethics. The precedent established by the Commission's predecessor agencies requires more than mere conjecture or speculation. The Local Code of Ethics restricts substantial benefits and financial gain that are measurable and demonstrable. It does not prohibit hypothetical or potential benefits or financial gain.

RECEIVED
DEC 23 2019

Wisconsin Ethics Commission

[REDACTED]

Daniel A. Carlton, Jr., Administrator
Wisconsin Ethics Commission
P.O. Box 7125
Madison, WI 53707-7125

Re: Wis. Stat. § 19.59(6) Request for Advisory Opinion
CONFIDENTIAL

Dear Administrator Carlton:

Our firm serves as the Village Attorney for the Village [REDACTED]. In that capacity, we have encountered a situation where we believe the Commission's interpretation of the Wisconsin Ethics Code is appropriate.

The questions we have for the Commission are:

1. May a department head enter into a contract with a company that employs the department head's spouse, if the spouse is not an owner or manager of the company and will not benefit financially from the contract?
2. Is being employed by a company sufficient to be "associated" with a company under Wis. Stat. § 19.42(2)?
3. The law prohibits, among other things, a public official or spouse receiving "substantial benefit" or "financial gain." Are hypothetical or potential benefits also prohibited?

The factual situation concerns the head of a Village department, who is a "local public official." Wis. Stat. § 19.42(7w)(d). The department head has authority to enter into contracts for professional services, which are not subject to bidding procedures.

The department head's spouse ("Spouse") is an employee of a private company ("Company.") Company has more than 60 employees and has several office locations across Wisconsin. Spouse has no ownership or management interest in Company. Spouse's compensation is driven solely by the projects to which Spouse is assigned, which have generally been [REDACTED] projects in another county. So, while Company pays Spouse wages and benefits, the Company is reimbursed in full for those wages and benefits by [REDACTED] as part of [REDACTED] contract(s) with Company.

The department head believes Company and, more specifically, certain Company employees (other than Spouse) are best suited to provide professional services to the Village with respect to certain discrete projects. These services would not be provided by Spouse. Neither the department head nor Spouse are aware of any financial gain or benefit that would inure to Spouse's benefit if the Village contracted with the Company. For example, there is no profit sharing plan or bonus which would result in Company's revenue from the Village indirectly accruing to Spouse's benefit.

Our tentative conclusion is that Department Head contracting with Company would not violate the Ethics Code.

The state ethics law prohibits a local public official from using "his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated." Wis. Stat. § 19.59(1)(a). The law further prohibits a local public official from "[t]ak[ing] any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest." § 19.59(1)(c)(1). The law further prohibits a local public official from "[u]s[ing] his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated." § 19.59(1)(c)(2).

From these facts, it is evident that there is no financial gain to the local public official themselves. The threshold questions, as we see it, are whether (a) the Department Head is "associated" with Company under the statutory definition, and (b) whether Spouse will receive "financial gain or anything of substantial value" (§ 19.59(1)(a)), a "substantial financial interest," (§ 19.59(1)(c)(1)) or a "substantial benefit, direct or indirect" (§ 19.59(1)(c)(2).)

"Associated"

A public official is "associated" with an organization if the public official, or a member of the official's immediate family, is "a director, officer, or trustee, or owns or controls, directly or indirectly...at least 10% of the outstanding equity" of the organization, or if the official or official's immediate family member "is an authorized representative or agent" of the organization. Wis. Stat. § 19.42(2).

It is clear from the facts presented that Spouse is not a director, officer, or trustee of Company, and does not have any ownership or controlling interest in Company. Thus, the first part of § 19.42(2) is not violated. The Commission's guidance in the the precise meaning of the term "authorized representative or agent" is welcomed. Our interpretation is that "authorized representative or agent" connotes, at a minimum, a supervisory or managerial type of position. We assume that Spouse—like most any employee of any company—has *some* degree of decision

making authority with respect to their assigned tasks. However, Spouse is not in a managerial or supervisory position. A broader reading of the phrase, such as encompassing any employee, would result in nearly anyone with a connection to the organization being deemed “associated.” Such a reading would also render meaningless the statute’s language related to ownership or equity interest. Therefore, we conclude that if the Legislature intended such a broad reading, the Legislature would have so indicated.

Financial Gain/Substantial Value/Substantial Financial Interest/Substantial Benefit

Regardless of whether Spouse is “associated” with Company as a result of Spouse’s employment, the second question is whether the Village contracting with Company would result in Spouse receiving financial gain, anything of substantial value, substantial financial interest, or a substantial benefit, direct or indirect. Wis. Stats. §§ 19.59(1)(a), (c)(1), (c)(2). We conclude that there is no financial gain or substantial benefit, value, or financial interest to Spouse as a result of Village contracting with Company. Spouse’s compensation is determined solely on the basis of the other, non-Village contracts to which Spouse is assigned. Our principal question to the Commission is whether a benefit or value can be speculative in nature. For example, the office manager who Spouse reports to is also the person who would oversee the Company employee or employees providing services to the Village. Although there is no evidence that this will take place, one could speculate or argue that the office manager would see Spouse as a more valuable employee because of Spouse’s relationship with the Village department head responsible for these types of contracting decisions. However, the Village interprets the ethics code to mean that there must be an actual benefit to Spouse, and not merely one that is speculative or theoretically possible.

The facts here are somewhat analogous to those found in 2013 GAB 01. There, the Commission’s predecessor reviewed a situation where a local elected official’s spouse was the employee of a business, and the elected official was potentially to hear and decide whether to grant the business rezoning and permits necessary to expand. *Id.* The GAB opined that “the [official] is not receiving anything of value directly from the business so as to trigger application of the statute.” *Id.* at 1. Because the official’s spouse draws a salary from the business, the GAB cautioned the official “to be mindful of the common law duty of undivided loyalty to the city when acting in an official capacity.” *Id.* at 2.

For all of the foregoing reasons, we believe that a department head may enter into a contract with a company that employs the department head’s spouse, so long as the spouse does not receive any gain, benefit, or value from the contract and the spouse has no ownership or controlling interest in the company. We welcome any further guidance from the Commission.

[REDACTED]

Wisconsin Ethics Commission/**CONFIDENTIAL**
December 20, 2019
Page 4

Very truly yours,

[REDACTED]

Village Attorney

[REDACTED]

[REDACTED]



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: Adam Harvell, Ethics Specialist

SUBJECT: SEI Candidate Module Demonstration

Background:

Since the Statements of Economic Interests website (<https://sei.wi.gov>) went live in 2018 and allowed state public officials to file their SEIs online, staff have been working on adding a module that would make electronic filing available to candidates as well. That module went live on April 11, 2020, and most of the candidates for November 2020 used it to file their SEIs before the deadline of June 4, 2020.

Process:

- 1) Candidate registrations are added or updated:
 - a. In CFIS, campaign finance specialists must approve and activate new candidate committees.
 - b. Municipal judge candidates may enter their names directly in the SEI website.
- 2) Information appears in the SEI website:
 - a. Each candidate is checked against the list of current filers.
 - b. Ethics staff update information and approve each candidate.
 - c. Email notice is sent to new filers – but not to filers who have already submitted an SEI for that calendar year.
- 3) Tracking the Candidate Filing Status:
 - a. Periodically, staff run reports of SEI files and enter SEI filing status in WisVote.
 - b. Staff can generate an email list from the candidates not yet certified.
- 4) After the election:
 - a. In the Election Tracking screen, candidates are marked as winning or losing.
 - b. Winning candidates get a new start date and may automatically be sent a filing notice.
- 5) Electronic Records:
 - a. Beginning with the April 2020 election, for the first time all candidate records are stored electronically.

Plans for the Future:

For the Fall 2020 election, staff contacted candidates directly by email. For future elections, we will also contact municipal clerks and Elections Commission staff, and further publicize the SEI website to try and reduce the number of paper SEI filings. Paper and .pdf forms will continue to be accepted and available on the main Ethics website.



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: David Buerger, Staff Counsel

SUBJECT: Consideration of Guidance Documents – SEI Manuals

FOR COMMISSION ACTION

1. Does the Commission choose to adopt, modify, or direct staff to take other action with regard to the SEI Manual for Agency Users?
2. Does the Commission choose to adopt, modify, or direct staff to take other action with regard to the SEI Manual for State Public Officials and Candidates?
3. Does the Commission wish to provide any direction to staff regarding the process to be used in the future for developing or publishing guidance documents in light of the Supreme Court decision described in this memo?

Background

2017 Act 369 imposed a new process for state agencies to follow before adopting guidance documents. First, an agency must submit to the Legislative Reference Bureau a proposed guidance document with a public notice specifying the place where public comments may be submitted and the deadline for receiving those comments for publication in the Administrative Register. An agency is required to provide for a period of public comment of at least 21 days unless the Governor approves a shorter public comment period. An agency is required to retain all written comments submitted during the public comment period and is required to consider those comments in determining whether to adopt the guidance document as originally proposed, modify the proposed guidance document, or take other action. If adopted, the agency is required to post each guidance document on its website and is further required to permit continuing public comment on the guidance document. Each guidance document is also required to bear the signature of the secretary or head of the agency along with a certification.

On July 9, 2020, the Wisconsin Supreme Court issued its decision in *Service Employees International Union (SEIU), Local 1 v. Robin Vos*, [2020 WI 67](#). The decision consisted of two parts, one addressing 2017 Act 369 concerning guidance documents, and one addressing other matters. In the part of the decision addressing guidance documents, the Court held two sections of the Act to be facially unconstitutional violations of the separation of powers. The first is Section 33, which required agencies to identify existing law that supported a guidance document's contents. The second is Section 38, which described the procedure an agency must

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

follow when creating a guidance document. The court reached this conclusion after first establishing that as guidance documents do not have the force or effect of law, an agency must be exercising its executive power in creating them, as something with the force or effect of law would be a legislative power. The Court then concluded that the creation and dissemination of guidance documents was a core power of the executive branch, and therefore beyond the authority of the Legislature. The Court left the remainder of Act 369 intact for now including the sections defining guidance documents, establishing judicial review, and establishing the Act’s initial applicability and effective date.

While this decision means that the Commission is no longer obligated to comply with the provisions held to be unconstitutional, the Commission may still wish to direct staff to continue some aspects of the process. Staff currently plans to continue to publish all agency guidance on its website in an accessible format. Staff also plans to continue to include legal citations in agency guidance where appropriate for the intended audience. Staff would appreciate any direction the Commission wishes to offer as to the process to be used in the future for developing or publishing guidance documents.

Prior to the Court’s decision, Ethics Commission staff submitted two additional guidance documents for publication along with a notice seeking public comment on both documents.

Guidance Document Title	Publication Date	Register No.	Comment Deadline
SEI Manual – Agency Users	June 8, 2020	774A2	August 17, 2020
SEI Manual – State Public Officials and Candidates	June 8, 2020	774A2	August 17, 2020

As of the drafting of this memo, no public comments were received regarding either proposed guidance document.

Attachments

- A. SEI Manual – Agency Users
- B. SEI Manual – State Public Officials and Candidates



Wisconsin Ethics Commission

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STATEMENTS OF ECONOMIC INTERESTS –

Electronic Filing for State Agency Users

Published: June 2020

This manual includes specific statutory citations and clarifies basic reporting requirements for candidates required to file Statements of Economic Interests.

Provided pursuant to [WIS. STAT. § 19.48](#) and in compliance with [WIS. STAT. § 227.112](#).

AGENCY USERS - STATEMENTS OF ECONOMIC INTERESTS WEBSITE

Table of Contents

About Statements of Economic Interests	1
Introduction	1
Is the information on Statements of Economic Interests a Public Record?	1
Relevant Statutes and Other Information	1
A Note on Types of User Permissions	2
How To Log On To The SEI Website	3
How to Reset Your Password	3
Verify and Edit Agency Contact Information.....	4
Verify and Edit Agency Filer Information.....	4
Track Filing Status.....	6
Notices to Officials Required to File	7
Directions for Filers on how to file an SEI.....	9

Wisconsin Ethics Commission

<https://sei.wi.gov>

<https://ethics.wi.gov>

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[Link to Page with SEI Filer Instruction Manual](#)

About Statements of Economic Interests

Introduction

The Ethics Code, or Chapter 19 of Wisconsin Statutes, requires most state public officials to file a Statement of Economic Interests (SEI) once a year with the Wisconsin Ethics Commission. Officials are required to identify a variety of interests, including securities they hold, businesses and clients, creditors, employers, and gifts and honoraria. This allows the public and press to watch out for possible conflicts of interest and can help public officials to be aware of issues where legal advice may be required, or recusal may be recommended. These statements cover 4 major groups of state public officials:

- 1) Appointees must file within 21 days of beginning a new position, and then annually, by April 30 of each calendar year.
- 2) Nominees must file within 21 days of their nomination, and then annually, by April 30 of each calendar year.
- 3) Candidates for office must file a Statement within 3 days after the deadline for filing nomination papers. Spring candidates must file in the first week or two of January and fall candidates must file in the first week of June.
- 4) Reserve Judges must only file if they take a case. The SEI is due within 21 days.

The Wisconsin Ethics Commission maintains an online reporting system for SEIs. This replaces the previous paper-based reporting system. Ethics staff will provide each official required to complete an SEI a username and password. Some filers may choose to submit a paper form.

Other Wisconsin Agencies, like the Court System and Board of Regents, may also collect statements on the same form for a different set of filers. They may also use the new online system to collect SEIs.

Is the information on Statements of Economic Interests a Public Record?

Generally, anything submitted on an SEI is public information. However, in order to view an SEI, requestors must submit a request form and provide their name, address, and phone number. If an SEI is requested, the official that filed the SEI is notified of the requestor's information, usually within 24 hours of the information being provided.

Statements of Economic Interests do not ask for account numbers, home addresses, or other private information. State public officials should take care not to provide information that is not required if they do not want it to become public.

Relevant Statutes and Other Information

The definition of a State Public Official and a list of officials required to file can be found in [WIS. STAT. § 19.42](#). A full list of agencies and positions required to file is available here: [Officials Required to File](#).

The due dates, late filing procedures, and waiver requests can be found in [WIS. STAT. § 19.43](#). More specific procedures on late filing and waivers are available here: [Statements of Economic Interests Standard Settlement Schedule and Waiver Policy](#).

The statutory requirements for the SEI can be found here: [WIS. STAT. § 19.44](#). More detailed instructions are listed in each section of the SEI.

A Note on Types of User Permissions

- 1) **Filers** have to log in and file a Statement of Economic Interests once a year. They will have permission to see only their own contact information and SEI filing records.
- 2) **Agency users** have permission to view and edit the list of SEI filers for their agency. They can change positions, add end dates if an official has left state service, or add new officials, who will automatically receive email notice to file an SEI within 21 days. Agency users do not normally have permission to view other officials' SEI filing records – but if the agency user is also an official required to file an SEI, they will see their own SEI filing records in the **Official Log In** screens.
- 3) **Admin users** have permission to add or edit agencies, add or edit positions and officials, and view and update SEI filings. Users for the Court System and UW Board of Regents will be admin users, but only have access to their own agency's filers.

If you successfully log in, but do not have the permissions you need, please contact Ethics Commission staff.

How To Log On To The SEI Website

1. You will receive an email with your agency username and password, and a link to the website.
2. Log in at <https://sei.wi.gov/>.
3. In the menu bar, click on **Agency Log In**.
4. Enter your username and password.
5. Click on the **Log In** button.
6. If it is your first time logging in, you will be prompted to change your password. You must have at least one letter, one number, and one symbol in your new password, and it must be at least 6 characters long.

How to Reset Your Password

1. Go to <https://sei.wi.gov/>.
2. In the right corner of the menu bar, click on **Agency Log In**.
3. At the bottom of the screen, click **Forgot/Reset your Password**.
4. On the **Forgot your password?** screen, enter your email address, then click **Email Link**.
5. A link will be emailed to you. When you click it, you will return to the SEI site, and be able to choose a new password.

You will receive a notification to the email address on file under your agency. That email will function as the username as an agency user. Some agency users will also be SEI filers, and will have a separate record with their individual contact information. If your individual record has a different email than your agency user record, you will have two usernames, and have to log in separately to each role. Once logged in, you can change either email if you would like one username to work for both roles.

Once you have logged in with the password provided, the system will display a button reading “**Hello (Your.Name)!**” in the upper right corner of your screen. To manually update your password:

1. Click the “**Hello...**” button.
2. Click the **Change your password** link.

3. Enter your old password once and your new password twice, then click **Change Password**. Again, you must have one letter, one number, and one symbol in your new password, and it must be at least 6 digits long.

Verify and Edit Agency Contact Information

1. When you log in, you will arrive at the **Active Agency List** screen. If you have navigated to one of the other screens, click **Agency Log In** to return there.
2. Your agency should be automatically displayed in the **Active Agency List**. In rare cases, you will have access to multiple agencies. Choose the agency you wish to review or edit information from the list.
3. On the **Agency Contacts** screen, verify the agency’s name and contact information, including the **Agency Primary Contact** and **Agency Secondary Contact**. (If you have more than two agency users, Ethics staff will have to set them up for you – please email ethics@wi.gov with the additional users you want to add). When your changes are finished, click the **Save** button.

Verify and Edit Agency Filer Information

1. From the main agency screen, click **Agency Filer List**.
2. To add a new title or position:
 - a. On the left-hand side, above the list of officials, click **Add New Position Or Official**.

The screenshot shows a web form titled "FILER POSITION DETAILS". It contains the following elements:

- Position Holder:** A text input field with a green "Search New Position Holder" button to its right.
- Position Title:** A dropdown menu with "Chief Staff Attorney" selected. A green "Add New Title" button is located to the right of the dropdown.
- Position Description:** A dropdown menu with "Chief Staff Attorney" and "Court Commissioner" as visible options.

- b. If you do not see the Position Title in the dropdown, click the **Add New Title** button.
- c. Enter the **Position Title**. If you do not want that position’s email or phone to be displayed to the public on the SEI website, you may set the **Do Display Email or Phone** dropdown to **True**. (This is for positions like board members, who usually should not be contacted directly by the public). Click **Save**.

3. To add a new official to an existing position:
 - a. On the left-hand side, above the list of officials, click **Add New Position or Official**.
 - b. In the **Filer Position Details** screen, click **Search New Position Holder**. When the **Search Filer** screen appears, enter any portion of the filer's name and click **Enter**.
 - i. If the person appears in the filer list, click their name. Verify or update their contact information in the fields on the right. When done, click **Save Official**.
 - ii. If the person doesn't appear in a search, click the **Add New Official** button. Enter the person's name and contact information, and click **Save Official to Position**.
 - iii. Note that the person's **State Email** will become their username. If there is no **State Email**, the **Personal Email** will become the username. If you change the email fields, the filer's username could change, and the previous username will no longer work.
 - c. Back in the **Filer Position Details** screen, the official's name will appear in the **Position Holder** field.
 - i. Select the correct **Position Title** from the dropdown.
 - ii. Add a **Position Description** if desired.
 - iii. The **Position Status** should always be **Appointed**. (Ethics staff will add **Elected** officials and **Nominees**. **Candidates** will add their own records.)
 - iv. Leave the **Multiple Positions** field as **Main Position**, unless you know that your filer already has another position that requires him or her to file a SEI. In that case, select **Additional/Former Position**.
 - v. Enter the **Official Post Start Date**.
 - vi. In the **Mail To** dropdown, select **WorkAddress** or **FilerAddress**. (This is for mail only, and should be used very rarely. If you don't have an address, leave **WorkAddress** selected.
 - vii. Click the **Save** button.
4. To give an official an end date:

- a. In the **List of Officials** screen, click the **Edit** button next to the filer that has left.
 - b. Enter an **Official Post End Date**.
 - c. Click the **Save** button.
5. To change an official's contact information:
- a. In the **List of Officials** screen, click the **Edit** button next to the filer.
 - b. In the **Filer Position Details** screen, click the **Edit** button to the right of the official's name.
 - c. Update the official's name and contact information. Click **Save Official**.
 - d. Note that the person's **State Email** is the filer's username. If there is no **State Email**, the **Personal Email** is the username. If you change the email fields, the filer's username could change, and the previous username will no longer work.

Track Filing Status

1. From the **Agency Filer List** tab, click on the **Officials Filing Status** button.
2. Each filer for the current year should be displayed. Officials with a **Certified Date** have filed their SEI. You may click the **Export to Excel** button if you wish to view this information in Excel.

Notices to Officials Required to File

1. When a new filer is added, they will automatically receive an email notice that their SEI is due within 21 days of their start date. (If they are entered after they start, and their due date would be less than 10 days away, the notice will let them know that their SEI is due within 10 days). The top half of the notice looks like this:



Dear (New Official's Name)

Congratulations on your new position as Auditor with the Legislative Audit Bureau.

Wisconsin's Code of Ethics for State Public Officials obliges new Nominees and Officials (and Officials appointed to a new position) to file a Statement of Economic Interests within 21 days of their nomination or start date, or within 10 days after the Ethics Commission receives notice of the appointment.

Based on your start date 2/12/2018, your Statement of Economic Interest (SEI) is due on 3/5/2018.

Please login now to file your statement.

YOUR LOGIN INFORMATION

Username: [\[email.address@wisconsin.gov\]](#)

Password: [\[Pass%WORD*2018\]](#)

LOGIN NOW

The bottom half of every email notice has the same directions:

1. Login to the site.
 - o If your password does not work or your account is locked, you can always click **Official Log In** and then **Forgot/Reset your password**. A new link will be emailed to you, and when you click on that link, you can log in by entering your email and a new password twice.
2. You will be asked to reset your password. The new password must have one letter, one number, and one symbol, and be at least 6 digits long. Click **Reset**.
3. From the Menu bar, click **Official Log In**.
4. Click your name in the **Active Officials** list.
5. Verify that your contact and position information are correct.
6. Click the "**STEP 3:FILE SEI**" Tab.
7. Click "**Report SEI for Year: 2018**" and follow the steps on the website.
 - o Use the green buttons at the bottom of each screen to save and move to the next section.
 - o In the final screen, you must check the Certify checkbox before you will see the Submit button.
8. Once you have filed your SEI, you will receive an email confirmation. If you do not receive a confirmation, please contact our office to ensure the SEI has been filed.

We hope the new system for collecting SEIs is convenient and easy to use! If you had any difficulties, or would like to offer suggestions for improvement, please email us at ethics@wi.gov, and let us know how we can make things better!

For additional help, please read the full instruction manual or contact our office.

[SEI System Instruction Manual](#)

Sincerely,

Ethics Commission Staff

2. Every year, Ethics staff will send annual notices to all filers. Each filer will receive an email notice that their SEI is due by April 30th (or May 1st or May 2nd if April 30th falls on a weekend). Ethics staff will send periodic “please-check-your-list-of-filers” emails to agency users. The November 1st email is the most important, because that ensures that the filers’ information is correct for the annual SEI filing notices.

3. When an agency user or filer changes an email, the username will change, and the filer will receive an email notice with their new username. The password will not change.
4. Reminder notices will be sent one month from the due date (for annual filers), one week from the due date, and one day from the due date. Late notices will be sent one day after the due date, and one week after the due date. After that, notices will be sent manually.
5. To adjust a due date (to grant an extension or correct an error), admin users can:
 - a. Log in to the **Official Log In** screen. (Agency users that can't see their officials' SEIs have to contact Ethics staff).
 - b. Search for the official by entering any part of their name.
 - c. Click on the official's name, and then click on **Step 3: File SEI**.
 - d. Click on the **Edit Dates** button next to the current year. Manually change the due date, then click **Update**.

Directions for Filers on how to file an SEI

Agency users who are also officials required to file an SEI can find directions on how to file here: [SEI Filers Instruction Manual](#).



Wisconsin Ethics Commission

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Madison WI 53707-7125

Phone: (608) 266-8123

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<https://ethics.wi.gov>

STATEMENTS OF ECONOMIC INTERESTS –

Electronic Filing for State Public Officials and Candidates

Published: June 2020

This manual includes specific statutory citations and clarifies basic reporting requirements for candidates required to file Statements of Economic Interests.

Provided pursuant to [WIS. STAT. § 19.48](#) and in compliance with [WIS. STAT. § 227.112](#).

CANDIDATES - STATEMENTS OF ECONOMIC INTERESTS WEBSITE

Table of Contents

Statements of Economic Interests - All Public Officials	1
Introduction	1
Is the information on Statements of Economic Interests publicly available?	1
Relevant Statutes and Other Information	1
Statements of Economic Interests – Candidates Only	2
Candidates - Positions Required to File	2
Candidates - When is the SEI Due?	2
Candidates – Before Filing your SEI	3
Candidates - After the SEI has been filed	4
How To Log On To The SEI Website	5
How to Reset Your Password	5
How to Enter your Statement of Economic Interests.....	6
How to Amend a Previously Filed Statement.....	7

Wisconsin Ethics Commission

<https://sei.wi.gov>

<https://ethics.wi.gov>

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(608) 266-8123

Statements of Economic Interests - All Public Officials

Introduction

The Ethics Code, or [WIS. STAT. § 19.43](#), requires most state public officials to file a report of Statements of Economic Interests once a year with the Wisconsin Ethics Commission. Officials are required to identify a variety of interests, including securities they hold, business and clients, creditors, employers, and gifts and honoraria. This allows the public and press to watch out for possible conflicts of interest and can help public officials to be aware of issues where legal advice may be required, or recusal may be recommended. These statements cover 4 major groups of state public officials:

- 1) Appointees must file within 21 days of beginning a new position, and then annually, by April 30 of each calendar year.
- 2) Nominees must file within 21 days of their nomination, and then once confirmed to their position, annually, by April 30 of each calendar year.
- 3) Candidates for office must file a Statement within 3 days after the deadline for filing nomination papers. Spring candidates must file in the first week or two of January and fall candidates must file in the first week of June.
- 4) Reserve Judges must only file if they take a case. The SEI is due within 21 days.

The Wisconsin Ethics Commission maintains an online reporting system for SEIs. This replaces the previous paper-based reporting system. Ethics staff will provide each official required to complete an SEI a username and password. Some filers may choose to receive or submit a paper form.

Is the information on Statements of Economic Interests publicly available?

Generally, anything submitted on an SEI is public information. However, in order to view an SEI, requestors must submit a request form and provide their name, address, and phone number. If an SEI is requested, the official that filed the SEI is notified of the requestor's information, usually within 24 hours of the information being provided.

Statements of Economic Interests do not ask for account numbers, home addresses, or other private information. State public officials should take care not to provide information that they do not wish to become public.

Relevant Statutes and Other Information

The definition of a State Public Official and a list of officials required to file can be found in [WIS. STAT. § 19.42](#). A full list of agencies and positions required to file is available here: [Officials Required to File](#).

The due dates, late filing procedures, and waiver requests can be found in [WIS. STAT. § 19.43](#). More specific procedures on late filing and waivers are available here: [Statements of Economic Interests Standard Settlement Schedule and Waiver Policy](#).

The statutory requirements for the SEI can be found here: [WIS. STAT. § 19.44](#). More detailed instructions are listed in each section of the SEI.

Statements of Economic Interests – Candidates Only

Candidates - Positions Required to File

Spring Candidates for the following positions must file an SEI:

- State Superintendent of Public Instruction
- Supreme Court Justice
- Court of Appeals Judge
- Circuit Court Judge
- Municipal Judge
- Multi-Jurisdictional Judge

Fall Candidates for the following positions must file an SEI:

- Governor
- Lt. Governor
- Attorney General
- Secretary of State
- State Treasurer
- State Senator
- State Assembly
- District Attorney

All of these positions must register a candidate committee with the Ethics Commission except Municipal and Multi-Jurisdictional Judges. Those candidates will register with the municipal or county clerk, but still submit the SEI to the Ethics Commission.

Candidates - When is the SEI Due?

For spring candidates, the SEI is due by 4:30 pm, 3 days after the nomination papers deadline. If the 3rd day after the nomination papers deadline falls on a weekend, the due date for SEIs will be extended to the next business day. Municipal judges nominated by caucus will have 5 days from their nomination to file an SEI, therefore the deadline for those candidates may be later.

For fall candidates, the SEI is due by 4:30 pm, 3 days after the nomination papers deadline. The nomination papers deadline is usually June 1st, and the SEI is due on June 4th. During years when the nomination papers deadline falls on a weekend, both the nomination papers deadline and SEI due date will be extended.

Incumbent officials must file an annual SEI, either within 21 days of starting a new term of office, or by April 30th. If an incumbent official has filed an SEI for that calendar year already, they do not have to file an additional SEI to be placed on the ballot.

More specific information with deadlines for each election is available at the Ethics Commission website here: <https://ethics.wi.gov/Pages/Ethics/StatementsOfEconomicInterests.aspx>.

The SEIs for both spring and fall candidates must be accurate as of December 31 of the calendar year before the election. The Ethics Commission will accept SEIs as early as December 1st, the first day to circulate nomination papers for the spring election. For example, we will accept 2022 SEIs beginning December 1, 2021.

Candidates – Before Filing your SEI

Candidates must be set up in the SEI website in order to file an SEI online.

State level candidates:

- 1) Register a campaign committee in the CFIS website, at: <https://cfis.wi.gov>.
- 2) After the committee is approved in CFIS, Ethics staff will import the information into our SEI website and send the candidate an email notice with a username and password.
- 3) Candidates may file online at any time before the deadline, following the directions in the email or in this manual. If the SEI is filed correctly, an email confirmation will be sent to the candidate. If you think you have filed, but have not received an email confirmation, please contact Ethics staff.

Municipal and multi-jurisdictional judge candidates:

- 1) Municipal and multi-jurisdictional judge candidates do not register in CFIS. They will go directly to <https://sei.wi.gov> and enter their election, office, and contact information.
- 2) Ethics staff will review the information and send those candidates an email notice with a username and password.
- 3) Candidates can file online at any time before the deadline, following the directions in the email, or in this manual. If the SEI is filed correctly, an email confirmation will be sent to the candidate. If you think you have filed, but have not received an email confirmation, please contact Ethics staff.

If you are elected, you will be required to file an SEI once per year. The same website will be used, and each form will be pre-filled with the information you provided the previous year.

The second way to file an SEI is to file a physical paper form or .pdf file. To file a paper form, go to the Ethics Commission website and find the [SEI Forms page](#). You should open the ETH-1 form and the instructions. After you have completed the form, you must sign it. You can return the signed copy by email (ethics@wi.gov), fax (608-264-9319), or mail (Wisconsin Ethics Commission, P.O. Box 7125, Madison WI 53707-7125).

Candidates - After the SEI has been filed

The Elections Commission runs a “Candidate Tracking by Office” report for each election that shows the date a candidate registered, when they filed a declaration of candidacy and their nomination papers, and when the SEI was filed. You can find this report under each election on the [Elections Commission](#) website.

After the SEI is filed, Ethics staff will manually enter the SEI filed date in the Elections Commission database. The Elections Commission may wait until the end of the day to run this report. It is normal to have a 24-48 hours delay before the SEI filed date shows up in the report. If you have questions about whether committee registration or the SEI has been properly filed, please contact the Ethics Commission. If you have other questions on that report, please contact the Election Commission.

How To Log On To The SEI Website

1. You will receive an email with your username and password, and a link to the website.
2. Go to <https://sei.wi.gov/>.
3. In the menu bar, click on **File Your SEI**.
4. Enter your username and password.
5. Click on the **Log In** button.
6. If it is your first time logging in, you will be prompted to change your password. You must have one letter, one number, and one symbol in your new password, and it must be at least 6 digits long. Please keep in mind that you may only log in to this site once a year – please record the password where you can find it again.

How to Reset Your Password

1. Go to <https://sei.wi.gov/>.
2. In the menu bar, click on **File Your SEI**.
3. At the bottom of the screen, click **Forgot/Reset your Password**.
4. In the **Forgot your password?** screen, enter your email address, then click **Email Link**.
5. A new password will be emailed to you.

If you have multiple emails, you will receive a notification to both your state/public email and your personal email. Your state email will function as the username, and the system will not recognize your personal email as the username. Some candidates may only have a personal email on file, and in that case, the personal email will be their username.

Once you have logged in with the password provided, the system will display a button reading “**Hello (Your.Name)!**” in the upper right corner of your screen. To manually update your password:

1. Click the “**Hello...**” button.
2. Click the **Change your password** link.
3. Enter your old password once and your new password twice, then click **Change Password**. Your password must have one letter, one number, and one symbol in your new password, and it must be at least 6 characters long.

How to Enter your Statement of Economic Interests

1. When you first log in, you should arrive at the **Search Official Name** screen. If you have navigated to one of the other screens, click **File Your SEI** to return there.
2. Your name will be displayed in the **Active Officials List**. Click on your name. If you do not see your name, you are probably logged in under the wrong email/username – contact Ethics staff to confirm which version of your email/username is correct.
3. On the **Verify Contact Info** screen, please verify your name and contact information, including the **Work Address** or **Filer Address**. (Most correspondence will be by email. Mail will only be used by specific request). If you make any changes, click the **Save Official** button.
4. Click on **Step 2: Verify Position Information** and verify that the office and district information are correct. Only administrative users can update this information, so if changes are necessary, please contact Ethics Commission staff.
5. Click on **Step 3: File SEI**. If you do not see an SEI for the current filing year, click the green “**START SEI: (Year)**” button. If the correct filing year is already in the list, click **Edit SEI**.
 - a. The first screen is general instructions. After reading them, click the green button at the bottom – **1A: Investments - WDC**. In each screen, the green button will save your entries and move you to the next screen.
 - b. If you filed last year, the information you provided will be pre-populated for you. In each screen, make updates as necessary and click the **Save and Go To...** button at the bottom.
 - c. In the final screen, you will **Certify and Submit**.
 - i. Click the checkbox under “**I have read the accompanying instructions and certify.**”
 - ii. Click **Submit**.
 - d. You will receive a confirmation email that your SEI has been submitted. If you do not receive a confirmation email, you should contact Ethics staff to ensure the SEI has been received.
 - e. (Optional) If you wish to print a hard copy (or save a .pdf file) for your records, navigate back to the **Step 3: File SEI screen**. Click the **Print SEI** button next to the correct year. (The form may take some time to open). You may use the disk button to save or the printer button to print your SEI.

How to Amend a Previously Filed Statement

1. Log in to the SEI website and navigate to the **File SEI** page following the directions above.
2. If you are editing the current year, click the **Edit SEI** button. If you are editing a previous year, click the **Amend Previous SEI's** tab, then click **Edit SEI** next to the filing year you want to change.
 - a. You may navigate with the **Save and Go To...** button at the bottom of each screen or using the **Go To Sections** button in the upper right. If you change something, make sure you use the **Save and Go To...** button first, otherwise your changes will not be saved.
 - b. In each screen, make updates as necessary and click the **Save and Go To...** button at the bottom.
 - c. In the final screen, you will **Certify and Submit**.
 - i. Click the checkbox under “**I have read the accompanying instructions and certify.**”
 - ii. Click **Submit**.
 - d. You will receive a confirmation email that your SEI has been submitted. The SEI will now have both a **Certified Date**, and an **Amend Date**. If you do not receive a confirmation email, you should contact Ethics Commission staff to ensure the SEI has been received.
 - e. (Optional) If you wish to print a hard copy (or a .pdf file) for your records, navigate back to the **Step 3: File SEI screen**. Click the **Print SEI** button next to the correct year. (The form may take some time to open). You may use the disk button to save or the printer button to print your SEI.



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 18, 2020
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rules Update and Hearing

FOR COMMISSION ACTION

1. For ETH 21 – Practice and Procedure, following the preliminary public hearing and after consideration of any public comments, does the Commission approve of the statement of scope and direct staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse?
2. For ETH 26 – Settlement Offer Schedule, following the public hearing and after consideration of any public comments:
 - a. Does the Commission approve the revised draft rule text?
 - b. Does the Commission wish to offer any further direction as to the definition of a “business day” to be used in the rule?
 - c. Does the Commission direct staff to submit the final draft rule to the Governor’s Office for final approval prior to submission to the Legislature?

I. Chapter ETH 1 – Comprehensive Review of ETH 1 for Consistency with Statute (For Information Only – No Action Required)

At the Commission’s meeting on June 16, 2020, it conducted a hearing on this rule and approved the final draft rule for submission to the Governor’s Office for final approval. Commission staff submitted the final draft rule to the Governor’s Office on June 17, 2020. As of the drafting of this memo, the Governor’s Office is still reviewing the final draft rule. Assuming the rule is approved by the Governor’s Office, the next step will be submission of the rule to the Legislature. As the rule will not be submitted to the Legislature prior to its final general-business floor period of the session, at best the rule will be considered received as of the first day of the next regular session of the Legislature. See [WIS. STAT. § 227.19\(2\)](#).

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

II. Chapter ETH 21 – Practice and Procedure (Preliminary Public Hearing Required)

At its meeting on December 3, 2019, the Commission directed staff to begin the rulemaking process concerning the procedure by which the Commission receives and considers complaints and requests for advice. The Commission also directed staff to prepare a scope statement for consideration at its next meeting. At its meeting on February 25, 2020, the Commission initially approved of the scope statement and directed staff to submit it to the Governor’s Office for approval. Staff submitted the scope statement to DOA and the Governor’s Office on February 26, 2020. The scope statement was approved by the Governor’s Office on May 7, 2020. Staff submitted the scope statement to the Legislative Reference Bureau for publication in the Administrative Register on May 13, 2020. The scope statement was published in the Administrative Register as SS 041-20 on May 18, 2020. Commission staff subsequently received a directive from Senator Nass, a co-chair of JCRAR, to hold a preliminary public comment period and hearing prior to formal approval of the scope statement. Staff prepared a proposed notice for a preliminary public comment period and hearing to be held at the Commission’s next regularly scheduled meeting on August 18, 2020. This notice was approved by the Commission at its meeting on June 16, 2020, and was published in the Administrative Register on June 22, 2020.

The purpose of the hearing today is to receive public comments on the proposed scope statement. As of the drafting of this memo, no public comments have been received, but if any comments have been received since the drafting of this memo, they will be included in the supplemental materials for today’s meeting. If any person in attendance today is interested in providing comments on this scope statement, they are invited to provide those comments during the hearing and provide a written copy of their comments to staff for inclusion in the record.

If, after consideration of any public comments, the Commission approves of the scope statement, the next step will be to direct staff to begin drafting the rule and associated documents for submission to the Legislative Council’s Rules Clearinghouse.

See Attachment A for the scope statement to be approved.

III. Chapter ETH 26 – Settlement Offer Schedule (Hearing Required)

At the Commission’s meeting on June 18, 2019, it directed staff to prepare a scope statement to create new settlement schedules within WIS. ADMIN. CODE ETH 26 for unauthorized lobbying and late payment of lobbying fees, as well as to clarify the definition of a “day” within the rule to mean calendar days, except for the schedule for late Statements of Lobbying Activity and Expenditures. The Commission initially approved a draft scope statement with revisions as discussed at its meeting on August 20, 2019 and directed staff to submit the revised scope statement to DOA and the Governor’s Office for review and approval.

That revised scope statement was sent to DOA and the Governor's Office for review and approval on September 26, 2019. DOA completed its review and forwarded the scope statement to the Governor's Office on September 27, 2019. The Governor's Office approved the scope statement on November 21, 2019, and staff submitted the scope statement for publication in the Administrative Register. On December 4, 2019, Commission staff received a letter from Senator Steve Nass, co-chair of JCRAR, directing the Commission to hold a preliminary public comment period and hearing prior to final approval of the scope statement. At its meeting on December 19, 2019, the Commission approved a notice for a preliminary public hearing to be held at its meeting in March. The Commission subsequently rescheduled the March meeting to February 25, 2020. Staff amended the hearing notice accordingly and published it in the Administrative Register on January 21, 2020. The preliminary public hearing was held at the meeting on February 25, 2020, but no members of the public appeared to comment at that meeting, and no public comments were received. After the public hearing, the Commission formally approved the statement of scope and directed staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse. Staff submitted the draft rule and associated documents to the Legislative Council Rules Clearinghouse on June 17, 2020.

The Legislative Council Rules Clearinghouse provided its report on July 13, 2020. The report suggests adding the word "calendar" in Section 18 (now Section 20) of the proposed rule to clarify that the additional \$100 required per 15 calendar days begins after the 16th [calendar] day following the due date of the SEI. The report also suggests adding a definition for "lobbying communication" to the rule as that term is not defined in the rule but is defined in statute. Staff agrees with and has made these changes in the attached version of the rule.

The report also suggests defining the term "business day" as neither the rule nor the relevant statutory chapters include such a definition. Legislative Council's comment goes on to provide examples of two different definitions for the term used in the Wisconsin Administrative Code:

ATCP 93.050

(16) "Business day" means any day Monday to Friday, excluding Wisconsin legal holidays.

REEB 18.02

(1) "Business day" means any day excluding Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and any other day designated by the President of the United States such that the U.S. postal service does not receive registered mail or make regular deliveries on that day.

Alternatively, the Commission could choose to create its own definition. This option may be preferable as the list of state holidays in [WIS. STAT. § 995.20](#) and the list of federal holidays in [5 U.S.C. § 6103](#) include days Commission staff are still available to respond to inquiries and requests for assistance. Commission staff has inserted a new section in

the rule text to accommodate whatever definition the Commission would like to adopt. Commission staff would appreciate any direction the Commission is willing to offer in developing this definition.

Finally, the report asks if the schedule for unauthorized lobbying (Section 18 in the attached draft) is meant to apply only to a lobbyist who eventually files the required authorization or if it applies even to lobbyists who are never authorized? Commission staff believe the schedule could apply in either scenario as there may be situations where a lobbyist has unauthorized lobbying communications on behalf of a principal, and by the time the unauthorized lobbying communications are detected, the principal may no longer employ the lobbyist. Additionally, even if the Commission believes a different settlement amount may be appropriate in certain situations where the required authorization is never filed, [WIS. ADMIN. CODE ETH 26.03\(3\)](#) permits the Commission to consider aggravating and mitigating circumstances in determining the terms of any settlement offer, so the Commission retains the flexibility to adjust its settlement offers accordingly.

The purpose of the hearing today is to receive public comments on the draft rule. As of the drafting of this memo, two public comments have been received, but neither appear to address the text of the rule. If any further comments have been received since the drafting of this memo, they will be included in the supplemental materials for today's meeting. If any person in attendance today is interested in providing comments on this rule, they are invited to provide those comments during the hearing and provide a written copy of their comments to staff for inclusion in the record.

If, after the hearing and consideration of any public comments, the Commission approves of the proposed rule, the next step will be to direct staff to submit the final draft rule and associated documents to the Governor's Office for final approval prior to submission to the Legislature.

See Attachment B for the Legislative Council Rules Clearinghouse report, revised draft rule, and the public comments received to date.

IV. Attachments

- A. ETH 21 – Scope Statement
- B. ETH 26 – Legislative Council Rules Clearinghouse Report, Revised Draft Rule, and Public Comments Received to Date.

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

Rule No.: ETH Ch. 21

Relating to: Practice and Procedure

Rule Type: Permanent

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

The Commission proposes a rule to clarify the procedure by which an individual may make a request for advice under Wis. Stat. § 19.46(2) and the procedure of the Commission in responding to those requests. The Commission also proposes to further clarify the complaint process of Wis. Stat. § 19.49(2).

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 Commission has two current policies relevant to the rule:

Delegation of Authority for Informal Advisory Opinions

Pursuant to Wis. Stat. § 19.46(2), the Commission may authorize the Commission's 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.

The Commission originally adopted a policy to delegate this authority on March 7, 2017 and has readopted this policy each year since. The delegation of authority is subject to the following conditions:

1. The request for an informal opinion must be received in writing (e.g., email, or a typed or written letter).
2. The informal opinion must be issued in writing (e.g., email, or a typed or written letter).
3. Every informal opinion issued shall be consistent with all applicable formal advisory opinions issued by the Commission, state or other law, and case law as required by Wis. Stat. § 19.46(2)(b)1; as well as United States and Wisconsin constitutional law.
4. The Commission Administrator, or the Staff Counsel upon delegation by the Administrator, may issue an informal opinion consistent with the policy adopted by the Commission.

Informal opinions issued by the administrator subject to the above conditions provide the same legal protections as an opinion issued by the Commission. Pursuant to Wis. Stat. § 19.46(2)(a)4., at each regular meeting of the commission, the administrator is required to review informal advisory opinions requested of and issued by the administrator that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued. In practice, the administrator regularly reports all informal advisory opinions issued on behalf of the Commission. The Commission may choose to issue a formal advisory opinion adopting or modifying the informal advisory opinion. If the Commission disagrees with a formal or informal advisory opinion, the commission may withdraw the opinion, issue a revised formal or informal advisory opinion, or request an opinion from the attorney general.

The proposed policy would seek to provide additional information as to the processes by which a requestor may seek an informal opinion from the administrator, an informal opinion of the Commission, or a formal opinion of the Commission. It would also delineate the process for requesting a public or private hearing on a formal opinion. This policy would assist requestors by enabling them to more easily request the particular type of advice sought and clarify expectations as to the type of response to be received as well as the process to be used.

The alternative to adopting this policy would be for Commission staff to continue to work with requestors to individually to review the request to identify the type of advice requested and attempt to meet each requestor's expectations as to the response to be received and the process to be used.

Complaints and Investigations Procedures

The complaint process is largely codified in Wis. Stat. § 19.49(2); however, the Commission has adopted a policy to further describe its internal processes for handling complaints including initial review of the complaint by the administrator and staff counsel, tracking mechanisms, notice procedures, and the process for subsequent review by the Commission.

The proposed policy would further describe the required elements of a sworn complaint and the conditions under which Commission staff will reject a submitted complaint as insufficient to proceed, the process through which a complaint is considered by the Commission, and how the Commission would determine whether a complaint is frivolous.

The alternative to adopting this policy would be for Commission staff to continue to exercise their independent judgment as to whether a complaint is sufficient to proceed, and for the Commission to continue its existing practices for considering complaints and making determinations as to whether a complaint is frivolous.

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

The Commission 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, and other registered committees; lobbyists and lobbying principals; state and local 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

Daniel A. Carlton, Jr.
Administrator
Wisconsin Ethics Commission

Date Submitted



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE **20-019**

AN ORDER to renumber ETH 26.03 (3); to amend ETH 26.02 (1) (a), (b), (c), (d), and (e), (2) (a) to (i), (3) (a) to (d), (6) (a) and (b), (7) (a) and (b), and (8) (a) and (b), 26.03 (1) (b), (c), (d), and (e), and 26.04 (1) (a) and (b); and to create ETH 26.03 (3) and (4), relating to settlement of potential campaign finance, lobbying, and ethics violations.

Submitted by **ETHICS COMMISSION**

06-17-2020 RECEIVED BY LEGISLATIVE COUNCIL.

07-13-2020 REPORT SENT TO AGENCY.

SG:KBO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-019

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

In SECTION 18 of the proposed rule, s. ETH 26.04 (1) (b) adds the word “calendar” in two places regarding the number of days following the due date for the statement of economic interests. The rule should also add the word “calendar” in reference to the 16th day following the due date, as follows:

(b) If the commission receives a statement of economic interests 16 or more calendar days after the due date for the statement of economic interests, the commission may extend a settlement offer of \$100, plus \$100 for every additional 15 calendar days after the 16th calendar day following the due date.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. SECTIONS 11 to 14 amend existing language to specify the time frame for receiving statements is a certain number of “business days” after the due date. However, neither ch. ETH 26, nor the relevant statutory chapters include a definition of “business day.”

The rule should define “business day”, to avoid multiple potential interpretations of the term within the regulated lobbying community. For instance, questions may arise regarding federal legal holidays when federal government offices are closed but state government offices remain open (e.g., Veterans Day, Presidents Day), and several different definitions of “business day” exist

within the Wisconsin Administrative Code (e.g., ss. ATCP 93.050 (16) and REEB 18.02 (1), Wis. Adm. Code).

b. SECTION 16 of the proposed rule creates s. ETH 26.03 (3a) and refers to a lobbyist making a “lobbying communication”, a term which is not defined in the chapter but is defined in statute. A definition should be created in s. ETH 26.01 that cross-references the statutory definition in s. 13.62 (10g), Stats.

c. In SECTION 16 of the proposed rule, s. ETH 26.03 (3a) (intro.) creates a settlement schedule for making a lobbying communication on behalf of a lobbying principal “prior to authorization”. Are the provided settlement amounts meant to apply only to a lobbyist who eventually files the required authorization on behalf of a principal? And not to a lobbyist who fails to ever file an authorization? If so, the language should be clarified to state this explicitly.

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes a rule to renumber WIS. ADMIN. CODE ETH 26.03 (3); to amend ETH 26.02 (1) (a), (b), (c), (d), and (e), (2) (a) to (i), (3) (a) to (d), (6) (a) and (b), (7) (a) and (b), (8) (a) and (b), 26.03 (1) (b), (c), (d), and (e), and 26.04 (1) (a) and (b), to specify either business or calendar days; and to create ETH 26.01 (1m), 26.01 (12m), and ETH 26.03 (3) and 26.03 (4) to create new definitions and establish additional settlement schedules for unauthorized lobbying and late payment of lobbying fees, relating to settlement of potential campaign finance, lobbying, and ethics violations.

RULE SUMMARY

A. **Statutes interpreted:** s. 19.49(2)(b)10., Stats.

B. **Statutory authority:** The Wisconsin Ethics Commission is specifically directed to promulgate this rule pursuant to s. 19.49(2)(b)10., Stats.

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.

s. 11.1304(17), Stats.:

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

s. 19.48(1), Stats.:

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.

s. 227.11(2)(a), Stats.:

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.

Explanation of agency authority: The Ethics Commission is required 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.

C. **Related statute(s) or rule(s):** ss. 11.1400, 13.69, and 19.579, Stats.

D. **Plain language analysis:** The rule would set forth settlement schedules in the following two additional categories: (1) unauthorized lobbying, and (2) late payment of lobbying fees. The amendments to the rule would clarify the word “days” in prior settlement schedules throughout the rule as either calendar or business days.

E. **Summary of, and comparison with, existing or proposed federal regulations:**

The Lobbying Disclosure Act requires the employer of lobbyists (in-house or lobbying firms) to register the client for which the registrant has an employee that meets the federal definition of a lobbyist, provided they have exceeded the de minimis requirements for registration. The registration is filed with the Secretary of the Senate and the Clerk of the House of Representatives within forty-five days after a lobbyist makes a first contact, or is retained to do so, whichever is earlier. 2 U.S.C. § 1603(a)(1). There are no fees associated with registration. Whoever knowingly fails to (1) correct a defective filing within 60 days after notice of defect by Secretary of the Senate or Clerk of the House; or (2) to comply with any other provision of the Lobbying Disclosure Act, may be subject to a civil fine of not more than \$200,000. Whoever knowingly and corruptly fails to comply with the Act may be imprisoned for not more than five years or fined, or both. 2 U.S.C. § 1606.

F. **Comparison with similar rules in adjacent states:**

Illinois

Both lobbyists and entities that employ lobbyists must register with the Secretary of State prior to engaging in any lobbying activity, or within two working days of an agreement to conduct any lobbying activity. 25 ILL. COMP. STAT. §§ 170/3 (a). There is a \$300 registration fee due annually. 25 ILL. COMP. STAT. §§ 170/5 (f). Any person who violates the Lobbyist Registration Act shall be fined not more than \$10,000 for each violation, with every day that a report or registration is late counting as a separate violation. 25 ILL. COMP. STAT. §§ 170/10 (a). Additionally, any person convicted of violating the Lobbyist Registration Act is prohibited from lobbying for three years from the date of conviction. 25 ILL. COMP. STAT. §§ 170/10 (b).

Iowa

Iowa only requires registration of lobbyists that will be lobbying the executive branch. All executive branch lobbyists, regardless of compensation, must register with the chief clerk of the house of representatives or the secretary of the senate prior to any lobbying activity. IOWA ADMIN. CODE. r. 351—8.7(1). There are no required registration fees. Failure to register timely may result in up at a \$500 civil penalty. IOWA ADMIN. CODE. r. 351—9.4(7).

Michigan

Lobbyists must register with the secretary of state's office no more than fifteen days after becoming a lobbyist. MICH. COMP. LAWS § 4.417(1). Persons that meet the definition of a lobbyist agent must register within three calendar days of becoming a lobbyist agent. MICH. COMP. LAWS § 4.417(2). There are no fees for registering as a lobbyist or lobbyist agent in Michigan. A lobbyist or lobbyist agent that fails to register timely shall pay a late registration fee of \$10 for each day the person is not registered and remains in violation, not to exceed \$300. A person that fails to register within thirty days is guilty of a misdemeanor, and shall be fined not more than \$1,000. MICH. COMP. LAWS § 4.417(3).

Minnesota

There are no registration fees for registering as a lobbyist in Minnesota. Lobbyists must register with the Minnesota Campaign Finance and Public Disclosure Board within five days of meeting the definition of a lobbyist, or being engaged by a new individual, association, political subdivision, or public higher education system. MINN. STAT. § 10A.03, subd. 1. Lobbyists accrue a late fee of \$25 per day the registration is late (\$1,000 maximum). The Board must send a certified mail notice within ten business days after the registration was due. A lobbyist that fails to file a registration within seven days of the certified mail notice being sent is subject to a civil penalty of up to \$1,000. MINN. STAT. § 10A.03, subd. 5.

- G. Summary of factual data and analytical methodologies:** The Commission and its staff examined the history of instances of unauthorized lobbying and late payment of lobbying fees to establish reasonable settlement amounts sufficient to deter violations while still allowing for escalation in the case of repeat offenders or more significant delays, all while staying within the limits established by law.
- H. Analysis and supporting documentation used to determine effect on small businesses:**
N/A
- I. Effect on small business:** N/A
- J. Agency contact person:**

David P. Buerger
David.Buerger@wisconsin.gov
(608) 267-0951

K. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule will be accepted and receive consideration if they are received by August 17, 2020. Written comments should be addressed by mail to: David Buerger, P.O. Box 7125, Madison, WI 53707-7125; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

TEXT OF RULE

SECTION 1 ETH 26.01 (1m) is created to read:

(1m) “Business day” means ...

SECTION 2. ETH 26.01 (12m) is created to read:

(12m) “Lobbying communication” has the meaning given in s. 13.62(10g), Stats.

SECTION 3. ETH 26.02 (1) (a) is amended to read:

(a) If the commission receives a continuing or September report within 30 calendar days after the due date for that report, the commission may issue a written warning to the registrant.

SECTION 4. ETH 26.02 (1) (b) (intro.) is amended to read:

(b) If the commission receives a continuing or September report within 31 to 60 calendar days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:

SECTION 5. ETH 26.02 (1) (c) (intro.) is amended to read:

(c) If the commission receives a continuing or September report within 61 to 90 calendar days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:

SECTION 6. ETH 26.02 (1) (d) (intro.) is amended to read:

(d) If the commission receives a continuing or September report within 91 to 120 calendar days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:

SECTION 7. ETH 26.02 (1) (e) is amended to read:

(e) If the commission receives a continuing or September report more than 120 calendar days after the due date for that report, the commission may extend a settlement offer of \$500.

SECTION 8. ETH 26.02 (2) (a) to (i) are amended to read:

(a) If the commission receives a preprimary, preelection, or post-election report one calendar day after the due date for that report, the commission may extend a settlement offer of \$100.

(b) If the commission receives a preprimary, preelection, or post-election report 2 calendar days after the due date for that report, the commission may extend a settlement offer of \$150.

(c) If the commission receives a preprimary, preelection, or post-election report 3 calendar days after the due date for that report, the commission may extend a settlement offer of \$200.

(d) If the commission receives a preprimary, preelection, or post-election report 4 calendar days after the due date for that report, the commission may extend a settlement offer of \$250.

(e) If the commission receives a preprimary, preelection, or post-election report 5 calendar days after the due date for that report, the commission may extend a settlement offer of \$300.

(f) If the commission receives a preprimary, preelection, or post-election report 6 calendar days after the due date for that report, the commission may extend a settlement offer of \$350.

(g) If the commission receives a preprimary, preelection, or post-election report 7 calendar days after the due date for that report, the commission may extend a settlement offer of \$400.

(h) If the commission receives a preprimary, preelection, or post-election report 8 calendar days after the due date for that report, the commission may extend a settlement offer of \$450.

(i) If the commission receives a preprimary, preelection, or post-election report 9 or more calendar days after the due date for that report, the commission may extend a settlement offer of \$500.

SECTION 9. ETH 26.02 (3) (a) to (d) are amended to read:

(a) If the commission receives a filing fee within one to 15 calendar days after the due date, the commission may issue a written warning to the registrant.

(b) If the commission receives a filing fee within 16 to 45 calendar days after the due date, the commission may extend a settlement offer of \$300.

(c) If the commission receives a filing fee within 46 to 90 calendar days after the due date, the commission may extend a settlement offer of \$500.

(d) If the commission receives a filing fee more than 90 calendar days after the due date, the commission may extend a settlement offer of \$800.

SECTION 10. ETH 26.02 (6) (a) and (b) are amended to read:

(a) If contributor information is not included on a campaign finance report, but is received within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If contributor information is not included on a campaign finance report, but is received more than 30 calendar days after notification from the commission, the commission may extend a

settlement offer of \$100 plus 10 percent of the total amount of contributions with incomplete contributor information.

SECTION 11. ETH 26.02 (7) (a) and (b) are amended to read:

(a) If disbursement information is not included on a campaign finance report, but is received within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If disbursement information is not included on a campaign finance report, but is received more than 30 calendar days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the total amount of disbursements with incomplete disbursement information.

SECTION 12. ETH 26.02 (8) (a) and (b) are amended to read:

(a) Within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) More than 30 calendar days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the cash balance discrepancy.

SECTION 13. ETH 26.03 (1) (b) (intro.) is amended to read:

(b) If the commission receives a statement of lobbying activity and expenditures within 3 to 5 business days after the due date for that report:

SECTION 14. ETH 26.03 (1) (c) (intro.) is amended to read:

(c) If the commission receives a statement of lobbying activity and expenditures within 6 to 15 business days after the due date for that report:

SECTION 15. ETH 26.03 (1) (d) (intro.) is amended to read:

(d) If the commission receives a statement of lobbying activity and expenditures within 16 to 29 business days after the due date for that report:

SECTION 16. ETH 26.03 (1) (e) (intro.) is amended to read:

(e) If the commission receives a statement of lobbying activity and expenditures 30 business days or more after the due date for that report:

SECTION 17. ETH 26.03 (3) is renumbered ETH 26.03 (5).

SECTION 18. ETH 26.03 (3a) is created to read:

(3a) UNAUTHORIZED LOBBYING. If a lobbyist makes a lobbying communication on behalf of a lobbying principal prior to authorization as required by s. 13.65, Stats.:

(a) If the lobbyist has committed no prior offenses, the commission may extend a settlement offer of \$100 per unauthorized lobbying communication that occurred that legislative session on behalf of the principal, up to an aggregate total maximum of \$1,000 per principal per session.

(b) If the lobbyist has committed a prior offense, the commission may extend a settlement offer of \$200 per unauthorized lobbying communication that occurred that legislative session on behalf of the principal, up to an aggregate total maximum of \$1,000 per principal per session.

(c) If the principal has committed no prior offenses, the commission may extend a settlement offer of \$200 per unauthorized lobbying communication that occurred that legislative session on behalf of the principal, up to an aggregate total maximum of \$2,000 per lobbyist per session.

(d) If the principal has committed a prior offense, the commission may extend a settlement offer of \$400 per unauthorized lobbying communication that occurred that legislative session on behalf of the principal, up to an aggregate total maximum of \$2,000 per lobbyist per session.

SECTION 19. ETH 26.03 (4) is created to read:

(4) FAILURE TO TIMELY PAY LOBBYING FEES.

(a) *Lobbyist license fees.*

1. If the commission receives a lobbyist license fee within one to 30 calendar days after the due date, the commission may issue a written warning to the lobbyist.

2. If the commission receives a lobbyist license fee within 31 to 45 calendar days after the due date, the commission may extend a settlement offer of \$100.

3. If the commission receives a lobbyist license fee within 46 to 60 calendar days after the due date, the commission may extend a settlement offer of \$200.

4. If the commission receives a lobbyist license fee more than 60 calendar days after the due date, the commission may extend a settlement offer of \$300.

(b) *Lobbying principal registration fees or lobbying principal authorization fees.*

1. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within one to 30 calendar days after the due date, the commission may issue a written warning to the principal.

2. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within 31 to 45 calendar days after the due date, the commission may extend a settlement offer of \$200.

3. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within 46 to 60 calendar days after the due date, the commission may extend a settlement offer of \$400.

4. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee more than 60 calendar days after the due date, the commission may extend a settlement offer of \$600.

SECTION 20. ETH 26.04 (1) (a) and (b) are amended to read:

- (a) If the commission receives a statement of economic interests within 15 calendar days after the due date for the statement of economic interests, the commission may issue a written warning to the individual.
- (b) If the commission receives a statement of economic interests 16 or more calendar days after the due date for the statement of economic interests, the commission may extend a settlement offer of \$100, plus \$100 for every additional 15 calendar days after the 16th calendar day following the due date.

SECTION 21. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2), Stats.

Buerger, David - ETHICS

From: Software-Notification@legis.wisconsin.gov
Sent: Sunday, June 21, 2020 2:41 AM
To: ETH RuleComments
Cc: aedesk@wkb.com
Subject: Public comment on CR 20-019

Name: Ryan Buroker
Address: 1320 Bad Axe Ct, Viroqua Wi 54665
Email: aedesk@wkb.com

Organization: citizen rights

Comments: How can there be more limits to Probation/Parole officers? I feel it is way too easy for them to manipulate their position. Here in the small rural areas (Vernon County) where everyone knows each other, I feel they work with police in charging 8ndividuals just for grounds to revoke since they need no real proof. I had been doing great on ES until a personal vendetta or SOMETHING. All hearsay, except listening to what I was saying. I got attacked by police from behind in my woodshop and supposedly my neighbor, a PO, came in and shut the door to limit witnesses. (I have a letter from witness as well as my seeing somebody) Please help

Buerger, David - ETHICS

From: Software-Notification@legis.wisconsin.gov
Sent: Sunday, June 21, 2020 2:52 AM
To: ETH RuleComments
Cc: aedesk@wxow.com
Subject: Public comment on CR 20-019

Name: ryan buroker
Address: 1320 bad axe ct, viroqua wi 54665
Email: aedesk@wxow.com

Organization: human rights

Comments: How can I ever get my head above water? Child Support sends me on a gose chase and my license alone will cost nearly 1000 a month ! Plus, i get targeted every time I gain ground.. why try?



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: David Buerger, Staff Counsel

SUBJECT: Informal Opinion Request for Attorney General – Campaign Finance Exemption

FOR COMMISSION ACTION

1. Does the Commission approve the attached draft request for an informal advisory opinion?
2. Does the Commission direct staff to submit a request for an informal advisory opinion that differs from the attached draft request consistent with its discussion today?
3. Does the Commission wish to direct staff to take other action?

I. Background

Since its start in 2016, the Commission has faced the question of how to interpret and apply the new law governing exemptions from campaign finance reporting, [Wis. Stat. § 11.0104](#), which differed significantly from the prior law, [Wis. Stat. § 11.05\(2r\) \(2013\)](#). The Commission inherited this question from its predecessor, the Wisconsin Government Accountability Board (GAB). When the Legislature repealed and recreated Chapter 11 with [2015 Wisconsin Act 117](#), the GAB examined the new language governing exemptions and determined at its meeting on December 15, 2015, that the new language excluded an existing, non-exempt candidate from amending their registration to claim the exemption during the time period beginning with the filing of a candidate's ballot access documents and until the close of the reporting period after the election.¹ However, the GAB did not speak to the broader question of how a candidate could otherwise claim the exemption under the new statute and the GAB was subsequently replaced by the Wisconsin Ethics Commission in July 2016.

The question was first posed to the Ethics Commission by the Wisconsin Association of School Boards in a request for an advisory opinion it submitted to the Commission in October 2016. After a public hearing and deliberation on the questions presented the Commission voted at its meeting on

¹ The GAB staff memo on this point states, "The provision could be read to prohibit a candidate committee from amending its treasurer or contact information. It would also prohibit a committee on exempt status to come off of exempt status. This section does not define when a person becomes a candidate. The definitional section of the legislation defines a candidate to include any incumbent of a state or local office (§11.0101(1)(c)). Thus it could also be read to prohibit any candidate registered for a future office to claim exemption, even if it were a Supreme Court Justice registered for re-election 10 years in the future. We have been informed that this was not the intent." There is no indication as to who indicated that this was not the intent.

November 9, 2016, to request an informal opinion of then-Attorney General Schimel as to the proper interpretation and application of this law. At that meeting, the Commission also referred the matter to the appropriate legislative oversight committees for consideration of remedial legislation. On February 21, 2017, the Wisconsin Department of Justice advised the Commission it was evaluating the request. On August 4, 2017, the Department advised it was still evaluating the request. No further updates were provided until the Commission invited staff from the Department to speak to the Commission in person at its meeting on March 5, 2019. At that meeting, staff from the Department appeared and advised that the Commission’s request was too broad and that the Commission should submit a more focused opinion request. The Wisconsin Ethics Commission subsequently sought to address its concerns via legislative change, but that path has been unfruitful. At its meeting on December 3, 2019, the Commission requested staff prepare a new, narrower request for its consideration, but did not specify what questions it wished to focus on.

Staff has prepared the attached draft request for an informal advisory opinion of the Attorney General as directed. Staff reduced the questions posed to the following: “Whether, and under what circumstances, would an existing candidate who is registered for a future election be eligible to claim and receive an exemption from filing campaign finance reports?” This question does not answer all of the detailed questions posed by the Wisconsin Association of School Boards request, but staff believes it to be the threshold question that must be answered before the Commission can attempt to answer the other questions.

Prior to submitting this revised request, the Commission may also wish to consider whether it wishes to proceed with requesting an opinion of the Attorney General at this specific point in time. While staff is unsure how long it would take to get an opinion, if the opinion advised the Commission to change its current practices regarding exemption it could create confusion among candidates participating in the 2020 Fall or 2021 Spring elections. While the Commission would not be obligated to immediately implement the Attorney General’s advice, it may be prudent to delay submission of the request to avoid any potential confusion in the midst of an election cycle.

Additionally, the Commission may also wish to consider whether it wishes to wait to see if the 2021-2022 Legislature may wish to consider the changes to [WIS. STAT. § 11.0104](#) proposed in the Commission’s legislative agenda. While it is difficult to predict if a given bill may gain traction in the Legislature, the best possible time for legislative changes would be the Summer of 2021, as that provides the greatest amount of time between scheduled elections.

II. Attachments

A. Draft Request for Informal Advisory Opinion – Campaign Finance Reporting Exemption



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
 101 East Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
 (608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

Sent via email only

August 18, 2020

The Honorable Josh Kaul, Attorney General
 Wisconsin Department of Justice
 114 East State Capitol
 Madison, Wisconsin

Opinion Request: Informal opinion regarding requests for exemption from campaign finance reporting

Dear Attorney General Kaul:

Thank you for considering this request for an informal opinion, submitted on behalf of the Wisconsin Ethics Commission.

Since its start in 2016, the Commission has faced the question of how to interpret and apply the new law governing exemptions from campaign finance reporting, [Wis. STAT. § 11.0104](#), which differed significantly from the prior law, [Wis. STAT. § 11.05\(2r\) \(2013\)](#). The Commission inherited this question from its predecessor, the Wisconsin Government Accountability Board (GAB). When the Legislature repealed and recreated Chapter 11 with [2015 Wisconsin Act 117](#), the GAB examined the new language governing exemptions and determined at its meeting on December 15, 2015, that the new language excluded an existing, non-exempt candidate from amending their registration to claim the exemption during the time period beginning with the filing of a candidate's ballot access documents and until the close of the reporting period after the election. However, the GAB did not speak to the broader question of how a candidate could otherwise claim the exemption under the new statute and the GAB was subsequently replaced by the Wisconsin Ethics Commission in July 2016.

The question was first posed to the Ethics Commission by the Wisconsin Association of School Boards in a request for an advisory opinion it submitted to the Commission in October 2016. After a public hearing and deliberation on the questions presented the Commission voted at its meeting on November 9, 2016, to request an informal opinion of then-Attorney General Schimel as to the proper interpretation and application of this law. On February 21, 2017, the Wisconsin Department of Justice advised the Commission it was evaluating the request. On August 4, 2017, the Department advised it was still evaluating the request. No further updates were provided until the Commission invited staff from the Department to speak to the Commission in person at its meeting on March 5, 2019. At that meeting staff from the Department appeared and advised that the Commission's request was too broad and that the Commission should submit a more focused opinion request. The Wisconsin Ethics Commission subsequently sought to address its concerns via legislative change, but that path has been unfruitful. At its meeting on December 3, 2019, the Commission requested staff prepare this new request for its consideration. At its meeting on August 18, 2020, the Commission approved this request and directed it be submitted to the Department of Justice.

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

In an attempt to narrow the previous request for advice, the Commission is now seeking your opinion solely on the following question:

Whether, and under what circumstances, would an existing candidate who is registered for a future election be eligible to claim and receive an exemption from filing campaign finance reports?

This question primarily requires an examination of WIS. STAT. § 11.0104:

11.0104 Reporting exemptions: limited activity.

(1)

(a) Except as provided in par. (b), any committee which does not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding \$2,000 in a calendar year may file an amended registration statement with the appropriate filing officer indicating that fact. The committee or conduit shall certify the amended registration in the manner required under s. [11.0103 \(3\) \(c\)](#) and shall include the information required to be reported by that committee or conduit on its continuing reports.

(b) In no case may a candidate committee file an amended registration under this section covering any period ending sooner than the date of the election in which the candidate committee is participating.

(2) Upon receipt of a properly executed amended registration by a committee or conduit, the appropriate filing officer shall suspend the requirement imposed upon that committee or conduit by this chapter to file continuing reports. An indication of limited activity under this section is effective only for the calendar year in which it is granted, unless the committee or conduit alters its status before the end of such year or files a termination report under s. [11.0105](#).

(3) An indication of limited activity made under sub. (1) may be revoked. If revoked, the committee or conduit shall comply with the reporting requirements applicable to the committee or conduit under this chapter as of the date of revocation, or the date that aggregate contributions, disbursements, or obligations for the calendar year exceed \$2,000. If the revocation is not timely, the committee or conduit violates s. [11.1201](#).

(4) A committee or conduit that files an amended registration statement under sub. (1) is not required to file a termination report under s. [11.0105](#).

(5) If a committee or conduit files an amended registration statement under sub. (1) and within 60 days thereafter receives and accepts an unanticipated contribution, the committee or conduit shall do one of the following within 60 days after receipt of the unanticipated contribution:

(a) File an amended registration statement. An amended registration statement supersedes the previous registration statement. The individual who certifies to the accuracy of the registration statement shall also certify that the amended registration statement is filed on account of the receipt of unanticipated contributions and the failure to file a correct registration statement was not intentional.

(b) Return the contribution to the contributor or donate the contribution to the common school fund or to a charitable organization.

An individual is required to register with the Commission as a candidate as soon as practicable after the individual qualifies as a candidate. [WIS. STAT. § 11.0202\(1\)\(a\)](#). The Legislature defines a candidate for the purposes of Chapter 11 as “an individual about whom any of the following applies:

- (a) The individual takes any of the following affirmative actions to seek nomination or election to a state or local office:
 - 1. Files nomination papers with the appropriate filing officer.
 - 2. Is nominated as a candidate for state or local office by a caucus under s. [8.05 \(1\)](#) or by a political party and the nomination is certified to the appropriate filing officer.
 - 3. Receives a contribution, makes a disbursement, or gives consent for another person to receive a contribution or make a disbursement in order to bring about the individual's nomination or election to a state or local office.
- (b) The individual holds a state or local office and is the subject of a recall petition.
- (c) The individual holds a state or local office.”
[WIS. STAT. § 11.0101\(1\)](#).

The receipt of a contribution or the making of a disbursement in order to bring about the individual’s nomination or election, or the filing of nomination papers, are the most common triggers for candidate registration. Once registered, unless exempt from campaign finance reporting, all candidate committees are required to file periodic campaign finance reports. *See* WIS. STAT. §§ [11.0104](#), [11.0204](#). It is at this point that the question posed above presents itself. Once registered as required by [WIS. STAT. § 11.0202\(1\)\(a\)](#), may a candidate claim and receive the exemption? If so, what are the specific circumstances that make a candidate eligible/ineligible?

Thank you for your timely consideration of this request.

Sincerely,

Daniel A. Carlton, Jr.
Administrator
Wisconsin Ethics Commission

cc: Wisconsin Ethics Commissioners



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 18, 2020
TO: Members, Wisconsin Ethics Commission
FROM: Julie Nischik, Office Management Specialist
SUBJECT: FY2021 Lapse Plan

FOR COMMISSION ACTION

For the FY2021 lapse plan, the Commission may:

1. Follow the staff recommendation of lapsing from GPR and Investigation appropriations, or
2. Lapse from other appropriations based on the discussion today.

On July 22, 2020, Commission staff were notified that the agency is required to lapse an amount from the FY2021 agency budget (July 1, 2020 through June 30, 2021). This is to offset the loss in revenue to the state due to the COVID-19 pandemic. Commission Administrator Daniel Carlton and Office Manager Julie Nischik met with the budget analysts from DOA, and were informed of some of the details of the required lapse plan.

The Commission is required to submit a plan to DOA for the lapse for this fiscal year. The Commission must lapse \$113,913 in FY2021. This plan is due in mid-August, and we are currently awaiting further details on what will be required in the plan.

DOA indicated the plan should avoid workforce reductions or employment actions, such as furloughs. Agencies have discretion in which appropriations are reduced to make up the lapsed amount for the year. DOA also indicated agencies may have discretion in where the lapsed amount is taken from as the fiscal year carries out.

An overview of the FY2021 agency budget is provided below. The Commission has three main sources of funding, GPR, Investigations, and Program Revenue (PR) Lobbying. The other two appropriations, PR Filing Fees, and PR Materials and services make up a smaller proportion of the agency budget. The GPR and Investigations appropriations are funds provided to the agency by the state. The PR appropriations are funded by revenue made by the Commission through the lobbying licensing program, and the annual collection of filing fees.

FY2021 Operating Budget Spending Authority

	GPR (101)	Investigations (105)	PR Filing Fees (120)	PR Materials and Services (122)	PR Lobbying (123)
Salary	\$ 293,700	-	-	-	\$ 236,800
LTE	\$ 2,800	-	-	-	\$ 1,000
Fringe	\$ 104,800	-	-	-	\$ 84,400
Supplies & Services	\$ 285,000	\$ 225,000	\$ 31,700	\$ 4,500	\$ 156,100
Total	\$ 686,300	\$ 225,000	\$ 31,700	\$ 4,500	\$ 478,300
Total spending authority for all appropriations in FY2021					\$ 1,425,800

The salary, LTE, and fringe amounts should not be considered in determining this lapse, as these funds will be fully expended this year to pay for staff salary, fringe, and Commissioner per diems. The Lobbying supplies and services should also not be considered for this lapse, as these funds are needed to complete the work for the lobbying website that is currently in development.

As for the supplies and services of GPR, Investigations, PR Filing Fees, and PR Materials and Services, we can look to the operating budget for FY2021 for possible lapse amounts.

The operating budget for supplies and services in GPR FY2021 breaks down as follows:

- \$193,300 on IT support, including our IT contractor, CFIS maintenance and support, and payments to DOA for data hosting and other IT services
- \$48,900 on rent
- \$2,000 on travel reimbursement
- \$1,900 on phone service
- \$1,000 on postage and shipping costs
- \$33,800 on other supplies and services
 - \$16,000 of the other supplies and services is paid to DOA for annual assessments of services provided to the agency

With the beginning balance of \$285,000 and subtracting the known expenses as listed above, the remaining balance is \$21,900. A portion of the remaining amount could be lapsed, but staff recommends keeping some funds available for unexpected expenses, and other miscellaneous supplies that are needed by staff throughout the year. Additionally, due to the uncertainty of the COVID-19 pandemic, there could be unexpected expenses this fiscal year to accommodate changes in the workplace.

The PR Filing Fee appropriation is typically reserved for CFIS support. The Commission has directed staff to develop plans for a replacement to the system in the coming years, and staff have been reserving this program revenue for the purchase of software and services for the replacement system. Staff does not recommend lapsing from this appropriation.

The PR Materials and Services appropriation is reserved for the purchase of printed materials and supplies for the Commission. The revenue is generated from public records requests that meet the threshold of requiring reimbursement by the requester. This appropriation has not collected

revenue in the past few years, and the current revenue balance is approximately \$2,000. Staff does not recommend lapsing from this appropriation.

The Investigations appropriation has the largest portion of available funds to lapse in FY2021. The spending authority for each of the years listed below was \$225,000.

Expenditures in Investigations Appropriation by Fiscal Year

FY2017	\$ 165.00
FY2018	\$ 43,978.57
FY2019	\$ 0.00
FY2020	\$ 321.20
FY2021	\$ 0.00
	(as of 8/18/2020)

Commission staff recommend taking the majority or all of the required lapse amount from the Investigations appropriation, as that is the only appropriation which currently has the funds available to cover the amount that must be lapsed this fiscal year.



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DATE: For the Commission Meeting on August 18, 2020
TO: Members, Wisconsin Ethics Commission
FROM: Julie Nischik, Office Management Specialist
SUBJECT: Biennial Budget 2021 – 23 Draft

FOR COMMISSION ACTION

For the draft budget, the Commission may:

1. Provide guidance to staff on drafting the budget, Act 201, and decision items, and
2. Schedule a time for the Commission to meet via teleconference on September 11, 2020, to review the budget prior to submission.

The Ethics Commission is required to submit a biennial budget request on September 15, 2020. This budget will cover fiscal years 2022 and 2023, starting July 1, 2021 and ending June 30, 2023.

Agencies received direction from the Governor's office in June on expectations for the biennium. Agencies were directed to not request any additional GPR-funded expenditures in either year of the upcoming biennium. Agencies were directed not to seek any new positions, from any fund source, and encouraged to repurpose existing vacancies wherever feasible. This instruction is due to the revenue decreases as a result of the COVID-19 pandemic.

Agencies can expect to be funded at 100 percent of the fiscal year 2020 – 21 adjusted base. The Ethics Commission can plan to receive the same amount of GPR from the state in the upcoming biennium, as was received in the current fiscal year (2021). There are standard adjustments for salary, fringe, and rent that will make minor increases to the adjusted base.

There are several documents that are required to be included in the budget submission. Many of these documents overlap with the documents submitted as part of the annual report. They include: an agency description, mission statement, program goals and objectives, performance measures, and an organizational chart. Any changes that are made to those documents in review of the annual report will be modified to match for the budget submission.

Other items that will be included in the final submission are generated by the budget system, and we are currently awaiting those updates from DOA. The budget system will calculate fund source total documents of the current and upcoming biennium. The system will also generate program revenue statements.

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

There are three standard budget adjustments that will be calculated by the DOA State Budget Office (SBO). The standard budget adjustments are the adjusted base (decision item 2000), full funding of continuing position salaries and fringe benefits (decision item 3003), and full funding of lease and directed moves costs (3010). Agency staff are awaiting details on those standard budget adjustments. The adjusted base is the first step in establishing the budget for the upcoming biennium, and is calculated from the budget of the last fiscal year of the prior biennium, in this case, fiscal year 2021. Any modifications to the budget throughout the biennium, such as changes due to a request that was approved by the legislature, would be factored into the adjusted base. The Ethics Commission did not have any modifications to the budget in FY2020, so we can expect the adjusted base to look very similar to the approved budget for FY2021. Staff expect minor adjustments for salary and fringe due to the general wage adjustments that occurred in fiscal years 2020 and 2021. Staff expect a minor adjustment for the lease cost for the upcoming biennium, as the space rental rate has increased slightly.

The Ethics Commission will also have an opportunity to include any agency specific decision items for consideration. Decision items are agency specific requests to changes in the budget.

Lastly, 2015 Wisconsin Act 201 requires an agency to include certain documents in its biennial budget request. Act 201 has two major requirements: First, it requires an agency to demonstrate how it would budget if it were required to meet a zero-growth target. Second, the agency would have to demonstrate how it would budget if the agency was required to reduce its operations budget by 5%. The zero-growth and 5% reduction proposals are based upon the adjusted base in fiscal year 2020 – 21. To satisfy the 5% reduction documentation requirement in the 2019 – 21 biennial budget request, the Commission proposed reductions to the Investigations 105 appropriation by \$25,000, and the program revenue lobbying appropriation by \$42,300 to meet the target reduction of \$67,300. The proposals submitted in the 2019 – 21 biennium for Act 201 were not acted upon, and the agency was funded as requested. The Commission could follow the same pattern for this biennium, or propose some other combination of reductions to meet the requirements. Staff do not have the target reduction amount for the 5 percent reduction as of July 31, but can assume it will be close to the amount of the prior biennium.

Staff are awaiting many documents that are necessary to pull together the budget submission. In the last biennium, documents were received as late as September 12, 2018, when the budget was due on September 17, 2018. Commission staff will do our best to have all documents prepared for the Commission to review at the meeting scheduled for September 11, 2020.

Attachments:

- A. Governor's Budget Letter to Agencies 6/5/2020
- B. Major Budget Policies



Tony Evers

Office of the Governor | State of Wisconsin

June 5, 2020

By Electronic Mail Only

Dear Secretaries and Agency Heads:

In the weeks before I took the oath as Governor, I traveled throughout Wisconsin and listened to the residents of our State to hear what they thought should be the priorities for investment in our first budget. We heard about issues to be sure – stronger health care, investing in public education, fixing our roads and putting the people back in charge – but more importantly, we heard personal stories about how budget decisions have a real impact on people’s lives. I will always appreciate the thousands of folks who took time out of their busy schedules to share their thoughts with me, Lieutenant Governor Barnes, and our team. That input from Wisconsin residents resulted in the People’s Budget, which was built to reflect the shared values of Wisconsinites from one end of our state to the other.

While the final budget I signed into law last summer did not have everything we wanted, it included many important items I had recommended on behalf of Wisconsin residents. The budget invested critical resources in our children, in our higher education institutions, in direct care workers on the front lines serving our most vulnerable, in our proud veterans and farmers, in researchers, and in many others who make Wisconsin such a special place to live and raise a family.

We also demonstrated our ability to work with our legislative colleagues to get important things done like cutting individual income taxes by \$500 million last year and increasing our budget stabilization fund to its highest total in state history. Throughout the budget process, we worked to improve our bottom line by bringing transportation borrowing to its lowest level in two decades, retiring over \$56 million in debt to save our taxpayers money in future years and using my veto pen to improve our ending balance. Those efforts, along with the continued economic growth that Wisconsin innovation helped drive, put our state in a strong financial position through the early part of this year.

As we know and feel each day, our lives have been upended in the past few months in ways we likely could not have imagined. The COVID-19 pandemic has drastically altered our way of life, directly and indirectly affecting the health and economic well-being of every Wisconsin resident. The pandemic’s sudden and severe impact on our state revenues will require all of us to be more innovative and more efficient in our use of precious state resources and how we deliver services to those who need them in the days and months ahead.

Thus, my 2021-23 Major Budget Policies require most state agencies to not request any additional GPR-funded expenditures in either year of the upcoming biennium. These requirements also extend to SEG-funded administrative operations for the Departments of Natural Resources and Transportation and the Lottery at the Department of Revenue. In addition, I am directing you to not seek any new positions, from any fund source, when you submit your budget requests on September 15, 2020 and to repurpose existing vacancies wherever it is feasible. While I am hopeful that our state and national economic situation will improve in the months ahead prior to submitting my budget early next year, we must take these critical and prudent steps now as we embark upon this process.

Budgets are, necessarily, fiscal documents. With that in mind, just as you have done during the current crisis, I ask that over the next few months you and your staff identify ways to make state government more efficient by streamlining processes, reviewing outdated statutes and regulations, and coming up with ideas you may have to save both time and resources where possible without hindering the vital services we provide to those who live, work, and play here.

But budgets also speak to our priorities, and that is why with that in mind, I am asking you all to approach the task before you with the goals of equity and sustainability in mind as you take on the budget challenges that lay before us. As public servants, we must take seriously our obligation to make the state and our world a better place for every Wisconsinite – especially for low-income communities and our state’s Black, Indigenous, Latinx and all communities of color – both today and for future generations. For far too long, these populations have been systematically left behind. The fiscal constraints we face do not constrain our ability to make positive change in the lives of the people we serve. My direction not to seek additional GPR-funded expenditures should not be seen as a directive to simply continue business as usual. I am therefore expecting that you will bring compassion, empathy and a specific intention to increase equity and decrease racial disparities in our state as you work on your budget proposals.

While our fiscal pressures are daunting, we need to do everything we can continue to improve the lives of Wisconsinites in the days ahead, recognizing we cannot just cut our way to recovery as some may suggest in the coming months. We must continue to invest in our State priorities for our next biennial budget, so we will continue to emphasize education, healthcare, and our state’s infrastructure, including our repairing our roads and expanding broadband. We will also continue to work to improve our quality of life, knowing we will be judged by future generations in how we protected our environment and natural resources.

That is why I will redouble my efforts to seek to secure all resources available to us from the federal government, including expanding Medicaid under the federal Affordable Care Act, as 36 other states have done across our nation. Had we done so in the last budget, we would have provided healthcare coverage to an additional 80,000 people in our state, realized over \$1.6 billion in federal funding, and saved at least \$325 million in state GPR. This effort continues to remain not only the right thing to do for our residents, it makes fiscal sense during these unprecedented times.

Our path forward will be incredibly challenging in delivering on the growing needs of the people of Wisconsin, particularly when you will need to do so with, at best, the same resources you have now. However, as I have known throughout my career, the resiliency and can-do spirit of our state and local employees inspires me with the confidence that we are up to the historic challenges we face and that we will deliver for the people of our State.

I asked you to be a part of my team because I knew you were willing to do whatever is needed, in good times and difficult ones, to be a part of something bigger than any of us. You have done that to date and I know you will continue to do so going forward, so please accept my continued appreciation for all that you do as leaders of our State each and every day.

Sincerely,



Tony Evers
Governor

cc: Agency budget directors

MAJOR BUDGET POLICIES 2021-23

BUDGET TARGETS

- Agencies should prepare their 2021-23 biennial budget requests based on 100 percent of their fiscal year 2020-21 adjusted base.
 - All agencies should assume there will be zero growth in overall GPR appropriations in each fiscal year during the 2021-23 biennium, and specific program needs should be managed within this general constraint.
 - Exceptions will occur only for K-12 school aids; required basic cost-to-continue needs for the state's institutions, i.e., the Department of Corrections and the Department of Health Services institutions; entitlement and related assistance programs in the Department of Health Services (e.g., Medical Assistance), the Department of Children and Families' Division of Safety and Permanence, and the Department of Workforce Development's Division of Vocational Rehabilitation; and housekeeping adjustments like standard budget adjustments, fuel and utilities, and debt service.
- The zero growth policy will also apply to the SEG-funded administrative operations appropriations in all agencies that are supported by the transportation fund, the conservation fund, the environmental fund and the lottery fund.
- Funding requests for other types of appropriations and other funding sources in both years should be limited to revenue availability and only the highest priority programmatic needs.
- Except for standard budget adjustments, routine budget items should be handled in agencies' base budgets regardless of fund source.
- Agencies should not submit requests related to anticipated changes to existing systems or processes that may result from the State Transforming Agency Resources (STAR) project.
- In developing biennial budget requests, agencies should fundamentally review missions and priorities, exploring opportunities to reallocate resources, integrate programs and consolidate functions.

Note: All agencies should ensure both existing and newly proposed programs align with the agency mission and core work. Existing programs that are not core to the agency mission should be communicated to the State Budget Office during base budget review.

- Any areas needing additional staff must be met through base reallocations.

Note: Agencies must receive approval from the State Budget Office before proposing to use funding sources in another agency to stay within budget targets, to absorb operations' reductions or to fund any new initiatives.

- Proposals that transfer functions or programs, including related costs and staff, between agencies should result in zero growth in overall state appropriations (i.e., the transferring agency should have lower overall appropriations to offset the increase at the receiving

agency). All agencies involved in the transfer should notify the State Budget Office during the initial stages of considering any such proposal to facilitate review of the request and allocation of any projected savings between the agencies.

ACT 201 REQUIREMENTS

- All agencies, excluding the Legislature and the Courts, are required to include proposals for a state operations budget for their agency under each of the following scenarios:
 1. Meet a zero growth target in each fiscal year of the 2021-23 biennium.
 2. Reduce the agency's state operations budget by 5 percent from its fiscal year 2020-21 adjusted base in each fiscal year of the 2021-23 biennium.
- The budget proposal targets do not include federal appropriations or debt service appropriations.
- The targets do not allow for the exceptions listed in the Budget Targets Section above, other than standard budget adjustments.
- The targets must be achieved within the state operations portion of the agency's budget. Any proposed changes to local assistance or aids to individuals and organizations appropriations are not included in the calculation of whether an agency meets the targets.
- Agencies will be provided with agency-specific targets and a template for the proposal upon completion of the base reconciliation process, which sets the adjusted base.

BASE BUDGET REVIEW REPORTS

- Pursuant to s. 16.423, Wis. Stats, all state agencies, meaning any office, department or independent agency in the Executive Branch, the Legislature and the Courts, were required to submit a base budget review report no later than May 15, 2020.
- These reports will be summarized in the November 20 report and in the Governor's biennial state budget report to the Legislature.

PERFORMANCE MEASUREMENTS IN BUDGETING

- Agencies must report on the performance measures they identified for previous biennial budgets. These measures should relate to agencies' broad Chapter 20 budget programs. If needed to capture significant shifts in agency function, additional measures could be added; however, only a few measures should be presented so there is a clear focus on results.
- For the 2021-23 budget, agencies must report actual outcome measures through fiscal year 2018-19 and fiscal year 2019-20. Planned outcome measures should be listed for fiscal year 2020-21, fiscal year 2021-22 and fiscal year 2022-23. Agencies should track and maintain data going forward to present actual performance data for a fiscal year compared

to planned performance. A calendar year may be used if data are collected on that basis (please note where calendar years are used).

- The State Budget Office will include performance measures developed by an agency in the Executive Budget Book, and agencies should reference measures in decision items, where relevant.
- Agency descriptions and performance measures will be included in the state budget system and must be updated in that system. It is important for agencies to follow the prescribed format to ensure consistency and compatibility.

BUDGETING FOR INFORMATION TECHNOLOGY

Requests for funding of information technology projects should identify the link between the project and the state's business goals, conformity to the Department of Administration's Policies and Procedures for Information Technology Management, and provide specific information about each project, including executive sponsorship. Consistent with information technology strategic planning, project definitions must include a standard return on investment (ROI) calculation.

BUDGETING FOR DEPARTMENT OF ADMINISTRATION RATE CHANGES

Agencies should not reflect anticipated rate changes from the various divisions within the Department of Administration in their 2021-23 budget requests. Forecasting of rates and impacts on individual agency budgets will be addressed by the Department of Administration in developing the Governor's 2021-23 budget.

FEDERAL FUNDS

The state has a goal of increasing the ongoing receipt of federal funds where the use of federal funding is consistent with state program goals. In order to increase the amount of federal funds received, agencies should conduct the following review:

- Examine existing grant awards to ensure that they are fully utilized and consistent with agency priorities. If unexpended grant authority is available, the agency should reallocate the funds to other activities to the extent possible under state and federal rules.
- Agencies may also identify, in the form of a policy paper submitted on September 15, additional federal grant opportunities that were not included in the agency's request. Such opportunities may be considered for funding by the State Budget Office during budget deliberations.

STATUTORY LANGUAGE GUIDELINES

- Agencies should seek to limit policy items unrelated to appropriation changes for inclusion in the Governor's budget.

Note: Please contact your State Budget Office analyst to discuss whether a particular initiative is appropriate for submission as a budget request.

- Agencies should not submit extensive lists of technical or housekeeping changes for inclusion in the Governor's budget. Proposed changes for separate nonbudget legislation can be submitted to the State Budget Office for review and approval, separate from the budget request.

Note: Please contact your State Budget Office analyst if these types of changes are sought.

- As in past budgets, prior to September 15, agencies may work directly with the Legislative Reference Bureau in preparing statutory language items related to the budget. After September 15, all drafting and redrafting requests related to the budget must come from the State Budget Office.
- When requesting drafts related to the budget from the Legislative Reference Bureau, agencies should submit memoranda identifying what they are seeking to accomplish.
- The detailed budget instructions will provide more information on statutory language submittal requirements.

BUDGET SUBMITTAL DUE DATES AND PROCEDURES

- Formal budget requests are due Tuesday, September 15, 2020. Send four (4) copies to the State Budget Office and two (2) copies directly to the Legislative Fiscal Bureau.
- State Budget Office staff will be available to meet with individual agencies to explain budget policies and procedures, and discuss any agency concerns.

INFORMATION ON THE WEB

- The Budget Instructions will be available on the State Budget Office Web site at <https://doa.wi.gov/Pages/StateFinances/CurrentBiennialBudget.aspx>.
 - Periodic information updates will be posted to this Web site and the State Budget Office SharePoint site, so agencies should check these sites regularly.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: Caroline M. Russell, Ethics Specialist

SUBJECT: Lobbyist License Surrender/Reissuance Discussion

FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Continue to use the Eye on Lobbying lobbyist application process to allow a lobbyist that has surrendered their license during that legislative session to apply for a second license,
2. Make legislative recommendations,
3. Pursue administrative rulemaking to formalize the process by which a lobbyist can surrender their license and/or apply for a second license; or
4. Take some other action as determined by today's discussion.

Introduction

While the statutes are silent about “surrendering” a lobbyist license, the Eye on Lobbying (<https://lobbying.wi.gov>) website allows a lobbyist to “surrender” his/her license. In practice, a lobbyist will surrender their license when they no longer wish to engage in lobbying. To surrender, the lobbyist must complete all reporting requirements and certify that they will not engage in lobbying for the remainder of the session.

Predecessor agencies have adopted internal policies to address this issue, but the Ethics Commission has not. The Eye on Lobbying website does not allow a person to request their license be reinstated during the same session. However, a person may submit a second lobbying license application. Staff would like guidance from the Commission regarding how to address the process of surrender and possible reinstatement of a lobbyist license.

Past Practice

The Commission's predecessor agency, the Government Accountability Board (“GAB”), adopted internal policies to address the surrendering and reinstatement of a lobbyist license that seem to stem from the principal cessation process. A GAB audit memo concerning prohibited lobbyist contributions in 2012 discusses agency practices for surrendering a lobbyist license in the case of two specific audit results. The memo states that “board staff has required lobbyists who wish to

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Administrator

Daniel A. Carlton, Jr.

make campaign contributions to surrender their license formally using the GAB-809 form.” The memo then explains that “...the requirement to use form GAB-809 to formally surrender their license is a staff policy, and not codified in statutes or administrative rules.”

While staff could not locate a blank form GAB-809, we did find form GAB-806 (Attachment A). The form contains language to certify that all reporting obligations have been met, and the lobbyist will not engage in lobbying activity for the remainder of the legislative session. Copies of filed forms GAB-809 confirmed that the language was identical. This language appears verbatim in the current Eye on Lobbying site when a lobbyist surrenders their license (Attachment B). Additionally, staff located a document titled “Lobbyist License Reinstatement Form” (Attachment C). It is unclear whether any lobbyist used this form to “reinstate” their license.

The GAB launched the Eye on Lobbying Site in 2012. At that time, the internal staff policy to allow lobbyists to surrender their licenses was included in the development. When the Commission was created, the Eye on Lobbying site was inherited as is. Therefore, the practice of allowing lobbyists to surrender their licenses has continued. The issue with the system, however, is that it will not allow a person who was a licensed lobbyist and surrendered their license to request for the license to be reinstated. However, a person can create a new user account and apply for a second lobbyist license. This process includes the normal background checks and requires payment of fees.

Relevant Statutes

The licensing process for lobbyists is established in [WIS. STAT. § 13.63](#). That statute states:

13.63 Licenses for lobbyists; suspension or revocation.

(1) LICENSES.

(a) An applicant for a license to act as a lobbyist may obtain an application from and file the application with the commission. Except as authorized under par. [\(am\)](#), an applicant shall include his or her social security number on the application. The applicant shall, under the penalty for making false statements under s. [13.69 \(6m\)](#), sign the application. The applicant shall submit with the application the applicable fee under s. [13.75 \(1g\) \(a\)](#) or [\(am\)](#). Upon approval of the application by the commission, the commission shall issue a license to the applicant. A license issued under this paragraph entitles the licensee to practice lobbying on behalf of each registered principal for whom or which an authorization for that lobbyist, as required under s. [13.65](#), has been filed and for whom or which the authorization fee under s. [13.75 \(1g\) \(d\)](#) has been paid. A license issued under this paragraph shall expire on December 31 of each even-numbered year.

(am) If an individual who applies for a license under this section does not have a social security number, the individual, as a condition of obtaining that license, shall submit a statement made or subscribed under oath or affirmation to the commission that the individual does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this paragraph is invalid.

(b) Except as provided under par. (am), the commission shall not issue a license to an applicant who does not provide his or her social security number. The commission shall not issue a license to an applicant or shall revoke any license issued to a lobbyist if the department of revenue certifies to the commission that the applicant or lobbyist is liable for delinquent taxes under s. [73.0301](#) or if the department of workforce development certifies to the commission that the applicant or lobbyist is liable for delinquent unemployment insurance contributions under s. [108.227](#). The commission shall refuse to issue a license or shall suspend any existing license for failure of an applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or failure of an applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. [59.53 \(5\)](#) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. [49.857](#). No application may be disapproved by the commission except an application for a license by a person who is ineligible for licensure under this subsection or s. [13.69 \(4\)](#) or an application by a lobbyist whose license has been revoked under this subsection or s. [13.69 \(7\)](#) and only for the period of such ineligibility or revocation.

(c) Denial of a license on the basis of a certification by the department of revenue or the department of workforce development may be reviewed under s. [73.0301](#) or [108.227](#), whichever is applicable. Except with respect to a license that is denied or suspended pursuant to a memorandum of understanding entered into under s. [49.857](#), denial or suspension of any other license may be reviewed under ch. [227](#).

(2) REVOCATION OF LOBBYING PRIVILEGES. No lobbyist whose license has been revoked under s. [13.69 \(7\)](#) may engage in lobbying as a lobbyist for any principal until such person has been reinstated to the practice of lobbying and duly licensed.

[WIS. STAT. § 13.63\(1\)\(b\)](#) provides that “No application may be disapproved by the commission except an application for a license by a person who is ineligible for licensure under this subsection or s. 13.69(4) or an application by a lobbyist whose license has been revoked under this subsection or s. 13.69(7) and only for the period of such ineligibility.” The conditions for denial of the license are limited to an applicant that is: delinquent on taxes; delinquent on unemployment insurance contributions; failure to pay court-ordered child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse; failure to comply with a subpoena or warrant issued by the Department of Children and Families or a county child support agency related to paternity or child support proceedings; or suspension or revocation for a violation of the lobbying laws. If none of those conditions is present, the Commission must issue a lobbying license.

Nothing in the statute addresses when a lobbyist can apply for a license. There is no deadline to apply. Licenses are issued at any time during a legislative session.¹ The statute does not limit a lobbyist to having only one license during a legislative session.

¹ Notwithstanding that lobbyists lobby executive branch agencies, the Legislature tied lobbyist licenses to two-year periods that correspond with the biennial session of the Legislature.

The fees for lobbyists and principals are established in [WIS. STAT. § 13.75](#). That statute states:

13.75 Fees.

- (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 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.

At minimum, a lobbyist license and authorization fee are required for a lobbyist to begin lobbying. Fees associated with a second lobbyist license during the same legislative session are not mentioned in statute. The Commission may wish to discuss fees, if any, that would be required for a second lobbyist license to be approved.

Commission Action

At the June 16, 2020, meeting, the Commission authorized staff to use a workaround in the Eye on Lobbying site to reinstate a lobbyist's license upon performing the standard background checks and receiving payment of required fees. After that meeting, staff learned about possible reporting and audit issues that could result from this approach. It was determined that the best approach was to have the lobbyist create a new user account and apply for a second license, as it would not require any manual workarounds. The lobbyist created a new user account and applied for the license, passed the background checks, paid all necessary fees, and a new lobbying license was issued.

The question presented now is whether the Commission would like to continue to use this process or address the surrender and reinstatement of lobbyist licenses in a different way.

The Commission can direct staff to:

1. Continue to advise any lobbyist who surrendered their license during that legislative session, and who requests reinstatement, to create a new user account and apply for a second license upon passing the necessary background checks and payment of the required fees,

2. Make legislative recommendations to address the lack of statutory language regarding surrender and reinstatement of a lobbyist license,
3. Pursue administrative rulemaking to formalize the process by which a lobbyist can surrender their license and have it reinstated or apply for a second license; or
4. Take some other action as determined by today's discussion.

Attachments:

- A. Form GAB-806, 2009-2010 Legislative Session
- B. Screenshot of Lobbyist License Surrender in Eye on Lobbying
- C. Lobbyist License Reinstatement Form

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SURRENDER OF LOBBYING LICENSE

For Use in 2009-2010

Name of Lobbyist

Upon receipt of this form and the filing of withdrawals of authorization by all organizations on whose behalf you are currently authorized to lobby, the Government Accountability Board will terminate your listing as a licensed lobbyist.

File this form if you are terminating all lobbying activity on behalf of all organizations for the remainder of the 2009-2010 legislative session and you will not, prior to January 1, 2011, be preparing to influence state legislation or administrative rules.

Check one:

- I have furnished each organization for which I have been authorized to lobby a time report for the current reporting period.
- I have not engaged in lobbying activity during the current reporting period.

I certify that I am no longer authorized to lobby on behalf of any organization, that I have ceased all lobbying activities on behalf of all organizations, and that I will neither attempt to influence state legislation or administrative rules during the remainder of the 2009-2010 legislative session nor, prior to January 1, 2011, prepare to influence state legislation or administrative rules.

_____	_____	()
Signature	Date	Phone

_____	_____
Print name	Title

For Office Use
Date and Initials

Lobbying Surrender Status

Upon receipt of this form and the filing of withdrawals of authorization by all organizations on whose behalf you are currently authorized to lobby, the Wisconsin Ethics Commission will terminate your listing as a licensed lobbyist. File this form if you are terminating all lobbying activity on behalf of all organizations for the remainder of the 2019-2020 legislative session and you will not, prior to January 1, 2021, be preparing to influence state legislation or administrative rules.

File this form if you are terminating all lobbying activity on behalf of all organizations for the remainder of the 2019-2020 legislative session and you will not, prior to January 1, 2021, be preparing to influence state legislation or administrative rules.

Please choose one of the following: *

- I have furnished each organization for which I have been authorized to lobby a time report for the current reporting period.
- I have not engaged in lobbying activity during the current reporting period.

Lobbyist Certification

I certify that I am no longer authorized to lobby on behalf of any organization, that I have ceased all lobbying activities on behalf of all organizations, and that I will neither attempt to influence state legislation or administrative rules during the remainder of the 2019-2020 legislative session nor, prior to January 1, 2021, prepare to influence state legislation or administrative rules.

Lobbyist Name

State of Wisconsin Ethics Board
44 East Mifflin Street, Suite 601
Madison, Wisconsin 53703

DATE

I _____, certify the statement below to be true and accurate.

I wish to withdraw my request to surrender my lobbying license for the 2005-2006 legislative session. I certify that from the date that I submitted the form surrendering my lobbying license to date, I have not engaged in any activities that would be in violation of Subchapter III, Chapter 13 of the Wisconsin Statutes (lobbying law) had I held a lobbying license during that time.

Sincerely,



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 18, 2020

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: 2021-2022 Legislative Session Recommendations

FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Direct staff which prior recommendations to pursue, or
2. Adopt and pursue additional legislative recommendations it deems appropriate.

Since its inception, the Commission has adopted 33 recommendations concerning potential legislation. Of those, 30 recommendations were adopted as a part of the 2017 Annual Report. An additional recommendation was adopted and is contained in the 2018 Annual Report. The remaining two were adopted by the Commission at its meeting on April 9, 2019. At the Commission meeting on August 20, 2019, the Commission considered and approved a draft bill that contained most of the previously adopted legislative recommendations. The memo, attached hereto, explains the legislative recommendations that were incorporated into the bill draft, briefly explains the ones that were not incorporated, and includes materials staff used when meeting with legislators.

Before the 2021-2022 Legislative Session begins, it is important to review the prior recommendations and consider new recommendations. The Commission has a couple of options concerning its prior recommendations. First, the Commission can pursue the bill it approved last August. Alternatively, the Commission can take a narrower approach and focus on the recommendations that it deems most important. Finally, of course, the Commission can add new recommendations to either approach.

Additional Legislative Recommendations

1. [WIS. STAT. § 13.625](#) This statute prohibits lobbyists from giving anything of value to covered officials. This prohibition is then made applicable to principals. The subsequent provisions are exceptions to the general prohibition. In prior recommendations, the Commission has asked the Legislature to rewrite this statute for clarity. The Commission also recommended allowing covered officials to attend “lobby day” type events that are sponsored by lobbyist/principals and to accept food or beverage at those events if the covered official pays either the cost of the

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Administrator

Daniel A. Carlton, Jr.

food and beverage or the cost of entry to the event, whichever is greater. These changes were incorporated in the bill draft the Commission approved last August.

At its meeting today, the Commission will again revisit this question in the context of a request for advice. In reviewing that agenda item, the Commission may determine that it is appropriate to ask the Legislature to adopt a recommendation in addition to those it has already adopted concerning this statute. Specifically, the Commission may decide to ask the Legislature to clarify whether it intended to allow a covered official to engage in an exchange of things of pecuniary value but prohibit the official from accepting “gifts” from a lobbyist or principal when it changed the word “furnish” to “give” in [WIS. STAT. § 13.625\(1\)\(b\)](#). If that was the Legislature’s intent, further revisions to rephrase some of the exceptions that still rely on the term “furnish” should be considered.

2. Code of Ethics- Staff receives calls, requests for advice, and complaints concerning officials who have employment outside of their public service. These inquiries focus on whether there is a conflict of interest that arises out of the private sector employment. The Legislature rightly recognized the fact that we rely on citizen-officials to serve the public and that those officials maintain their right to pursue endeavors if those endeavors do not conflict with the exercise of their public duties. See [WIS. STAT. § 19.45\(1\)](#). However, some circumstances that are commonly considered to be a conflict of interest are not prohibited by current law. Current law prohibits taking official action when an action benefits the official, a member of his or her immediate family, or if the official is “associated” with the organization. The definition of “associated” includes only officers, directors, board members, owners of at least 10% of the equity of the organization or are an authorized representative or agent of the organization. It does not contemplate an employee that is not in one of the enumerated positions. Nor does it contemplate an independent contractor of the organization.

The public is surprised to learn that the state and local ethics codes do not directly prohibit an official from acting on a matter affecting his or her employer. It seems obvious to many that there is, at a minimum, a temptation to put the employer’s interests above the public’s interest. These same concerns have been raised about officials that are independent contractors of an organization when that organization appears before the official. In both contexts, the Commission advises that the official may not be prohibited from taking official action but cautions that the official should be mindful of their common law duty of undivided loyalty. The Commission could request the Legislature to amend the definition of “associated” to include employers and/or individuals or entities with whom the official has a contractual relationship. Doing so would require the official to abstain, but it would not disqualify the official from holding the office. Additionally, the Commission could recommend that, when a conflict of interest arises, the Legislature codify a requirement that the official not participate in the discussion of that matter.

Relatedly, the Commission could request the Legislature to specifically address abstention in statute. While the result of having a conflict of interest is being prohibited from participating in the action, the statutes do not expressly address abstention. Having an occasional conflict of interest is not something that is not something to be ashamed of. It is a part of public service. Being transparent in the face of a conflict of interest bolsters the public’s confidence in their

officials. Many officials already do this and their efforts at transparency should be lauded. In other jurisdictions that explicitly address abstention, those requirements contain a public disclosure requirement. The conflicted official must state that he or she is abstaining and a general statement of the reasons for the abstention. This disclosure requirement can be a verbal disclosure made on the record at the meeting, filing a written disclosure of the conflict of interest as a public record, or both. Many disclosure requirements allow disclosure before, during, and shortly after the meeting. In cases where written disclosure is required, allowing a short period of time after the meeting is reasonable because sometimes the official is not aware of a conflict of interest until the meeting and discussion are underway.

In addition to the recommendations above, you may have additional recommendations from your experience as a Commissioner. The Commission can direct staff to review and evaluate those recommendations or to include it in recommendations for the 2021-2022 Legislative Session.

Enclosures: Legislative Recommendations Meeting Memo (August 2019)



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on August 20, 2019

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: Legislative Recommendation Package

FOR COMMISSION ACTION

Does the Commission:

1. Approve the draft bill as presented; or
2. Direct staff to make changes to the draft.

Since its inception, the Commission has adopted 33 recommendations concerning potential legislation. Of those, 30 recommendations were adopted as a part of the 2017 Annual Report. An additional recommendation was adopted and is contained in the 2018 Annual Report. The remaining two were adopted by the Commission at its meeting on April 9, 2019.

At its meeting on December 11, 2018, the Commission directed staff to seek legislation implementing its legislative recommendations. Since that time, staff has been in the process of discussing the legislative recommendations that the Commission has adopted with legislators and stakeholders, produced a draft bill containing the legislative recommendations, and prepared other documents that are necessary to explaining the legislative recommendations. At its meeting on June 18, 2019, staff advised the Commission that it would present the final version of the draft bill and provide any feedback that staff had received.

Draft Contents

This draft is intended to address the legislative recommendations that the Commission has made that are technical or clarifying in nature. The draft is intended to improve the statutes for the regulated communities and to provide more clear guidance on how the Commission is to administer those areas of the law. It is the intent of the Commission to put forth a draft bill containing legislative recommendations that can and will garner bipartisan support. For that reason, 6 of the 33 legislative recommendations from the Commission to date are not included in this bill.

The bill accomplishes the following recommendations:

- Amends the definition of “conduits” to clarify that only individuals can give through a conduit and to specify that an individual can give to any committee through a conduit;
- Amends the exempt status statute as follows:
 - No longer requires annual renewal for local candidate committees;
 - Allows committees to claim exempt status on an initial registration statement as well as the amended registration statement;
 - Changes threshold from \$2,000 to \$2,500;
 - Clarifies that a committee on exempt status does not have to file any reports;
 - Requires all committees to file termination reports;
- Requires only committees that register with the Commission to pay the filing fee, if required;
- Requires campaigns to maintain records for 3 years after the end of the reporting period, rather than 3 years from the date of the election;
- Clarify that the September Report contains information from the last report (either the July Continuing or pre-primary) until September 23rd;
- Maintains the requirement that candidate committees file a September Report every even year, regardless of whether they have activity;
- Maintains the current requirement that all other committees will only file September Reports if there is reportable activity;
- The September Report will be due on 9/30;
- Requires itemization of loans under \$20;
- Clarifies that the end date for reporting contributions on a 72-Hour Report is either the date of the primary or the date of the election, whichever applies;
- Provides the periods for calculating whether the threshold was reached to require 72-Hour Reports as follows:
 - For the Spring Election Cycle- a committee begins calculating 60 days prior to the Spring Primary Election and ends on the date of the Spring Election;
 - For the General Election Cycle- There are two periods. First- from 60 days prior to the partisan primary through the date of the partisan primary; Second, from 60 days before the General Election through the date of the General Election;
 - For Special Election Cycle- calculation begins 60 days prior to the Special Primary and ends on the date of the Special Election;
- Clarifies that the period to calculate contribution limits applies to contributions from “Other Persons” by including a missing cross-reference;
- Reverts contribution limits to periods ending on June 30th and December 31st;
- Repeals requirement that Donations to Charity or the Common School Fund be reported within 5 days;
- Requires disclaimers for express advocacy related to referenda;
- Clarifies that an LLC can give a contribution to any committee, not just a candidate committee;
- Rewrites the prohibitions and exceptions related to lobbyists and principals for better structure;
- Codifies the practice for principals and lobbyists hosting a “Lobby Day” by providing that a state public official may attend such an event if they pay either the cost of the food and drink or the cost of admission, whichever is higher; also, it allows a state public official to

attend for free if he or she does not accept food or drink and there is no discrete cost of admission;

- Allows the Commission to communicate failure to timely file reports by the most efficient means possible;
- Repeals outdated requirement to provide the legislative chief clerks the names of lobbyists and principals every Tuesday;
- Allows the Commission to ask for a lobbyist's residential address (not mandatory) and provides that the residential address is confidential;
- Repeals outdated requirement that the Commission maintain a website related to agency contracts;
- No longer requires disclosure of defined benefit retirement plans, annuities, money market funds, mutual funds, and ETFs on the SEI;
- Provides that an official required to file must only file and SEI if they have served 15 days or more in a calendar year;
- Requires the filing of a "terminal SEI" at the end of service;
- Repeals the unconstitutional prohibition on requesting appropriations that exceed the amount in the most recent agency budget request; and
- Codifies the disposition of gifts guideline for both state and local officials.

The following recommendations are not in this draft:

- It does not codify a definition of "strictly personal use." This recommendation addresses a policy issue. Defining this term should be done by the Legislature;
- It does not address the co-equal jurisdiction of the District Attorneys. This is a policy call. Additionally, staff received some negative feedback about the possibility of such a provision;
- It does not address source restrictions for outside 527s or PACs. This is a policy issue;
- It does not change the post-special election report requirement, which is a policy call;
- It does not address repealing certain conduit reports due to the fact that they're already done in CFIS. This report provides information that is useful to the public and should be required to be reported. In light of the upcoming changes to the campaign finance reporting websites, this requirement should be maintained at least until the new system is in place; and
- It does not address the issue of cryptocurrency. This involves numerous policy calls outside of the Commission's expertise. Additionally, it does not appear that there is a consensus about how to address this issue.

Finally, there are some new provisions that the Commission has not yet technically approved. At the Commission meeting on June 18, 2019, the Administrator advised the Commission that, rather than try to provide a revised Attorney General opinion request, staff would attempt to clarify the issues surrounding the exempt status statute in this draft. This draft includes those efforts. Specifically, the draft:

- Reaffirms for state level candidates that exempt status lasts only one calendar year;

- Clarifies that state candidate committees are not eligible for the exemption in years in which they appear on the ballot as a candidate or write in;
- Requires a state candidate who was on the ballot who wants to claim exempt status to do so in the period between the day after election day and January 15th;
- However, a state candidate that was on the ballot in November must still file the January Continuing report so that all information from the election cycle is reported;
- Every year thereafter, the state candidate committee must claim exempt status by December 31st;
- Specifies that failure to request exempt status by the deadline results in being required to file all reports required by law;
- Allows local candidate committees to claim the exemption at any time, even if on the ballot;
- Provides that, if a state or local candidate incorrectly claims exempt status, the filing officer is required to accept the registration statement or amended registration statement. However, the filing officer must notify the registrant that it is not eligible for exempt status within 10 days;
- Provides that if the registration statement or amended registration statement otherwise complies with legal requirements, incorrectly seeking exempt status is not a basis for denial of ballot access;
- Clarifies the provisions concerning what happens if a committee on exempt status receives a contribution as follows:
 - Current law says any contribution after exempt status requires the committee to either come off of exempt status or return the contribution within 60 days. However, the law has an internal conflict because it was written to allow committees to accept contributions and make disbursements so long as they stayed below the threshold. The draft clarifies that it's only a contribution that places the committee over the threshold the triggers the requirement to come off exempt status or return the contribution;
 - Because a committee could accept a contribution that puts it over the threshold near an election time, the 60-day time period does not provide sufficient transparency. The draft requires that, if a committee receives a contribution that places the committee over the threshold it must either immediate file an amended registration statement to come off of exempt status and, thereafter, file all required campaign finance reports for the remainder of the year. Alternatively, the committee could return the contribution within 15 days from the date it was received. This is consistent with the statute permitting return of prohibited contributions.

As the Commission may recall, in addition to the draft of the bill described herein, staff has prepared a chart that describes the changes made in the draft and identifies where in the draft those changes occur. This chart is designed to make it easier for interested individuals to see, in a general sense, what is being done and where they can look to see how it is accomplished. Additionally, staff has prepared a memorandum explaining the legislative changes contained in the draft. This provides a little more of an in depth look at what is being done and why it is being done. Those documents are also attached for the Commission's edification. Those documents are information in nature only, they do not require an action by the Commission.

Enclosures: LRB-2407/P5 (Bill Draft)
 Updated Chart
 Narrative Explanation Memorandum



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2407/P5
JK&MPG:all

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 11.0104 (1) (b), 11.0104 (4), 11.1302, 13.625 (1) (d), 13.685 (7),
2 16.753, 19.45 (12), 19.48 (11) and 20.9305 (2) (e); **to renumber and amend**
3 11.1103 (1), 11.1103 (2), 13.625 (1) (b), 13.625 (2), 13.625 (4), 13.625 (5), 13.625
4 (6), 13.625 (6g) (a), 13.625 (6g) (b), 13.625 (6r), 13.625 (6s), 13.625 (6t), 13.625
5 (7), 13.625 (8), 13.625 (8m), 13.625 (9), 13.625 (10) and 19.42 (12); **to**
6 **consolidate, renumber and amend** 13.625 (1) (intro.) and (a); **to amend**
7 11.0101 (7), 11.0102 (2) (a), 11.0104 (1) (a), 11.0104 (2), 11.0104 (3), 11.0104 (5),
8 11.0105 (1) (a), 11.0201 (4), 11.0204 (1) (a) 7. (intro.), 11.0204 (2) (c), 11.0204 (3)
9 (b), 11.0204 (4) (c), 11.0204 (4) (d), 11.0204 (5) (b), 11.0204 (5) (c), 11.0204 (6) (a),
10 11.0204 (6) (b), 11.0204 (7), 11.0301 (4), 11.0304 (1) (a) 7. (intro.), 11.0304 (2) (c),
11 11.0304 (3) (b), 11.0304 (4) (c), 11.0304 (4) (d), 11.0304 (5) (b), 11.0304 (5) (c),
12 11.0304 (7), 11.0401 (4), 11.0404 (1) (a) 7. (intro.), 11.0404 (2) (c), 11.0404 (2) (d),
13 11.0404 (3) (b), 11.0404 (3) (c), 11.0404 (4), 11.0501 (4), 11.0504 (1) (a) 7. (intro.),
14 11.0504 (2) (c), 11.0504 (3) (b), 11.0504 (4) (c), 11.0504 (4) (d), 11.0504 (5) (b),
15 11.0504 (5) (c), 11.0601 (4), 11.0604 (1) (a) 7. (intro.), 11.0604 (2) (c), 11.0604 (3)

1 (b), 11.0604 (4) (c), 11.0604 (4) (d), 11.0604 (5) (b), 11.0604 (5) (c), 11.0701 (4),
2 11.0704 (2), 11.0704 (3) (a), 11.0704 (4) (a), 11.0704 (4) (b), 11.0704 (5) (a),
3 11.0704 (5) (b), 11.0804 (1) (a) 6. (intro.), 11.0804 (2) (c), 11.0804 (3) (b), 11.0804
4 (4) (c), 11.0804 (4) (d), 11.0804 (5) (b), 11.0804 (5) (c), 11.0901 (4), 11.0904 (1) (a)
5 7. (intro.), 11.0904 (2) (c), 11.0904 (3) (b), 11.0904 (4) (c), 11.0904 (4) (d), 11.0904
6 (5) (b), 11.0904 (5) (c), 11.1113 (3), 11.1303 (2) (a), 13.625 (1m) (a) (intro.), 13.625
7 (1m) (b) (intro.), 13.625 (3), 13.63 (1) (a), 13.68 (1) (d), 13.68 (6), 13.695 (4),
8 16.298 (5), 19.43 (1), 23.41 (5), 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13),
9 84.01 (36) (e), 84.06 (2) (a), 84.06 (3), 84.06 (4), 85.015, 102.81 (2) and 655.27 (2);
10 **to repeal and recreate** 11.0505 (1) (a), 11.0605 (1) (a) and 11.1001 (1) (a); and
11 **to create** 11.0101 (7m), 11.0103 (3) (a) 4., 11.0104 (1) (bm) to (e), 11.0204 (4) (e),
12 11.0204 (5) (cm), 11.0204 (6) (c), 11.0304 (4) (e), 11.0304 (5) (cm), 11.0404 (2) (e),
13 11.0404 (3) (cm), 11.0504 (4) (e), 11.0504 (5) (cm), 11.0604 (4) (e), 11.0604 (5)
14 (cm), 11.0704 (4) (c), 11.0704 (5) (bm), 11.0804 (4) (e), 11.0804 (5) (d), 11.0904 (4)
15 (e), 11.0904 (5) (d), 11.1103 (1) (a) and (b), 11.1103 (2) (a) and (b), 11.1103 (3),
16 13.625 (4m) (b), 19.42 (12) (b), 19.42 (12) (c), 19.42 (12) (d), 19.42 (12) (e), 19.42
17 (12) (f), 19.43 (2m), 19.45 (14), 19.55 (2) (dm) and 19.59 (1b) of the statutes;
18 **relating to:** changes to laws governing lobbying, ethics, and campaign finance.

Analysis by the Legislative Reference Bureau

CAMPAIGN FINANCE

This bill makes the following changes related to campaign finance:

1. It expands the definition of “conduit” to mean an entity that receives a contribution, deposits the contribution in the entity’s account, and then releases the contribution to any committee at the direction of the contributor. Under current law, the release of the contribution must be to a candidate committee, legislative campaign committee, political party, or political action committee.

2. It provides that only a committee required to register and file with the Ethics Commission must pay the \$100 filing fee. Under current law, committees that are required to register and file with a local filing officer must also pay the filing fee.

3. It modifies the requirement that a committee treasurer maintain records in an organized and legible manner for not less than three years after the date of the election in which the committee participates to clarify that the treasurer must maintain records for a period specified in the bill.

4. It provides that a campaign finance report contain an itemized statement of all loans made to a committee. Current law does not require a committee to provide an itemized statement on any loan that is \$20 or less.

5. It increases the calendar year threshold for filing a statement of limited activity to \$2,500. Current law allows a committee, for campaign finance purposes, to file a statement of limited activity if the committee does not anticipate accepting or making contributions, making disbursements, or incurring obligations in an aggregate amount exceeding \$2,000 in a calendar year. Current law also exempts such a committee from filing campaign finance reports for the applicable calendar year. The bill clarifies the procedure for claiming that exemption.

6. It modifies the reporting requirement for late contributions so that contributions received during the period beginning on the day that is 14 days prior to a primary or election and ending on the day of the primary or election must be reported within 72 hours of receipt. Current law requires a contribution received later than 15 days prior to a primary or election to be reported within 72 hours of receipt.

7. It clarifies the reporting requirements for a person who spends \$2,500 or more on express advocacy within 60 days from the date of a primary or election.

8. It modifies the periods during which the contribution limits apply. For example, for a candidate seeking reelection at the general election to the office that the candidate holds, the limits apply from the January 1 immediately after the candidate is elected to his or her current term to the December 31 immediately after a successor is elected or the incumbent is reelected. For a candidate seeking reelection at the spring election to the office that the candidate holds, the limits apply from the July 1 immediately after the candidate is elected to his or her current term of office to the June 30 immediately after a successor is elected or the incumbent is reelected. Current law merely states that for an individual who is a candidate for an office that the individual holds the limits apply during the term of that office.

9. It eliminates the requirement that a committee report any donation to a charitable organization or the common school fund no later than five days after making the donation and provide an explanation as to why the committee did not retain the amount donated.

10. It requires that any communication supporting or opposing a referendum that is paid for by any contribution or disbursement identify its source.

11. It specifies that the September campaign finance report is due on September 30, rather than the fourth Tuesday in September, and includes all contributions received, disbursements made, and obligations incurred as of September 23.

LOBBYING

The bill reorganizes the statutes prohibiting and permitting certain activities by lobbyists and principals, and by candidates and elected officials who interact with lobbyists and principals. The bill also eliminates a requirement that the Ethics Commission regularly, during the course of a legislative session, give reports to the legislature that provide information about licensed lobbyists, principals, and their lobbying activities. Current law, with certain exceptions, prohibits a lobbyist or principal from providing anything of value to state officials or candidates for state office. Under the bill, a lobbyist or principal may provide to a state official or candidate for state office food, meals, or beverages at, or the cost of admission to, an event intended for, and conducive to, the discussion of state government processes, proposals, or issues if the official or candidate pays the highest of either the actual cost incurred by the lobbyist or principal or the actual cost of admission to the event.

Finally, current law requires an individual to include his or her social security number on the application for a lobbyist license. The bill allows the individual to also include the address of his or her primary residence on the license application. The address, like the social security number, is not open for public inspection.

ETHICS

The bill eliminates a requirement that the Ethics Commission compile and post on its Internet site for access by the public information received by the Ethics Commission from state agencies and related to certain pending contracts and orders with the agencies. The bill also eliminates a requirement that the Ethics Commission regularly, during the course of a legislative session, give reports to the legislature that provide information about licensed lobbyists, principals, and their lobbying activities.

The bill changes the definition of “security” as that term is used in connection with the types of financial information an individual required to file with the Ethics Commission must disclose on his or her statement of economic interests. Current law requires state public office holders and certain state employees to annually file a statement of economic interests and to identify the employers, investments, real estate, commercial clients, and creditors of the individual and his or her family members.

Current law requires a state public official to file a statement of economic interests with the Ethics Commission no later than April 30 of any year in which the individual held office on January 1 of that year. The bill modifies current law so that an official must file the statement only if he or she held office on January 1 and for at least 14 days. The bill also requires an official to file a statement no later than 21 days following the date on which the official leaves office. The individual is then not required to file another statement of economic interests until such time as the individual again becomes a state public official.

Under the bill, if a state or local public official receives an item that the code of ethics does not permit the official to accept or retain, the official must do one of the following:

1. Give the item to the official’s agency to use or sell, except that the agency may not sell the item to any government employee or official.

2. Give the item to another state or local agency or to a public institution, such as a local school, library, or museum, that can use the item.

3. Give the item to a charitable organization, not including a charitable organization to which the official or his or her immediate family is associated.

4. Return the item to the donor.

5. If the donor is neither a lobbyist nor a principal (a person who employs a lobbyist), purchase the item at its full retail value and keep the item.

This provision codifies the guideline issued by the Ethics Commission for the disposition of gifts received by state and local public officials.

Finally, the bill repeals a provision that prohibits an officer or employee of a state agency from requesting appropriations for that agency in excess of the appropriations already requested. The U.S. District Court in the Eastern District of Wisconsin, in *Barnett v. State Ethics Board*, 817 F. Supp. 67 (1993), found this to be an unconstitutional infringement on free speech.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 11.0101 (7) of the statutes is amended to read:

2 11.0101 (7) “Conduit” means a person other than an individual that receives
3 a contribution of money from an individual, deposits the contribution in an account
4 held by the person, and releases the contribution to a ~~candidate committee,~~
5 ~~legislative campaign committee, political party, or political action committee~~ at the
6 direction of the contributor.

7 **SECTION 2.** 11.0101 (7m) of the statutes is created to read:

8 11.0101 (7m) “Continuing report” means the reports due on January 15 and
9 July 15.

10 **SECTION 3.** 11.0102 (2) (a) of the statutes is amended to read:

11 11.0102 (2) (a) Except as provided in pars. (c) and (d), each committee that is
12 required to register ~~under this chapter~~ and file with the commission under sub. (1)
13 (a) shall annually pay a filing fee of \$100 to the commission. The commission may

1 accept payment under this subsection by credit card, debit card, or other electronic
2 payment mechanism, and may charge a surcharge to that committee to recover the
3 actual costs associated with the acceptance of that electronic payment.

4 **SECTION 4.** 11.0103 (3) (a) 4. of the statutes is created to read:

5 11.0103 (3) (a) 4. September 23 in the case of a September report required
6 under this chapter.

7 **SECTION 5.** 11.0104 (1) (a) of the statutes is amended to read:

8 11.0104 (1) (a) Except as provided in par. (b) (bm), any committee which does
9 not anticipate accepting or making contributions, making disbursements, or
10 incurring obligations, and any conduit which does not anticipate accepting or
11 releasing contributions, in an aggregate amount exceeding \$2,000 \$2,500 in a
12 calendar year may file claim an exemption from filing campaign finance reports by
13 filing a registration statement or an amended registration statement with the
14 appropriate filing officer indicating that fact the necessary facts, as described in this
15 paragraph, to claim the exemption. The committee or conduit shall certify the
16 registration statement or amended registration in the manner required under s.
17 11.0103 (3) (c) ~~and shall include the information required to be reported by that~~
18 ~~committee or conduit on its continuing reports.~~

19 **SECTION 6.** 11.0104 (1) (b) of the statutes is repealed.

20 **SECTION 7.** 11.0104 (1) (bm) to (e) of the statutes are created to read:

21 11.0104 (1) (bm) 1. A candidate committee of a candidate for state office may
22 not claim the exemption under par. (a) during the calendar year of an election in
23 which the candidate is appearing on the ballot or participating as a write-in
24 candidate and shall file the continuing report that is due on January 15 of the year

1 after he or she appeared on the ballot or participated as a write-in candidate, unless
2 the committee has dissolved, as provided in s. 11.0105.

3 2. A candidate committee of a candidate for state office may claim the
4 exemption under par. (a) during the calendar year after the year in which the
5 candidate appeared on the ballot or participated as a write-in candidate by filing an
6 amended registration statement no sooner than the day after the election and no
7 later than January 15 of the year after the election.

8 3. A candidate committee of a candidate for state office may claim the
9 exemption under par. (a) during a subsequent year by filing an amended registration
10 statement no later than December 31 of the year preceding the year in which the
11 exemption will apply.

12 4. A candidate committee of a candidate for state office that fails to claim the
13 exemption under par. (a) before the expiration of the deadline under subd. 2. or 3.,
14 as applicable, is ineligible for the exemption and shall file all required campaign
15 finance reports for the following calendar year.

16 (c) A candidate committee of a candidate for local office is eligible for an
17 exemption under par. (a) at any time and may claim the exemption on its initial
18 registration statement or on an amended registration statement. An exemption
19 claimed under this paragraph applies until the committee exceeds the threshold
20 established under par. (a), amends its registration statement to become a state
21 candidate committee, or is dissolved, as provided in s. 11.0105.

22 (d) If a filing officer receives a registration statement or amended registration
23 statement seeking to claim the exemption under par. (a) and the filing officer knows
24 that the candidate committee is not eligible for the exemption, the filing officer shall
25 accept the registration but notify the committee within 10 business days that it is not

1 eligible for the exemption for that calendar year. The notice shall also indicate that
2 the committee is required to file campaign finance reports.

3 (e) A candidate whose candidate committee files a registration statement or
4 amended registration statement incorrectly claiming the exemption may not be
5 denied placement on the ballot if the registration statement or amended registration
6 statement otherwise complies with the requirements of this chapter.

7 **SECTION 8.** 11.0104 (2) of the statutes is amended to read:

8 11.0104 (2) Upon receipt of a properly executed registration statement or
9 amended registration statement by a committee or conduit, the appropriate filing
10 officer shall suspend the requirement imposed upon that committee or conduit by
11 this chapter to file ~~continuing~~ campaign finance reports. ~~An indication of limited~~
12 ~~activity exemption~~ under this section is effective ~~only for the calendar year in which~~
13 ~~it is granted, as provided under sub. (1) (bm)~~ unless the committee or conduit alters
14 its status by filing an amended registration statement before the end of such year or
15 files by filing a termination report under s. 11.0105.

16 **SECTION 9.** 11.0104 (3) of the statutes is amended to read:

17 11.0104 (3) ~~An indication of limited activity exemption~~ made under ~~sub. (1) this~~
18 section may be revoked. If revoked, the committee or conduit shall comply with the
19 reporting requirements applicable to the committee or conduit under this chapter as
20 of the date of revocation, or the date that aggregate contributions, disbursements,
21 or obligations for the calendar year exceed ~~\$2,000~~ \$2,500. If the revocation is not
22 timely, the committee or conduit violates s. 11.1201.

23 **SECTION 10.** 11.0104 (4) of the statutes is repealed.

24 **SECTION 11.** 11.0104 (5) of the statutes is amended to read:

1 11.0104 (5) If a committee or conduit files an amended registration statement
2 under sub. (1) and ~~within 60 days~~ thereafter receives and accepts an unanticipated
3 contribution that results in the committee or conduit exceeding the threshold
4 established under sub. (1) (a), the committee or conduit shall do one of the following
5 ~~within 60 days~~ after receipt of the unanticipated contribution:

6 (a) ~~File~~ Immediately file an amended registration statement revoking the
7 exemption. An amended registration statement supersedes the previous
8 registration statement. The individual who certifies to the accuracy of the
9 registration statement shall also certify that the amended registration statement is
10 filed on account of the receipt of unanticipated contributions and the failure to file
11 a correct registration statement was not intentional. Thereafter, the committee or
12 conduit shall file all required campaign finance reports for the remainder of the
13 calendar year. Except as provided in sub. (1) (bm) 1., the committee or conduit may
14 again claim the exemption for the next calendar year.

15 (b) Return the contribution to the contributor or donate the contribution to the
16 common school fund or to a charitable organization no later than 15 days from the
17 date on which the contribution is received.

18 **SECTION 12.** 11.0105 (1) (a) of the statutes is amended to read:

19 11.0105 (1) (a) Except as provided in par. (b) ~~and s. 11.0104 (4)~~, whenever any
20 committee or conduit dissolves or determines that obligations will no longer be
21 incurred, contributions will no longer be received or, in the case of a conduit, accepted
22 and released, and disbursements will no longer be made during a calendar year, and
23 the committee has no outstanding incurred obligations, the committee or conduit
24 shall file with the appropriate filing officer a termination report that indicates a cash
25 balance of zero at the end of the reporting period. The committee or conduit shall

1 certify the termination report in the manner required under s. 11.0103 (3) (c) and the
2 committee shall include the information required to be reported by that committee
3 on its continuing reports.

4 **SECTION 13.** 11.0201 (4) of the statutes is amended to read:

5 11.0201 (4) The treasurer shall maintain the records of the candidate
6 committee for the period under s. 11.1103 in an organized and legible manner for not
7 less than 3 years after the ~~date of the election in which the candidate committee~~
8 ~~participates~~ last day of the period under s. 11.1103.

9 **SECTION 14.** 11.0204 (1) (a) 7. (intro.) of the statutes is amended to read:

10 11.0204 (1) (a) 7. (intro.) An itemized statement of each loan of money made
11 to the candidate committee ~~in an aggregate amount or value in excess of \$20,~~
12 together with all of the following:

13 **SECTION 15.** 11.0204 (2) (c) of the statutes is amended to read:

14 11.0204 (2) (c) Annually in each year of an election cycle, file a report on the
15 ~~15th day of the month in the months of January 15 and July 15.~~

16 **SECTION 16.** 11.0204 (3) (b) of the statutes is amended to read:

17 11.0204 (3) (b) Annually in each year of an election cycle, file a report on the
18 ~~15th day of the month in the months of January 15 and July 15.~~

19 **SECTION 17.** 11.0204 (4) (c) of the statutes is amended to read:

20 11.0204 (4) (c) In an odd-numbered year, file a report on ~~the 15th day of the~~
21 ~~month in the months of January 15 and July 15.~~

22 **SECTION 18.** 11.0204 (4) (d) of the statutes is amended to read:

23 11.0204 (4) (d) In an even-numbered year, file a report on ~~the 15th day of the~~
24 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
25 ~~September 15.~~

1 **SECTION 19.** 11.0204 (4) (e) of the statutes is created to read:

2 11.0204 (4) (e) In an even-numbered year, file a report on September 30
3 indicating contributions, disbursements, and obligations received, made, or incurred
4 after July 1 that are not included in the preprimary report.

5 **SECTION 20.** 11.0204 (5) (b) of the statutes is amended to read:

6 11.0204 (5) (b) In an odd-numbered year, file a report on ~~the 15th day of the~~
7 ~~month in the months of~~ January 15 and July 15.

8 **SECTION 21.** 11.0204 (5) (c) of the statutes is amended to read:

9 11.0204 (5) (c) In an even-numbered year, file a report on ~~the 15th day of the~~
10 ~~month in the months of~~ January and 15 and July, ~~and on the 4th Tuesday in~~
11 ~~September~~ 15.

12 **SECTION 22.** 11.0204 (5) (cm) of the statutes is created to read:

13 11.0204 (5) (cm) In an even-numbered year, file a report on September 30
14 indicating contributions, disbursements, and obligations received, made, or incurred
15 after July 1 that are not included in the preprimary report.

16 **SECTION 23.** 11.0204 (6) (a) of the statutes is amended to read:

17 11.0204 (6) (a) In an odd-numbered year, file a report on ~~the 15th day of the~~
18 ~~month in the months of~~ January 15 and July 15.

19 **SECTION 24.** 11.0204 (6) (b) of the statutes is amended to read:

20 11.0204 (6) (b) In an even-numbered year, file a report on ~~the 15th day of the~~
21 ~~month in the months of~~ January and 15 and July, ~~and on the 4th Tuesday in~~
22 ~~September~~ 15.

23 **SECTION 25.** 11.0204 (6) (c) of the statutes is created to read:

1 11.0204 (6) (c) In an even-numbered year, file a report on September 30
2 indicating contributions, disbursements, and obligations received, made, or incurred
3 after July 1 that are not included in the preprimary report.

4 **SECTION 26.** 11.0204 (7) of the statutes is amended to read:

5 11.0204 (7) REPORTS OF LATE CONTRIBUTIONS. If any contribution or
6 contributions of \$1,000 or more cumulatively are received by a candidate committee
7 for a candidate for state office from a single contributor ~~later than 15~~ during the
8 period beginning on the day that is 14 days prior to a primary or election and ending
9 on the day of the primary or election, and the contribution or contributions are not
10 included in the preprimary or preelection report required of the committee under this
11 chapter, the treasurer of the committee or the individual receiving the contribution
12 shall, within 72 hours of receipt, provide the appropriate filing officer with the
13 information required to be reported for contributions received by the committee
14 under this subchapter in such manner as the commission may prescribe. The
15 information shall also be included in the committee's next regular report.

16 **SECTION 27.** 11.0301 (4) of the statutes is amended to read:

17 11.0301 (4) The treasurer shall maintain the records of the political party for
18 the period under s. 11.1103 in an organized and legible manner for not less than 3
19 years after the ~~date of the election in which the political party participates~~ last day
20 of the period under s. 11.1103.

21 **SECTION 28.** 11.0304 (1) (a) 7. (intro.) of the statutes is amended to read:

22 11.0304 (1) (a) 7. (intro.) An itemized statement of each loan of money made
23 to the political party ~~in an aggregate amount or value in excess of \$20~~, together with
24 all of the following:

25 **SECTION 29.** 11.0304 (2) (c) of the statutes is amended to read:

1 11.0304 (2) (c) Annually in each year of an election cycle, file a report on the
2 ~~15th day of the month in the months of January 15 and July 15.~~

3 **SECTION 30.** 11.0304 (3) (b) of the statutes is amended to read:

4 11.0304 (3) (b) Annually in each year of an election cycle, file a report on the
5 ~~15th day of the month in the months of January 15 and July 15.~~

6 **SECTION 31.** 11.0304 (4) (c) of the statutes is amended to read:

7 11.0304 (4) (c) In an odd-numbered year, file a report on the ~~15th day of the~~
8 ~~month in the months of January 15 and July 15.~~

9 **SECTION 32.** 11.0304 (4) (d) of the statutes is amended to read:

10 11.0304 (4) (d) In an even-numbered year, file a report on the ~~15th day of the~~
11 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
12 ~~September 15.~~

13 **SECTION 33.** 11.0304 (4) (e) of the statutes is created to read:

14 11.0304 (4) (e) In an even-numbered year, file a report on September 30
15 indicating contributions, disbursements, and obligations received, made, or incurred
16 after July 1 that are not included in the preprimary report.

17 **SECTION 34.** 11.0304 (5) (b) of the statutes is amended to read:

18 11.0304 (5) (b) In an odd-numbered year, file a report on the ~~15th day of the~~
19 ~~month in the months of January 15 and July 15.~~

20 **SECTION 35.** 11.0304 (5) (c) of the statutes is amended to read:

21 11.0304 (5) (c) In an even-numbered year, file a report on the ~~15th day of the~~
22 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
23 ~~September 15.~~

24 **SECTION 36.** 11.0304 (5) (cm) of the statutes is created to read:

1 11.0304 (5) (cm) In an even-numbered year, file a report on September 30
2 indicating contributions, disbursements, and obligations received, made, or incurred
3 after July 1 that are not included in the preprimary report.

4 **SECTION 37.** 11.0304 (7) of the statutes is amended to read:

5 11.0304 (7) REPORTS OF LATE CONTRIBUTIONS. If any contribution or
6 contributions of \$1,000 or more cumulatively are received by a political party from
7 a single contributor ~~later than 15~~ during the period beginning on the day that is 14
8 days prior to a primary or election and ending on the day of the primary or election,
9 and the contribution or contributions are not included in the preprimary or
10 preelection report required of the political party under this chapter, the treasurer of
11 the political party shall, within 72 hours of receipt, provide the appropriate filing
12 officer with the information required to be reported for contributions received by the
13 political party under this subchapter in such manner as the commission may
14 prescribe. The information shall also be included in the political party's next regular
15 report.

16 **SECTION 38.** 11.0401 (4) of the statutes is amended to read:

17 11.0401 (4) The treasurer shall maintain the records of the legislative
18 campaign committee for the period under s. 11.1103 in an organized and legible
19 manner for not less than 3 years after the ~~date of the election in which the legislative~~
20 ~~campaign committee participates~~ last day of the period under s. 11.1103.

21 **SECTION 39.** 11.0404 (1) (a) 7. (intro.) of the statutes is amended to read:

22 11.0404 (1) (a) 7. (intro.) An itemized statement of each loan of money made
23 to the legislative campaign committee ~~in an aggregate amount or value in excess of~~
24 ~~\$20,~~ together with all of the following:

25 **SECTION 40.** 11.0404 (2) (c) of the statutes is amended to read:

1 11.0404 (2) (c) In an odd-numbered year, file a report on ~~the 15th day of the~~
2 ~~month in the months of January 15 and July 15.~~

3 **SECTION 41.** 11.0404 (2) (d) of the statutes is amended to read:

4 11.0404 (2) (d) In an even-numbered year, file a report on ~~the 15th day of the~~
5 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
6 ~~September 15.~~

7 **SECTION 42.** 11.0404 (2) (e) of the statutes is created to read:

8 11.0404 (2) (e) In an even-numbered year, file a report on September 30
9 indicating contributions, disbursements, and obligations received, made, or incurred
10 after July 1 that are not included in the preprimary report.

11 **SECTION 43.** 11.0404 (3) (b) of the statutes is amended to read:

12 11.0404 (3) (b) In an odd-numbered year, file a report on ~~the 15th day of the~~
13 ~~month in the months of January 15 and July 15.~~

14 **SECTION 44.** 11.0404 (3) (c) of the statutes is amended to read:

15 11.0404 (3) (c) In an even-numbered year, file a report on ~~the 15th day of the~~
16 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
17 ~~September 15.~~

18 **SECTION 45.** 11.0404 (3) (cm) of the statutes is created to read:

19 11.0404 (3) (cm) In an even-numbered year, file a report on September 30
20 indicating contributions made or received and disbursements made after July 1 that
21 are not included in the preprimary report.

22 **SECTION 46.** 11.0404 (4) of the statutes is amended to read:

23 11.0404 (4) **REPORTS OF LATE CONTRIBUTIONS.** If any contribution or
24 contributions of \$1,000 or more cumulatively are received by a legislative campaign
25 committee from a single contributor ~~later than 15~~ during the period beginning on the

1 day that is 14 days prior to a primary or election and ending on the day of the primary
2 or election and the contribution or contributions are not included in the preprimary
3 or preelection report required of the committee under this chapter, the treasurer of
4 the committee shall, within 72 hours of receipt, provide the appropriate filing officer
5 with the information required to be reported for contributions received by the
6 committee under this subchapter in such manner as the commission may prescribe.
7 The information shall also be included in the committee's next regular report.

8 **SECTION 47.** 11.0501 (4) of the statutes is amended to read:

9 11.0501 (4) The treasurer shall maintain the records of the political action
10 committee for the period under s. 11.1103 in an organized and legible manner for not
11 less than 3 years after the ~~date of the election in which the political action committee~~
12 ~~partieipates~~ last day of the period under s. 11.1103.

13 **SECTION 48.** 11.0504 (1) (a) 7. (intro.) of the statutes is amended to read:

14 11.0504 (1) (a) 7. (intro.) An itemized statement of each loan of money made
15 to the political action committee ~~in an aggregate amount or value in excess of \$20,~~
16 together with all of the following:

17 **SECTION 49.** 11.0504 (2) (c) of the statutes is amended to read:

18 11.0504 (2) (c) Annually in each year of an election cycle, file a report on ~~the~~
19 ~~15th day of the month in the months of January~~ 15 and July 15.

20 **SECTION 50.** 11.0504 (3) (b) of the statutes is amended to read:

21 11.0504 (3) (b) Annually in each year of an election cycle, file a report on ~~the~~
22 ~~15th day of the month in the months of January~~ 15 and July 15.

23 **SECTION 51.** 11.0504 (4) (c) of the statutes is amended to read:

24 11.0504 (4) (c) In an odd-numbered year, file a report on ~~the 15th day of the~~
25 ~~month in the months of January~~ 15 and July 15.

1 **SECTION 52.** 11.0504 (4) (d) of the statutes is amended to read:

2 11.0504 (4) (d) In an even-numbered year, file a report on ~~the 15th day of the~~
3 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
4 ~~September 15.~~

5 **SECTION 53.** 11.0504 (4) (e) of the statutes is created to read:

6 11.0504 (4) (e) In an even-numbered year, file a report on September 30
7 indicating contributions, disbursements, and obligations received, made, or incurred
8 after July 1 that are not included in the preprimary report.

9 **SECTION 54.** 11.0504 (5) (b) of the statutes is amended to read:

10 11.0504 (5) (b) In an odd-numbered year, file a report on ~~the 15th day of the~~
11 ~~month in the months of January 15 and July 15.~~

12 **SECTION 55.** 11.0504 (5) (c) of the statutes is amended to read:

13 11.0504 (5) (c) In an even-numbered year, file a report on ~~the 15th day of the~~
14 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
15 ~~September 15.~~

16 **SECTION 56.** 11.0504 (5) (cm) of the statutes is created to read:

17 11.0504 (5) (cm) In an even-numbered year, file a report on September 30
18 indicating contributions, disbursements, and obligations received, made, or incurred
19 after July 1 that are not included in the preprimary report.

20 **SECTION 57.** 11.0505 (1) (a) of the statutes is repealed and recreated to read:

21 11.0505 (1) (a) 1. For the period beginning 60 days prior to the spring primary
22 and ending on the date of the spring election, a political action committee spending
23 \$2,500 or more in the aggregate on express advocacy for one or more candidates at
24 the spring primary or spring election shall submit statements to the commission
25 under par. (b) for express advocacy.

1 2. For the period beginning 60 days prior to the partisan primary and ending
2 on the date of the general election, a political action committee spending \$2,500 or
3 more in the aggregate on express advocacy for one or more candidates at the partisan
4 primary or general election shall submit statements to the commission under par. (b)
5 for express advocacy as follows:

6 a. During the period beginning 60 days prior to the partisan primary and
7 ending on the date of the partisan primary.

8 b. During the period beginning 60 days prior to the general election and ending
9 on the date of the general election.

10 3. For the period beginning 60 days prior to a special primary and ending on
11 the date of the special election, a political action committee spending \$2,500 or more
12 in the aggregate on express advocacy for one or more candidates at the special
13 primary or special election shall submit statements to the commission under par. (b)
14 for express advocacy.

15 **SECTION 58.** 11.0601 (4) of the statutes is amended to read:

16 11.0601 (4) The treasurer shall maintain the records of the independent
17 expenditure committee for the period under s. 11.1103 in an organized and legible
18 manner for not less than 3 years after the ~~date of the election in which the~~
19 ~~independent expenditure committee participates~~ last day of the period under s.
20 11.1103.

21 **SECTION 59.** 11.0604 (1) (a) 7. (intro.) of the statutes is amended to read:

22 11.0604 (1) (a) 7. (intro.) An itemized statement of each loan of money made
23 to the independent expenditure committee ~~in an aggregate amount or value in excess~~
24 ~~of \$20,~~ together with all of the following:

25 **SECTION 60.** 11.0604 (2) (c) of the statutes is amended to read:

1 11.0604 (2) (c) Annually in each year of an election cycle, file a report on the
2 ~~15th day of the month in the months of January 15 and July 15.~~

3 **SECTION 61.** 11.0604 (3) (b) of the statutes is amended to read:

4 11.0604 (3) (b) Annually in each year of an election cycle, file a report on the
5 ~~15th day of the month in the months of January 15 and July 15.~~

6 **SECTION 62.** 11.0604 (4) (c) of the statutes is amended to read:

7 11.0604 (4) (c) In an odd-numbered year, file a report on the ~~15th day of the~~
8 ~~month in the months of January 15 and July 15.~~

9 **SECTION 63.** 11.0604 (4) (d) of the statutes is amended to read:

10 11.0604 (4) (d) In an even-numbered year, file a report on the ~~15th day of the~~
11 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
12 ~~September 15.~~

13 **SECTION 64.** 11.0604 (4) (e) of the statutes is created to read:

14 11.0604 (4) (e) In an even-numbered year, file a report on September 30
15 indicating contributions, disbursements, and obligations received, made, or incurred
16 after July 1 that are not included in the preprimary report.

17 **SECTION 65.** 11.0604 (5) (b) of the statutes is amended to read:

18 11.0604 (5) (b) In an odd-numbered year, file a report on the ~~15th day of the~~
19 ~~month in the months of January 15 and July 15.~~

20 **SECTION 66.** 11.0604 (5) (c) of the statutes is amended to read:

21 11.0604 (5) (c) In an even-numbered year, file a report on the ~~15th day of the~~
22 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
23 ~~September 15.~~

24 **SECTION 67.** 11.0604 (5) (cm) of the statutes is created to read:

1 11.0604 (5) (cm) In an even-numbered year, file a report on September 30
2 indicating contributions, disbursements, and obligations received, made, or incurred
3 after July 1 that are not included in the preprimary report.

4 **SECTION 68.** 11.0605 (1) (a) of the statutes is repealed and recreated to read:

5 11.0605 (1) (a) 1. For the period beginning 60 days prior to the spring primary
6 and ending on the date of the spring election, an independent expenditure committee
7 spending \$2,500 or more in the aggregate on express advocacy for one or more
8 candidates at the spring primary or spring election shall submit statements to the
9 commission under par. (b) for express advocacy.

10 2. For the period beginning 60 days prior to the partisan primary and ending
11 on the date of the general election, an independent expenditure committee spending
12 \$2,500 or more in the aggregate on express advocacy for one or more candidates at
13 the partisan primary or general election shall submit statements to the commission
14 under par. (b) for express advocacy as follows:

15 a. During the period beginning 60 days prior to the partisan primary and
16 ending on the date of the partisan primary.

17 b. During the period beginning 60 days prior to the general election and ending
18 on the date of the general election.

19 3. For the period beginning 60 days prior to a special primary and ending on
20 the date of the special election, an independent expenditure committee spending
21 \$2,500 or more in the aggregate on express advocacy for one or more candidates at
22 the special primary or special election shall submit statements to the commission
23 under par. (b) for express advocacy.

24 **SECTION 69.** 11.0701 (4) of the statutes is amended to read:

1 11.0701 (4) The administrator shall maintain the records of the conduit for the
2 period under s. 11.1103 in an organized and legible manner for not less than 3 years
3 ~~after the date of the election in which the conduit participates~~ last day of the period
4 under s. 11.1103.

5 **SECTION 70.** 11.0704 (2) of the statutes is amended to read:

6 11.0704 (2) REPORTS TO SUPPORT OR OPPOSE CANDIDATES AT SPRING PRIMARY. A
7 conduit that releases a contribution of money to a recipient to support or oppose one
8 or more candidates for office at a spring primary or a candidate at a special primary
9 held to nominate nonpartisan candidates to be voted for at a special election held to
10 fill a vacancy in one or more of the nonpartisan state or local offices voted for at the
11 spring election, or to support or oppose committees engaging in such activities, shall,
12 annually in each year of an election cycle, file a report on ~~the 15th day of the month~~
13 ~~in the months of January~~ 15 and July 15.

14 **SECTION 71.** 11.0704 (3) (a) of the statutes is amended to read:

15 11.0704 (3) (a) Annually in each year of an election cycle, file a report on ~~the~~
16 ~~15th day of the month in the months of January~~ 15 and July 15.

17 **SECTION 72.** 11.0704 (4) (a) of the statutes is amended to read:

18 11.0704 (4) (a) In an odd-numbered year, file a report on ~~the 15th day of the~~
19 ~~month in the months of January~~ 15 and July 15.

20 **SECTION 73.** 11.0704 (4) (b) of the statutes is amended to read:

21 11.0704 (4) (b) In an even-numbered year, file a report on ~~the 15th day of the~~
22 ~~month in the months of January and~~ 15 and July, ~~and on the 4th Tuesday in~~
23 ~~September~~ 15.

24 **SECTION 74.** 11.0704 (4) (c) of the statutes is created to read:

1 11.0704 (4) (c) In an even-numbered year, file a report on September 30
2 indicating contributions released after July 1 that are not included in the preprimary
3 report.

4 **SECTION 75.** 11.0704 (5) (a) of the statutes is amended to read:

5 11.0704 (5) (a) In an odd-numbered year, file a report on ~~the 15th day of the~~
6 ~~month in the months of~~ January 15 and July 15.

7 **SECTION 76.** 11.0704 (5) (b) of the statutes is amended to read:

8 11.0704 (5) (b) In an even-numbered year, file a report on ~~the 15th day of the~~
9 ~~month in the months of~~ January and 15 and July, ~~and on the 4th Tuesday in~~
10 ~~September~~ 15.

11 **SECTION 77.** 11.0704 (5) (bm) of the statutes is created to read:

12 11.0704 (5) (bm) In an even-numbered year, file a report on September 30
13 indicating contributions released after July 1 that are not included in the preprimary
14 report.

15 **SECTION 78.** 11.0804 (1) (a) 6. (intro.) of the statutes is amended to read:

16 11.0804 (1) (a) 6. (intro.) An itemized statement of each loan of money made
17 to the referendum committee ~~in an aggregate amount or value in excess of \$20,~~
18 together with all of the following:

19 **SECTION 79.** 11.0804 (2) (c) of the statutes is amended to read:

20 11.0804 (2) (c) Annually in each year of an election cycle, file a report on ~~the~~
21 ~~15th day of the month in the months of~~ January 15 and July 15.

22 **SECTION 80.** 11.0804 (3) (b) of the statutes is amended to read:

23 11.0804 (3) (b) Annually in each year of an election cycle, file a report on ~~the~~
24 ~~15th day of the month in the months of~~ January 15 and July 15.

25 **SECTION 81.** 11.0804 (4) (c) of the statutes is amended to read:

1 11.0804 (4) (c) In an odd-numbered year, file a report on ~~the 15th day of the~~
2 ~~month in the months of~~ January 15 and July 15.

3 **SECTION 82.** 11.0804 (4) (d) of the statutes is amended to read:

4 11.0804 (4) (d) In an even-numbered year, file a report on ~~the 15th day of the~~
5 ~~month in the months of~~ January and 15 and July, ~~and on the 4th Tuesday in~~
6 ~~September~~ 15.

7 **SECTION 83.** 11.0804 (4) (e) of the statutes is created to read:

8 11.0804 (4) (e) In an even-numbered year, file a report on September 30
9 indicating contributions, disbursements, and obligations received, made, or incurred
10 after July 1 that are not included in the preprimary report.

11 **SECTION 84.** 11.0804 (5) (b) of the statutes is amended to read:

12 11.0804 (5) (b) In an odd-numbered year, file a report on ~~the 15th day of the~~
13 ~~month in the months of~~ January 15 and July 15.

14 **SECTION 85.** 11.0804 (5) (c) of the statutes is amended to read:

15 11.0804 (5) (c) In an even-numbered year, file a report on ~~the 15th day of the~~
16 ~~month in the months of~~ January and 15 and July, ~~and on the 4th Tuesday in~~
17 ~~September~~ 15.

18 **SECTION 86.** 11.0804 (5) (d) of the statutes is created to read:

19 11.0804 (5) (d) In an even-numbered year, file a report on September 30
20 indicating contributions, disbursements, and obligations received, made, or incurred
21 after July 1 that are not included in the preprimary report.

22 **SECTION 87.** 11.0901 (4) of the statutes is amended to read:

23 11.0901 (4) The treasurer shall maintain the records of the recall committee
24 for the period under s. 11.1103 in an organized and legible manner for not less than

1 3 years after the date of the election in which the recall committee participates last
2 day of the period under s. 11.1103.

3 **SECTION 88.** 11.0904 (1) (a) 7. (intro.) of the statutes is amended to read:

4 11.0904 (1) (a) 7. (intro.) An itemized statement of each loan of money made
5 to the recall committee in an aggregate amount or value in excess of \$20, together
6 with all of the following:

7 **SECTION 89.** 11.0904 (2) (c) of the statutes is amended to read:

8 11.0904 (2) (c) Annually in each year of an election cycle, file a report on the
9 ~~15th day of the month in the months of January~~ 15 and July 15.

10 **SECTION 90.** 11.0904 (3) (b) of the statutes is amended to read:

11 11.0904 (3) (b) Annually in each year of an election cycle, file a report on the
12 ~~15th day of the month in the months of January~~ 15 and July 15.

13 **SECTION 91.** 11.0904 (4) (c) of the statutes is amended to read:

14 11.0904 (4) (c) In an odd-numbered year, file a report on the ~~15th day of the~~
15 ~~month in the months of January~~ 15 and July 15.

16 **SECTION 92.** 11.0904 (4) (d) of the statutes is amended to read:

17 11.0904 (4) (d) In an even-numbered year, file a report on the ~~15th day of the~~
18 ~~month in the months of January and~~ 15 and July, and on the ~~4th Tuesday in~~
19 ~~September~~ 15.

20 **SECTION 93.** 11.0904 (4) (e) of the statutes is created to read:

21 11.0904 (4) (e) In an even-numbered year, file a report on September 30
22 indicating contributions, disbursements, and obligations received, made, or incurred
23 after July 1 that are not included in the preprimary report.

24 **SECTION 94.** 11.0904 (5) (b) of the statutes is amended to read:

1 11.0904 (5) (b) In an odd-numbered year, file a report on ~~the 15th day of the~~
2 ~~month in the months of January 15 and July 15.~~

3 **SECTION 95.** 11.0904 (5) (c) of the statutes is amended to read:

4 11.0904 (5) (c) In an even-numbered year, file a report on ~~the 15th day of the~~
5 ~~month in the months of January and 15 and July, and on the 4th Tuesday in~~
6 ~~September 15.~~

7 **SECTION 96.** 11.0904 (5) (d) of the statutes is created to read:

8 11.0904 (5) (d) In an even-numbered year, file a report on September 30
9 indicating contributions, disbursements, and obligations received, made, or incurred
10 after July 1 that are not included in the preprimary report.

11 **SECTION 97.** 11.1001 (1) (a) of the statutes is repealed and recreated to read:

12 11.1001 (1) (a) 1. For the period beginning 60 days prior to the spring primary
13 and ending on the date of the spring election, any person, other than a committee,
14 spending \$2,500 or more in the aggregate on express advocacy for one or more
15 candidates at the spring primary or spring election shall submit statements to the
16 commission under par. (b) for express advocacy.

17 2. For the period beginning 60 days prior to the partisan primary and ending
18 on the date of the general election, any person, other than a committee, spending
19 \$2,500 or more in the aggregate on express advocacy for one or more candidates at
20 the partisan primary or general election shall submit statements to the commission
21 under par. (b) for express advocacy as follows:

22 a. During the period beginning 60 days prior to the partisan primary and
23 ending on the date of the partisan primary.

24 b. During the period beginning 60 days prior to the general election and ending
25 on the date of the general election.

1 3. For the period beginning 60 days prior to a special primary and ending on
2 the date of the special election, any person, other than a committee, spending \$2,500
3 or more in the aggregate on express advocacy for one or more candidates at the
4 special primary or special election shall submit statements to the commission under
5 par. (b) for express advocacy.

6 **SECTION 98.** 11.1103 (1) of the statutes is renumbered 11.1103 (1) (intro.) and
7 amended to read:

8 11.1103 (1) (intro.) For an individual who is a candidate ~~for an~~ seeking
9 reelection to the office that the individual holds, the limits under s. 11.1101 (1) to ~~(3)~~
10 ~~(4)~~ apply during the term of that office. as follows:

11 **SECTION 99.** 11.1103 (1) (a) and (b) of the statutes are created to read:

12 11.1103 (1) (a) For a candidate elected to an office at the general election, from
13 the January 1 immediately after the candidate is elected to his or her current term
14 to the December 31 immediately after a successor is elected or the incumbent is
15 reelected.

16 (b) For a candidate elected to an office at the spring election, from the July 1
17 immediately after the candidate is elected to his or her current term of office to the
18 June 30 immediately after a successor is elected or the incumbent is reelected.

19 **SECTION 100.** 11.1103 (2) of the statutes is renumbered 11.1103 (2) (intro.) and
20 amended to read:

21 11.1103 (2) (intro.) For an individual who is a candidate for an office that the
22 individual does not hold, the limits under s. 11.1101 (1) to ~~(3)~~ ~~(4)~~ apply during the
23 period beginning on the date on which the individual becomes a candidate under s.
24 11.0101 (1) (a) and ending on the day before the term of office begins for the office
25 sought by the candidate. as follows:

1 **SECTION 101.** 11.1103 (2) (a) and (b) of the statutes are created to read:

2 11.1103 (2) (a) For an individual seeking election to an office at the general
3 election, from the date on which the individual becomes a candidate to the December
4 31 immediately after the election.

5 (b) For an individual seeking election to an office at the spring election, from
6 the date on which the individual becomes a candidate to the June 30 immediately
7 after the election.

8 **SECTION 102.** 11.1103 (3) of the statutes is created to read:

9 11.1103 (3) For an individual seeking election to an office at a special election,
10 the limits under s. 11.1101 (1) to (4) apply from the date on which the individual
11 becomes a candidate to the 22nd day after the election. If the individual is elected
12 at the special election, the limits under s. 11.1101 (1) to (4) apply from the 23rd day
13 after the special election to the end of the applicable period under sub. (1).

14 **SECTION 103.** 11.1113 (3) of the statutes is amended to read:

15 11.1113 (3) LIMITED LIABILITY COMPANIES. (a) A contribution made to a
16 committee by a limited liability company treated as a partnership by the federal
17 internal revenue service pursuant to 26 CFR 301.7701-3 is considered a contribution
18 made by each of the contributing members and subject to the limits under this
19 subchapter. A limited liability company that makes a contribution under this
20 paragraph shall affirm to the candidate committee that it is treated as a partnership
21 for federal tax purposes and eligible to make the contribution. The company shall
22 provide to the committee the names of the contributing members and the amount of
23 the individual contribution made by each member. For purposes of determining the
24 individual contribution amounts made by each member, the company shall attribute
25 the individual contributions according to each member's share of the company's

1 profits, unless the members agree to apportion the contribution in a different
2 manner.

3 (b) A contribution made to a ~~candidate~~ committee by a single-member limited
4 liability company in which the sole member is an individual is considered a
5 contribution made by that individual and subject to the individual limits under s.
6 11.1101 (1). A limited liability company that makes a contribution under this
7 paragraph shall affirm to the ~~candidate~~ committee that it is a single-member limited
8 liability company in which the sole member is an individual and eligible to make the
9 contribution.

10 **SECTION 104.** 11.1302 of the statutes is repealed.

11 **SECTION 105.** 11.1303 (2) (a) of the statutes is amended to read:

12 11.1303 (2) (a) Every printed advertisement, billboard, handbill, sample ballot,
13 television or radio advertisement, or other communication containing express
14 advocacy or supporting or opposing a referendum which is paid for by any
15 contribution or disbursement shall clearly identify its source.

16 **SECTION 106.** 13.625 (1) (intro.) and (a) of the statutes are consolidated,
17 renumbered 13.625 (1) and amended to read:

18 13.625 (1) No lobbyist may: ~~(a) Instigate~~ instigate legislative or administrative
19 action for the purpose of obtaining employment in support or opposition ~~thereto~~ to
20 such action or contract to receive or receive compensation dependent in any manner
21 upon the success or failure of any legislative or administrative action.

22 **SECTION 107.** 13.625 (1) (b) of the statutes is renumbered 13.625 (1g), and
23 13.625 (1g) (intro.), as renumbered, is amended to read:

24 13.625 (1g) (intro.) ~~Give~~ No lobbyist or principal may give to any agency official
25 or legislative employee of the state or to any elective state official or candidate for an

1 elective state office, or to the candidate committee of the official, employee, or
2 candidate:

3 **SECTION 108.** 13.625 (1) (d) of the statutes is repealed.

4 **SECTION 109.** 13.625 (1m) (a) (intro.) of the statutes is amended to read:

5 13.625 **(1m)** (a) (intro.) Except as provided in par. (b), ~~a~~ no lobbyist or principal
6 may ~~not~~ do any of the following:

7 **SECTION 110.** 13.625 (1m) (b) (intro.) of the statutes is amended to read:

8 13.625 **(1m)** (b) (intro.) A lobbyist or principal may make a personal
9 contribution to a partisan elective state official or candidate for partisan elective
10 state office or to the candidate committee of the official or candidate between the first
11 day authorized by law for the circulation of nomination papers as a candidate at a
12 general election or special election and the day of the general election or special
13 election, except that:

14 **SECTION 111.** 13.625 (2) of the statutes is renumbered 13.625 (4m) (a) and
15 amended to read:

16 13.625 **(4m)** (a) ~~No principal may engage in the practices prohibited under~~
17 ~~subs. (1) (b) and (1m). This subsection does not apply to the furnishing of~~
18 Notwithstanding sub. (1g), the provision by a principal of transportation, lodging,
19 food, meals, beverages, or any other thing of pecuniary value which that is also made
20 available to the general public.

21 **SECTION 112.** 13.625 (3) of the statutes is amended to read:

22 13.625 **(3)** No candidate for an elective state office, elective state official, agency
23 official, or legislative employee of the state may solicit or accept anything of
24 pecuniary value from a lobbyist or principal, except as permitted under subs. (1) (b)
25 ~~3., (1m), (2), (4), (5), (6), (7), (8) and (9)~~ this section. No candidate committee of a

1 candidate for state office may accept anything of pecuniary value from a lobbyist or
2 principal, except as permitted for such a candidate under subs. ~~(1) (b) 3., (1m), (2),~~
3 ~~and (6) this section.~~

4 **SECTION 113.** 13.625 (4) of the statutes is renumbered 13.625 (4m) (intro.) and
5 amended to read:

6 13.625 (4m) (intro.) ~~Subsections (1) (b) and (3) do~~ This section does not apply
7 to the compensation or furnishing any of the following:

8 (c) Compensation paid or the provision of employee benefits by a principal to
9 an employee who is a candidate for an elective state office but who does not hold such
10 an office if the employee is neither an agency official nor legislative employee, and
11 if the principal or employee can demonstrate by clear and convincing evidence that
12 the principal's employment of the employee and the compensation and employee
13 benefits paid to the employee are unrelated to the candidacy. If the employee was
14 employed by the principal prior to the first day of the 12th month commencing before
15 the deadline for the filing of nomination papers for the office sought and the
16 employment continues uninterrupted, without augmentation of compensation or
17 employee benefits, except as provided by a preexisting employment agreement, it is
18 rebuttably presumed that the employment and compensation and benefits paid are
19 unrelated to the candidacy.

20 **SECTION 114.** 13.625 (4m) (b) of the statutes is created to read:

21 13.625 (4m) (b) The provision by a lobbyist or principal of food, meals, or
22 beverages at, or the cost of admission to, an event intended for, and conducive to, the
23 discussion of state governmental processes, proposals, or issues if the agency official,
24 elective state official, legislative employee, or candidate for an elective state office
25 pays the highest of either the actual cost incurred by the lobbyist or principal or the

1 cost of admission to the event. An agency official, elective state official, legislative
2 employee, or candidate for an elective state office may attend such an event without
3 providing reimbursement only if there is no discrete cost of admission for any
4 attendee and he or she does not accept food, meals, or beverages.

5 **SECTION 115.** 13.625 (5) of the statutes is renumbered 13.625 (4m) (d) and
6 amended to read:

7 13.625 (4m) (d) ~~This section does not apply to food~~ Food, meals, beverages, or
8 entertainment provided by the governor when acting in an official capacity.

9 **SECTION 116.** 13.625 (6) of the statutes is renumbered 13.625 (4m) (e) and
10 amended to read:

11 13.625 (4m) (e) ~~Subsections (1) (b), (1m), (2), and (3) do not apply to the~~
12 furnishing The provision of anything of pecuniary value by an individual who is a
13 lobbyist or principal to a relative of the individual lobbyist or principal or to an
14 individual who resides in the same household as the individual, ~~nor to~~ lobbyist or
15 principal or the receipt of anything of pecuniary value by that relative or individual
16 residing in the same household as the individual lobbyist or principal.

17 **SECTION 117.** 13.625 (6g) (a) of the statutes is renumbered 13.625 (4m) (f) and
18 amended to read:

19 13.625 (4m) (f) ~~Subsections (1) (b) and (3) do not apply to the furnishing~~ The
20 provision of anything of pecuniary value by a principal that is a local governmental
21 unit to a legislative official or an agency official who is an elected official of that local
22 governmental unit, or ~~to~~ the solicitation or acceptance thereof by such a legislative
23 official or agency official, in an amount not exceeding the amount furnished provided
24 to other similarly situated elected officials of the same local governmental unit.

1 **SECTION 118.** 13.625 (6g) (b) of the statutes is renumbered 13.625 (4m) (g) and
2 amended to read:

3 13.625 **(4m)** (g) ~~Subsections (1) (b) and (3) do not apply to the furnishing~~ The
4 provision of a per diem or reimbursement for actual and reasonable expenses by a
5 principal that is a local governmental unit to a legislative official or an agency official
6 who is an appointed official of that local governmental unit, or to the solicitation or
7 acceptance thereof by such a legislative official or agency official, in an amount not
8 exceeding the amount ~~furnished~~ provided to other similarly situated appointed
9 officials of the same local governmental unit.

10 **SECTION 119.** 13.625 (6r) of the statutes is renumbered 13.625 (4m) (h) and
11 amended to read:

12 13.625 **(4m)** (h) ~~Subsections (1) (b), (1m), and (3) do not apply to the furnishing~~
13 The provision of anything of pecuniary value by a lobbyist or principal to an employee
14 of that lobbyist or principal who is a legislative official or an agency official solely
15 because of membership on a state commission, board, council, committee, or similar
16 body if the thing of pecuniary value is not in excess of that customarily provided by
17 the employer to similarly situated employees and if the legislative official or agency
18 official receives no compensation for his or her services other than a per diem or
19 reimbursement for actual and necessary expenses incurred in the performance of his
20 or her duties, ~~nor to~~ or the receipt of anything of pecuniary value by that legislative
21 official or agency official under those circumstances.

22 **SECTION 120.** 13.625 (6s) of the statutes is renumbered 13.625 (4m) (i) and
23 amended to read:

24 13.625 **(4m)** (i) ~~Subsections (1) (b) and (3) do not apply to the furnishing~~ The
25 provision of anything of pecuniary value by a principal to an officer or employee of

1 the University of Wisconsin System, or the solicitation or acceptance thereof by such
2 an officer or employee, for service as a member of the governing body of the principal,
3 in an amount not exceeding the amount ~~furnished~~ provided to other members of the
4 governing body for the same service.

5 **SECTION 121.** 13.625 (6t) of the statutes is renumbered 13.625 (4m) (j) and
6 amended to read:

7 13.625 (4m) (j) ~~Subsections (1) (b), (2) and (3) do not apply to the furnishing~~ The
8 provision of educational or informational material by a lobbyist or principal to an
9 elected state official, legislative official, or agency official, or acceptance thereof by
10 an elected state official, legislative official, or agency official.

11 **SECTION 122.** 13.625 (7) of the statutes is renumbered 13.625 (4m) (k) and
12 amended to read:

13 13.625 (4m) (k) ~~This section does not apply to the furnishing~~ The provision or
14 receipt of a reimbursement or payment for actual and reasonable expenses
15 authorized under s. 19.56 for the activities listed in that section.

16 **SECTION 123.** 13.625 (8) of the statutes is renumbered 13.625 (4m) (L) and
17 amended to read:

18 13.625 (4m) (L) ~~Subsection (3) does not apply to the~~ The solicitation of anything
19 of pecuniary value for the benefit of the endangered resources program, as defined
20 in s. 71.10 (5) (a) 2., by an agency official who administers the program.

21 **SECTION 124.** 13.625 (8m) of the statutes is renumbered 13.625 (4m) (m) and
22 amended to read:

23 13.625 (4m) (m) ~~Subsection (3) does not apply to the~~ The solicitation of
24 anything of pecuniary value to pay the costs of remedying environmental

1 contamination, as defined in s. 292.51 (1), by an agency official of the department of
2 natural resources.

3 **SECTION 125.** 13.625 (9) of the statutes is renumbered 13.625 (4m) (n) and
4 amended to read:

5 13.625 (4m) (n) ~~This section does not apply to the~~ The solicitation, acceptance,
6 or ~~furnishing~~ provision of anything of pecuniary value by the Wisconsin Economic
7 Development Corporation, or ~~to the provision by a principal furnishing of~~ anything
8 of pecuniary value to the Wisconsin Economic Development Corporation, under s.
9 19.56 (3) (e) or (f) for the activities specified in s. 19.56 (3) (e).

10 **SECTION 126.** 13.625 (10) of the statutes is renumbered 13.625 (4m) (o) and
11 amended to read:

12 13.625 (4m) (o) ~~This section does not apply to the~~ The solicitation, acceptance,
13 or ~~furnishing~~ provision of anything of pecuniary value by the department of tourism,
14 or ~~to the provision by a principal furnishing of~~ anything of pecuniary value to the
15 department of tourism, under s. 19.56 (3) (em) or (f) for the activity specified in s.
16 19.56 (3) (em).

17 **SECTION 127.** 13.63 (1) (a) of the statutes is amended to read:

18 13.63 (1) (a) An applicant for a license to act as a lobbyist may obtain an
19 application from and file the application with the commission. Except as authorized
20 under par. (am), an applicant shall include his or her social security number and may
21 include the address of his or her primary residence on the application. The applicant
22 shall, under the penalty for making false statements under s. 13.69 (6m), sign the
23 application. The applicant shall submit with the application the applicable fee under
24 s. 13.75 (1g) (a) or (am). Upon approval of the application by the commission, the
25 commission shall issue a license to the applicant. A license issued under this

1 paragraph entitles the licensee to practice lobbying on behalf of each registered
2 principal for whom or which an authorization for that lobbyist, as required under s.
3 13.65, has been filed and for whom or which the authorization fee under s. 13.75 (1g)
4 (d) has been paid. A license issued under this paragraph shall expire on December
5 31 of each even-numbered year.

6 **SECTION 128.** 13.68 (1) (d) of the statutes is amended to read:

7 13.68 (1) (d) The name of any agency official, legislative employee, elective
8 state official, or candidate for elective state office to whom the principal or any
9 lobbyist for the principal provided reimbursement authorized under s. 13.625 (7)
10 (4m) (k) and the date and amount reimbursed.

11 **SECTION 129.** 13.68 (6) of the statutes is amended to read:

12 13.68 (6) **SUSPENSION FOR FAILURE TO FILE A COMPLETE EXPENSE STATEMENT.** If a
13 principal fails to timely file a complete expense statement under this section, the
14 commission may suspend the privilege of any lobbyist to lobby on behalf of the
15 principal. Upon failure of a principal to file the required expense statement, the
16 commission shall ~~mail written notices~~ provide written notice by the most efficient
17 means available to the principal and to any lobbyist for whom a written
18 authorization has been filed under s. 13.65 to act as a lobbyist for the principal
19 informing them that unless the principal files the delinquent statement within 10
20 business days after the date of ~~mailing of the notices~~ on which the commission
21 provided notice, no lobbyist may lobby on behalf of the principal. The commission
22 shall immediately restore the privilege of any lobbyist to lobby on behalf of the
23 principal ~~shall be restored immediately upon the filing of the delinquent statement~~
24 by the principal. The ~~notices shall be sent~~ commission may send the notice by
25 certified mail to the last-known addresses of the principal and lobbyist or may send

1 the notice electronically to the last-known electronic mail address of the principal
2 and lobbyist. Any principal or lobbyist who is aggrieved by a suspension of lobbying
3 privileges under this subsection may request a hearing under s. 227.42 regarding the
4 suspension.

5 **SECTION 130.** 13.685 (7) of the statutes is repealed.

6 **SECTION 131.** 13.695 (4) of the statutes is amended to read:

7 13.695 (4) No officer or employee of an agency who is identified in a statement
8 filed under this section may engage in the prohibited practices set forth in s. 13.625
9 (1) ~~(a) or (d)~~, or use state funds to engage in the practices set forth in s. 13.625 ~~(1) (b)~~
10 ~~(1g)~~ or to make a contribution. This subsection does not prohibit an agency official
11 who is identified in a statement filed under this section from authorizing salaries and
12 other payments authorized by law to be paid to state officers, employees, consultants,
13 or contractors, or candidates for state office, or from authorizing property or services
14 of the agency to be provided for official purposes or other purposes authorized by law,
15 whenever that action is taken in the normal course of affairs.

16 **SECTION 132.** 16.298 (5) of the statutes is amended to read:

17 16.298 (5) PURCHASING EXEMPTION. A contract is subject to ~~ss. 16.753 and s.~~
18 16.765, but is otherwise exempt from subch. IV.

19 **SECTION 133.** 16.753 of the statutes is repealed.

20 **SECTION 134.** 19.42 (12) of the statutes is renumbered 19.42 (12) (intro.) and
21 amended to read:

22 19.42 (12) (intro.) "Security" has the meaning given under s. 551.102 (28),
23 except that the term does not include ~~a~~ any of the following:

24 (a) A certificate of deposit or a deposit in a savings and loan association, savings
25 bank, credit union or similar association organized under the laws of any state.

1 **SECTION 135.** 19.42 (12) (b) of the statutes is created to read:

2 19.42 (12) (b) A defined benefit retirement plan.

3 **SECTION 136.** 19.42 (12) (c) of the statutes is created to read:

4 19.42 (12) (c) An annuity.

5 **SECTION 137.** 19.42 (12) (d) of the statutes is created to read:

6 19.42 (12) (d) A money market fund.

7 **SECTION 138.** 19.42 (12) (e) of the statutes is created to read:

8 19.42 (12) (e) A mutual fund.

9 **SECTION 139.** 19.42 (12) (f) of the statutes is created to read:

10 19.42 (12) (f) An exchange-traded fund.

11 **SECTION 140.** 19.43 (1) of the statutes is amended to read:

12 19.43 (1) Each individual who in January of any year is an official required to
13 file, and who is an official required to file for at least 14 days in that year, shall file
14 with the commission no later than April 30 of that year a statement of economic
15 interests meeting each of the requirements of s. 19.44 (1). The information contained
16 on the statement shall be current as of December 31 of the preceding year.

17 **SECTION 141.** 19.43 (2m) of the statutes is created to read:

18 19.43 (2m) Each individual who is an official required to file shall file with the
19 commission a statement of economic interests meeting each of the requirements of
20 s. 19.44 (1) no later than 21 days following the date on which the individual's term
21 of office ends or the individual leaves the office. The information contained on the
22 statement shall be current as of the date on which the individual's term of office ends
23 or the individual leaves the office. An individual who files a statement as provided
24 under this subsection is not required to file another statement of economic interests
25 until such time as the individual again becomes an official required to file.

1 **SECTION 142.** 19.45 (12) of the statutes is repealed.

2 **SECTION 143.** 19.45 (14) of the statutes is created to read:

3 19.45 (14) If a state public official receives an item that the official is not
4 permitted to accept or retain under this subchapter or subch. III of ch. 13, the official
5 shall do one of the following:

6 (a) Give the item to the official's agency to use or sell, except that the agency
7 may not sell the item to any government employee or official.

8 (b) Give the item to another state agency or to a public institution, such as a
9 local school, library, or museum, that can use the item.

10 (c) Give the item to a charitable organization, as defined in s. 11.0101 (4), not
11 including a charitable organization with which the official or his or her immediate
12 family is associated.

13 (d) Return the item to the donor.

14 (e) If the donor is neither a lobbyist, as defined in s. 13.62 (11), nor a principal,
15 as defined in s. 13.62 (12), purchase the item at its full retail value and keep the item.

16 **SECTION 144.** 19.48 (11) of the statutes is repealed.

17 **SECTION 145.** 19.55 (2) (dm) of the statutes is created to read:

18 19.55 (2) (dm) Records of the address of the primary residence of any individual
19 who files an application for licensure as a lobbyist under s. 13.63.

20 **SECTION 146.** 19.59 (1b) of the statutes is created to read:

21 19.59 (1b) If a local public official receives an item that the official is not
22 permitted to accept or retain under this subsection, the official shall do one of the
23 following:

24 (a) Give the item to the official's agency to use or sell, except that the agency
25 may not sell the item to any government employee or official.

1 (b) Give the item to another local agency or to a public institution, such as a
2 local school, library, or museum, that can use the item.

3 (c) Give the item to a charitable organization, as defined in s. 11.0101 (4), not
4 including a charitable organization with which the official or his or her immediate
5 family is associated.

6 (d) Return the item to the donor.

7 (e) If the donor is neither a lobbyist, as defined in s. 13.62 (11), nor a principal,
8 as defined in s. 13.62 (12), purchase the item at its full retail value and keep the item.

9 **SECTION 147.** 20.9305 (2) (e) of the statutes is repealed.

10 **SECTION 148.** 23.41 (5) of the statutes is amended to read:

11 23.41 (5) Each contract for construction work entered into by the department
12 under this section shall be awarded on the basis of bids or competitive sealed
13 proposals in accordance with procedures established by the department. Each
14 contract for construction work shall be awarded to the lowest responsible bidder or
15 the person submitting the most advantageous competitive sealed proposal as
16 determined by the department. If the bid of the lowest responsible bidder or the
17 proposal of the person submitting the most advantageous competitive sealed
18 proposal is determined by the department to be in excess of the estimated reasonable
19 value of the work or not in the public interest, the department may reject all bids or
20 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to
21 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.
22 16.528, ~~16.753~~, 16.754, and 16.765 apply to the contract. Every such contract
23 involving an expenditure of more than \$60,000 is not valid until the contract is
24 approved by the governor.

25 **SECTION 149.** 25.18 (1) (a) of the statutes is amended to read:

1 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.
2 16, ~~except s. 16.753~~, employ special legal or investment counsel in any matters
3 arising out of the scope of its investment authority. ~~Section 16.753 does not apply to~~
4 ~~the employment of legal or investment counsel for the purpose of assisting the board~~
5 ~~with investments.~~ The employment of special legal counsel shall be with the advice
6 and consent of the attorney general whenever such special counsel is to be
7 compensated by the board. Any expense of counsel so employed shall be borne by the
8 fund for which the services shall be furnished.

9 **SECTION 150.** 25.18 (1) (f) of the statutes is amended to read:

10 25.18 (1) (f) Maintain and repair any building or other structure or premises
11 which it owns in fee or in which it owns the beneficial interest and, notwithstanding
12 all provisions of subch. IV or V of ch. 16, ~~except s. 16.753~~, it shall have exclusive
13 authority to make such agreements and enter into such contracts as it deems
14 necessary for such purpose. ~~Section 16.753 does not apply to agreements and~~
15 ~~contracts entered into by the board for the purpose of assisting the board with~~
16 ~~investments.~~ All noncapital costs under this paragraph shall be charged to the
17 current income accounts of the funds having an interest in the building, structure
18 or premises.

19 **SECTION 151.** 25.18 (1) (m) of the statutes is amended to read:

20 25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,
21 ~~except s. 16.753~~, employ professionals, contractors or other agents necessary to
22 evaluate or operate any property if a fund managed by the board has an interest in,
23 or is considering purchasing or lending money based upon the value of, that property.
24 ~~Section 16.753 does not apply to the employment of any person for the purpose of~~

1 assisting the board with investments. Costs under this paragraph shall be paid by
2 the fund and charged to the appropriate account under s. 40.04 (3).

3 **SECTION 152.** 84.01 (13) of the statutes is amended to read:

4 84.01 (13) ENGINEERING SERVICES. The department may engage such
5 engineering, consulting, surveying, or other specialized services as it deems
6 advisable. Any engagement of services under this subsection is exempt from ss.
7 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but ss. 16.528, 16.752, ~~16.753~~, and
8 16.754 apply to such engagement. Any engagement involving an expenditure of
9 \$3,000 or more shall be by formal contract approved by the governor. The
10 department shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g),
11 of each proposed engagement under this subsection that involves an estimated
12 expenditure of more than \$300,000 in accordance with standards prescribed by rule
13 of the department and consider and document the results of the analysis before the
14 determination of whether to undertake the proposed engagement. The department
15 shall review periodically, and before any renewal, the continued appropriateness of
16 contracting pursuant to each engagement under this subsection that involves an
17 estimated expenditure of more than \$300,000.

18 **SECTION 153.** 84.01 (36) (e) of the statutes is amended to read:

19 84.01 (36) (e) For each agreement under par. (b), the contract shall be awarded
20 on the basis of competitive proposals in accordance with procedures established by
21 the department. Requests for proposals shall be advertised in the manner
22 determined by the department. Each contract shall be awarded to the person
23 submitting the most advantageous competitive proposal as determined by the
24 department. If the proposal of the person submitting the most advantageous
25 competitive proposal is determined by the department to be less than the estimated

1 reasonable value to the department or not in the public interest, the department may
2 reject all proposals. The secretary shall enter into each contract on behalf of the
3 state. Every such contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87,
4 and 16.89, but ss. 16.528, 16.752, ~~16.753~~, and 16.754 apply to the contract.

5 **SECTION 154.** 84.06 (2) (a) of the statutes is amended to read:

6 84.06 (2) (a) All such highway improvements shall be executed by contract
7 based on bids unless the department finds that another method as provided in sub.
8 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
9 the manner determined by the department. Except as provided in s. 84.075, the
10 contract shall be awarded to the lowest competent and responsible bidder as
11 determined by the department. If the bid of the lowest competent bidder is
12 determined by the department to be in excess of the estimated reasonable value of
13 the work or not in the public interest, all bids may be rejected. The department shall,
14 so far as reasonable, follow uniform methods of advertising for bids and may
15 prescribe and require uniform forms of bids and contracts. Except as provided in par.
16 (b), the secretary shall enter into the contract on behalf of the state. Every such
17 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
18 ss. 16.528, 16.752, ~~16.753~~, and 16.754 apply to the contract. Any such contract
19 involving an expenditure of \$1,000 or more shall not be valid until approved by the
20 governor. The secretary may require the attorney general to examine any contract
21 and any bond submitted in connection with the contract and report on its sufficiency
22 of form and execution. The bond required by s. 779.14 (1m) is exempt from approval
23 by the governor and shall be subject to approval by the secretary. This subsection
24 also applies to contracts with private contractors based on bids for maintenance
25 under s. 84.07.

1 **SECTION 155.** 84.06 (3) of the statutes is amended to read:

2 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If
3 the department finds that it would be more feasible and advantageous to have the
4 improvement performed by the county in which the proposed improvement is located
5 and without bids, the department may, by arrangement with the county highway
6 committee of the county, enter into a contract satisfactory to the department to have
7 the work done by the county forces and equipment. In such contract the department
8 may authorize the county to purchase, deliver, and store materials and may fix the
9 rental rates of small tools and equipment. The contract shall be between the county
10 and the state and shall not be based on bids, and may be entered into on behalf of the
11 county by the county highway committee and on behalf of the state by the secretary.
12 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,
13 except ~~ss. 16.753 and s.~~ 16.754. If the total estimated indebtedness to be incurred
14 exceeds \$5,000 the contract shall not be valid until approved by the governor. The
15 provisions of this subsection relating to agreements between a county and the state
16 shall also authorize and apply to such arrangements between a city, town, or a village
17 and the state. In such cases, the governing body of the city, town, or village shall
18 enter into the agreement on behalf of the municipality.

19 **SECTION 156.** 84.06 (4) of the statutes is amended to read:

20 84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement
21 undertaken by the department will cross or affect the property or facilities of a
22 railroad or public utility company, the department may, upon finding that it is
23 feasible and advantageous to the state, arrange to perform portions of the
24 improvement work affecting such facilities or property or perform work of altering,
25 rearranging, or relocating such facilities by contract with the railroad or public

1 utility. Such contract shall be between the railroad company or public utility and the
2 state and need not be based on bids. The contract may be entered into on behalf of
3 the state by the secretary. Every such contract is exempted from s. 779.14 and from
4 all provisions of chs. 16 and 230, except ss. 16.528, 16.752, ~~16.753~~, and 16.754. No
5 such contract in which the total estimated debt to be incurred exceeds \$5,000 shall
6 be valid until approved by the governor. As used in this subsection, “public utility”
7 means the same as in s. 196.01 (5), and includes a telecommunications carrier as
8 defined in s. 196.01 (8m), and “railroad” means the same as in s. 195.02. “Property”
9 as used in this subsection includes but is not limited to tracks, trestles, signals, grade
10 crossings, rights-of-way, stations, pole lines, plants, substations, and other
11 facilities. Nothing in this subsection shall be construed to relieve any railroad or
12 public utility from any financial obligation, expense, duty, or responsibility
13 otherwise provided by law relative to such property.

14 **SECTION 157.** 85.015 of the statutes is amended to read:

15 **85.015 Transportation assistance contracts.** All contracts entered into
16 under this chapter to provide financial assistance in the areas of railroads, urban
17 mass transit, specialized transportation, and harbors are subject to ss. 16.528, and
18 16.752, ~~and 16.753~~ but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82, 16.85 to
19 16.87, and 16.875 to 16.89.

20 **SECTION 158.** 102.81 (2) of the statutes is amended to read:

21 102.81 (2) The department may retain an insurance carrier or insurance
22 service organization to process, investigate and pay claims under this section and
23 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to
24 do business in this state in an amount that the secretary determines is necessary for
25 the sound operation of the uninsured employers fund. In cases involving disputed

1 claims, the department may retain an attorney to represent the interests of the
2 uninsured employers fund and to make appearances on behalf of the uninsured
3 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all
4 provisions of subch. IV of ch. 16, ~~except s. 16.753~~, do not apply to an attorney hired
5 under this subsection. The charges for the services retained under this subsection
6 shall be paid from the appropriation under s. 20.445 (1) (rp). The cost of any
7 reinsurance obtained under this subsection shall be paid from the appropriation
8 under s. 20.445 (1) (sm).

9 **SECTION 159.** 655.27 (2) of the statutes is amended to read:

10 655.27 (2) FUND ADMINISTRATION AND OPERATION. Management of the fund shall
11 be vested with the board of governors. The commissioner shall either provide staff
12 services necessary for the operation of the fund or, with the approval of the board of
13 governors, contract for all or part of these services. Such a contract is subject to ~~ss.~~
14 ~~16.753~~ and s. 16.765, but is otherwise exempt from subch. IV of ch. 16. The
15 commissioner shall adopt rules governing the procedures for creating and
16 implementing these contracts before entering into the contracts. At least annually,
17 the contractor shall report to the commissioner and to the board of governors
18 regarding all expenses incurred and subcontracting arrangements. If the board of
19 governors approves, the contractor may hire legal counsel as needed to provide staff
20 services. The cost of contracting for staff services shall be funded from the
21 appropriation under s. 20.145 (2) (u). The fund shall pay to the commissioner
22 amounts charged for organizational support services, which shall be credited to the
23 appropriation account under s. 20.145 (1) (g) 2.

24 **SECTION 160. Effective date.**

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Conduits	Definition- person that accepts, deposits and releases contributions to a candidate committee, legislative campaign committee, political party, or PAC	<ul style="list-style-type: none"> • Change to any committee • Specify that only individuals can contribute to and through a conduit 	<ul style="list-style-type: none"> • Individuals can give to any committee • Legislative history indicates intent was limit use of conduits to individuals 	Section 1
Exempt Status	Annual Renewal	No longer require annual renewal for local candidate committees	Efficiency for local clerks- Virtually all local committees are exempt and stay that way the entire time the person holds office	Section 7
	Requires “amended registration”	<ul style="list-style-type: none"> • Allow committees claiming exempt status to do so on initial registration statement • Change threshold to \$2,500 	<ul style="list-style-type: none"> • Clarity and efficiency • Match threshold required for other committees to register 	Section 5 Conforming change in Section 8. Threshold Change- Sections 5 and 9.

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Exempt Status (Cont'd.)	Reporting Obligations- exemption only applies to continuing reports	Rephrase to exempt from any reports	Intent appears to have been to exempt from all reports, however the language seems to require pre-primary, pre-election, and 72 Hour reports	Section 8
	Committees on exempt status do not have to file a termination report	Require exempt committees to file termination reports	Ensure disclosure of how funds were disposed	Section 10
	State Committee Requirements	Require Annual Renewal (Calendar year basis) Year of Election can claim from day after election day through January 15 (must file January Continuing Report) Subsequent Years claim by December 31.	Statutes were drafted to require this due to frequency of state officials coming on or going off of exempt status. Had to create clear deadlines to apply for exempt status.	Section 7
Exempt Status (Acceptance of Registration Statement and Ballot Access)	Statutes are silent.	Provide that filing officers must accept committee registration, even if the committee is not eligible Filing Officer notify the committee it is not exempt within 10 days Candidate not denied ballot placement	These subjects were the subject of an ethics opinion request. The Commission requested guidance from the DoJ and the Legislature. This addresses concerns that were not answered.	Section 7

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Exempt Status (Cont'd.)	60 days to either amend registration or return contribution	Require immediate filing of amended registration statement only if exceeds the threshold Alternatively, can return the contribution within 15 days of receipt	Current law treats it like a termination, which it isn't. A committee can accept contributions as long as they stay below the threshold. The committee can choose to come off exemption or return the contribution in the same manner as other contributions are returned.	Section 11
Filing Fees	Each committee required to register under Ch. 11 shall annually pay a \$100 filing fee to the Commission.	Amend to only committees required to register with the Commission.	Previous statute required only committees that register with the board had to pay filing fees. Currently, local recall committees and referendum committees that register with local clerks must pay that fee.	Section 3
Campaign Recordkeeping	3 years after date of election in which the candidate committee participates	Require records be kept for 3 years after the end of the campaign period	For officers that hold office for terms longer than 3 years, the Commission will lose access to first year's (or longer) records, impacting accuracy and thoroughness of audits	Sections 13, 27, 38, 47, 58, 69, 87 Sections 98-102: technical rewrite to clarify contribution limit periods

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
September Continuing Reports	Candidate committees file in even years, other committees only when there's activity	<ul style="list-style-type: none"> Require all committees to file in even years regardless of activity, OR Provide time period in which activity would trigger filing requirement (i.e.- election period or calendar year) 	<ul style="list-style-type: none"> If all committees were required to file Sept. reports there would be uniformity; OR If intent is to have non-candidate committees required to file only when activity occurs, there should be specificity as to applicable period 	<p>Sections 19, 22, 25, 33, 36, 42, 45, 53, 56, 64, 67, 74, 77, 83, 86, 93, 96</p> <p>Section 4- Clarifies that the September Continuing Report contains info up until 9/23. In conjunction with existing law, will create a report that covers from either July Continuing or Pre-primary (if filed) until 9/23.</p> <p>Remaining Sections: Candidate committees will continue to file every even year regardless of activity; Every other committee will file by 9/30 if there's reportable activity</p>
Loans Under \$20	One section requires itemization of each contribution while another says loans under \$20 do not have to be itemized	Remove phrase "in excess of \$20")	Itemization of all loans consistent with itemization of all other contributions	Section 14, 28, 39, 48, 59, 78, 88
72 Hour Reports	Requires reporting contributions received beginning 15 days of election within 72 hours	Include an end date (either primary date or election date, as applicable)	Provide a clear ending to 72 hour reporting	Section 26, 37, 46

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
72 Hour Reports (Cont'd.)	72 Hour Reports required for specific express advocacy but no time period provided to calculate \$2500 threshold	Apply to specific periods (i.e.- start calculating 60 days prior to primary through date of election)	Clarity and certainty that 72 hour reporting threshold has been met	<p>Section 57 (PACs); Section 68 (IE Committees); and Section 97 (“Other Persons”)</p> <p>Provides clear beginning and end point for calculation of \$2,500 threshold as follows:</p> <p>Spring election cycle: from 60 days prior to spring primary through date of Spring election;</p> <p>General election cycle has two periods (Section 68):</p> <ol style="list-style-type: none"> 1) From 60 days prior to partisan primary through date of partisan primary; 2) From 60 days prior to general election through date of general election. <p>Special election: from 60 days prior to special primary through the date of special election.</p>

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Contribution Acceptance	Periods for calculating: <ul style="list-style-type: none"> • In office they're seeking-during term of office • Not in office they're seeking-date became candidate until day before winner takes office 	Amend cross-reference to include § 11.1101(4)	Clarify that period for calculating contribution limits applies to contributions from "Other Persons"	Section 100
	For those in office, period ends day before they take office	Revert to period ending date of 12/31 and 6/30	Ease of reporting for treasurers and allows more timely audits by the Commission	Section 98-102
Donations to Charity or Common School Fund	Must be reported within 5 days	Remove	Unclear why such a short period is warranted when it will be included on next report. Allowed to make such donations in another section of statutes.	Section 104
Express Advocacy Disclaimer	Source identification is required for any express advocacy paid for by any contribution or disbursement	Require source identification for referenda committees	"Express Advocacy" is only communications about a clearly identified candidate, does not include express advocacy on an issue	Section 105
Authority to initiate civil/criminal proceedings	Our statutes: only initiate upon a finding of probable cause by the Commission. Other statutes & AG Opinion: expressly have co-equal jurisdiction and do not have to wait.	Revise to reflect co-equal jurisdiction of the Commission, AG, and DAs	Clarity and consistency amongst statutes	REMOVED FROM VERSION P5

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
LLC Contributions Exception	<ul style="list-style-type: none"> • Not a prohibited contribution • Some subsections say “committee” others say “candidate committee” 	Remove “candidate” where followed by “committee”	<ul style="list-style-type: none"> • Consistency and uniform treatment of contributions • Resolve ambiguity and apply to all committees 	Section 103
Prohibited practices for licensed lobbyists	<ul style="list-style-type: none"> • Outlines prohibited practices • Provides Exceptions 	<p>Revise for better construction</p> <p>Add statutory provision matching prior guidance concerning an official paying his or her way at a lobby day sponsored by a principal.</p>	This section mixes prohibited practices in with exceptions; provide clarity for regulated community	<p>Sections 106-126</p> <p>Section 114 (Lobby Days Exception)</p>
Mailing of Written Notices to Lobbyists	Certified mail for failure to timely file reports	Change to “most effective mean available” or email	Almost 100% of communications with this regulated community are via electronic means; would represent cost savings and efficiency	Sections 129
Lobbying information to be provided to legislative chief clerks	Commission required to provide the legislative chief clerks with names of the licensed lobbyists, the principals they represent, and state agency legislative liaisons every Tuesday. It also requires this report to be available to the public.	Repeal	Available on Commission’s Lobbying Website	Section 130

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Lobbyist License Application	Specifies information required	Allow lobbyists to voluntarily provide home address	Audit Accuracy for prohibited contributions audit	Section 127 Confidentiality Section 145
Maintaining site related to §16.753(4)	Commission must maintain website for agencies to post information about pending contracts	Repeal	<ul style="list-style-type: none"> • Also available on VendorNet and OpenBook Wisconsin • 2011 LAB Report noted it was outdated and should be terminated 	Section 133, 144, 147
SEI	Defines “security” that is required to be disclosed	Revise to exclude defined benefit retirement plans, annuities, money market funds, mutual funds, and exchange-traded funds	These holdings provide no substantial information regarding the official’s economic interests that could influence their actions. They consist of a variety of securities, none of which are under the direct or indirect control of the official.	Section 134-139
	Requires that any official required to file SEIs with the Commission file an SEI for a year in which they serve as a state official even on day in that year.	Only require if an official serves 15 days or more in a calendar year; or create a terminating report within 21 days of terminating state service	Generally affects officials whose term ends the first Tuesday in January or other state officials during transition periods after gubernatorial elections	Only file if held office for at least 14 days in Section 140 Created terminal report in Section 141

2019-2020 ETHICS COMMISSION RECOMMENDATIONS (Draft LRB 19- 2407/P5)

SUBJECT	CURRENT LAW	PROPOSED CHANGES	REASON	Draft Bill Section
Standards of conduct for public officials relating to state agency finance, accounting, and budgets	Cannot request appropriations which exceed the amount in the most recent request under §16.42	Repeal	Unconstitutional. <i>Barnett v. State Ethics Board</i> , 817 F. Supp. 67 (1993)	Section 142
Disposition of Gifts	Not provided under law	Codify Guideline 1235- Treat as given to agency; give to agency that can use it; give to charity; Return to donor; Purchase, if not from lobbyist/principal	The practices in this Guideline are so commonly accepted and used by the regulated community that they should be codified.	Section 143 (State Public Officials) and Section 146 (Local Public Officials)



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MEMORANDUM

The draft bill contains numerous recommendations for legislative changes from the Wisconsin Ethics Commission. Almost all of these recommendations can be found in the Commission's 2018 Annual Agency Report. Most of them are simply technical or clarifying in nature. The recommendations are separated by program area and described below.

I. CAMPAIGN FINANCE

A. Exempt Status

[WIS. STAT. § 11.0104](#) provides committees with limited activity the opportunity to seek an exemption from filing continuing reports. *See*, [WIS. STAT. § 11.0104\(2\)](#). The statute lacks sufficient clarity for the Commission or local filing officers to implement it and enforce it. The Commission has recommended that this statute be clarified and has also sought an Attorney General Opinion regarding its application. Those efforts were unsuccessful. In order for the Commission and local filing officers to be able to implement and enforce this exemption properly, it needs significant revision. Several questions go unanswered: When can committees claim it? Why can't committees seek this exemption in their initial registration statement, especially at the local level? What should happen when a candidate (state or local) files for the exemption, but is not eligible to claim it? Should the filing officer reject the amended statement? Should the candidate be prohibited from being placed on the ballot? This draft clarifies the exemption process for the Commission and local filing clerks and contains the other legislative recommendations made by the Commission concerning its application as follows:

[WIS. STAT. § 11.0104\(1\)\(a\)](#) requires committees that wish to claim exempt status to file an amended registration statement with their filing officer. It is not clear why this cannot be done on the initial registration statement. Local committees may never raise or spend more than the threshold, so they should be allowed to claim exempt status in their initial filing. Also, some state candidates create their first committee more than a year prior to the election the candidate is going to participate in. If the candidate is not raising/spending above the threshold, such a candidate could be allowed on exempt status until they exceed the threshold. Otherwise, they would have to file at least two "No Activity Reports." Also, technically, this would seem to require the unnecessary step of filing of a registration statement and then a subsequent amendment. The Commission's first recommendation regarding exempt status is to allow committees to claim exempt status on their initial registration statement. These changes take place in Sections 5 and 8 of the draft bill.

The second recommendation concerns changing the threshold in [WIS. STAT. § 11.0104\(1\)\(a\)](#) from \$2,000 to \$2,500. Other committees do not have to register until they hit \$2,500 in contributions and disbursements. This will establish a clear, bright-line threshold that is consistent across the board. These changes take place in Sections 5 and 9 of the draft bill.

Third, [WIS. STAT. § 11.0104\(2\)](#) makes it appear as though the reporting exemption only applies to continuing reports. This seems to be inconsistent with the legislative intent to exempt committees from

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filing any reports. The Commission recommends that the statute be rephrased to clearly provide that exempt committees do not have to file any reports. This change can be found in Section 8 of the draft bill.

Additionally, [Wis. STAT. § 11.0104\(4\)](#) does not require a termination report for committees on exempt status. This conflicts with a provision in [Wis. STAT. § 11.0104\(2\)](#) that says the exempt status applies for the calendar year unless the committee alters its status or files a termination report. Further, in order to ensure disclosure of how funds were disposed, the Commission recommends that exempt committees be required to file termination reports. Section 10 of the draft bill requires the filing of termination reports by committees on exempt status that request termination by repealing current [Wis. STAT. § 11.0104\(4\)](#). [Wis. STAT. § 11.0104\(2\)](#) requires a committee on exempt status to renew that status annually. For state level elected officials, this makes sense as they are more likely to alternate between being active and exempt status. However, many local elected officials will never raise or spend more than the threshold during a calendar year. For that reason, the Commission recommends allowing the committees for local elected officials to remain on exempt status until such time as they exceed the threshold. If they exceed the threshold, they will have to file the reports. This is accomplished in Section 7 of the draft bill (specifically, lines 16-21 of page 7). The draft requires state level committees to renew the exemption annually as will be discussed below.

Consistent with the apparent intent in the current version of the statutes, Section 7 of the draft bill also clarifies that candidates for state level offices cannot claim exempt status during the calendar year that they are running for office. They would be allowed to claim the exemption no sooner than the day after the election, but no later than the next January 15th. However, they are still required to file the continuing report covering from July 1-December 31. Thereafter, until the next time they run for state office, the candidate must renew exempt status by December 31 of the year before they are to be exempt. Failure to claim the exemption before these deadlines results in being required to file campaign finance reports for the next calendar year.

Section 7 of the draft bill also answers many of the questions posed to the Attorney General. Specifically, it provides that if a filing officer receives a request for exemption, and the filing officer knows the committee is not eligible for exempt status, the filing officer must accept the registration statement or amended registration statement. However, he or she must notify the committee within 10 business days that it is not eligible and is required to file campaign finance reports. It further clarifies that a candidate that files for exemption when he or she is not eligible may not be denied placement on the ballot if their registration statement or amended registration statement otherwise complies with the filing requirements.

Section 11 of the draft bill clarifies what occurs when a committee receives an unanticipated contribution. This language used to track the language concerning receipt of contributions after termination. However, because the committee is not terminated, there are different considerations that required fleshing out. Specifically:

- The language previously said that if a committee accepts an unanticipated contribution, the committee either had to amend their registration statement and come off of exempt status or the committee had to return the contribution. However, this approach failed to account for the fact that a committee can accept contributions and make disbursements so long as the aggregate of those contributions and disbursements do not exceed the threshold. Exempt status does not

require no activity, it allows for limited activity. So, the draft requires the committee to come off of exempt status or to return to contribution only if it places the committee above the threshold.

- The language previously allowed the committee 60 days to come off of exempt status or return the contribution. In the context of terminated committees, this would be acceptable. However, committees could receive a contribution that places them over the threshold within the 60 days before an election. Therefore, the draft requires a committee that is going to accept the contribution to immediately file an amended registration statement revoking the exemption or to return the contribution or donate it to the common school fund within 15 days of receipt.

B. 72 Hour Reports

The statutes currently require contributions made to candidate committees, political parties, and legislative campaign committees that are received within the 15 days before an election to be reported within 72 hours. Though the Legislature probably intended that the 72-hour reporting period to end after the election is conducted, the statutes do not clearly state that. Therefore, the Commission recommends that the statutes be amended to clarify that the 72-hour reporting requirement runs from 14 days prior to the election through election day. This is done in Sections 26, 37, and 46.

Additionally, PACs, Independent Expenditure Committees, and “Other Persons” are required to disclose on 72 hour reports any disbursements that they make after they have exceeded the \$2,500 threshold. The statutes do not say when to start counting and end counting for the purposes of determining whether the \$2,500 threshold has been reached. Therefore, the Commission recommends that the Legislature clarify when the period begins and ends to determine whether the committee or Other Person has reached or exceeded the \$2,500 threshold. This is done in Section 57, 68, and 97. Consistent with the Commission’s current interpretation, the beginning of the period for a Spring Election is 60 days before the spring primary and the period runs through the date of the spring election. The periods for the general election are split as follows: 60 days prior to the partisan primary through the date of the partisan primary; and then, from 60 days before the general election through the date of the general election. Finally, the period for special elections would be from 60 days before the special primary through the special election.

C. September Reports

The statutes require candidate committees to file September reports in even years. Other committees are only required to file the September reports when there’s activity during that period. The Commission proposed either requiring all committees to file in even years, regardless of activity, or that the statute specify a period of time in which activity would trigger the September Report filing requirement. The draft clarifies that the September Report covers information until September 23rd. This is accomplished in Section 4 of the draft. Section 19 of the draft maintains the requirement that a candidate committee to file a September Report every even year but adds that the due date is September 30th. This occurs in Sections 19, 22 and 25 of the draft. Since the draft specifies periods of time that require the report, consistent with current law, all other committees will only file the report if there’s reportable activity. The due date is September 30th for these committees also. This is done in Sections 33, 36, 42, 45, 53, 56, 64, 67, 74, 77, 83, 86, 93, and 96.

D. Contributions

Currently, [WIS. STAT. § 11.1103\(1\)](#) provides the periods for calculating contributions limits. However, that section omits a cross reference to [WIS. STAT. § 11.1101\(4\)](#) which provides the contribution limits for “Other Persons.” As a result of the omission, it is unclear when to begin calculating contribution limits from “Other Persons” and when to end calculating them. The Legislature should correct this technical deficiency. This is done in Section 100 of the draft bill.

Additionally, the Commission has recommended returning to the previous period for calculating whether the committee has exceeded contribution limits. Currently, the period for most state officials ends on the date that the official takes office. Those officials could accept contributions into the first week of January. Those transactions would not be reported until the July Continuing report. As a result, the Commission cannot audit for contribution limits until after the July Continuing report due date, at the earliest. The draft specifies the periods to calculate contribution limits as follows:

	Spring Election	General Election	Special Election
Candidate Does Not Hold Office He or She is Seeking	From the date on which the individual becomes a candidate through June 30 th immediately after election	From the date on which the individual becomes a candidate until December 31 immediately after the election	From the date on which the individual becomes a candidate until the 22 nd day after the special election. The contribution limit period for the winner begins on the 23 rd day after the special election and ends either: <ul style="list-style-type: none"> • If the office is elected in the general election, December 31st after successor is elected or incumbent is reelected; or • If the office is normally elected in the spring election, June 30th after the successor is elected or incumbent reelected.
(Cont'd from prior page)	Spring Election	General Election	Special Election

Candidate Holds Office He or She is Seeking	July 1 immediately after election through June 30 th after successor is elected or incumbent reelected	January 1 after the election until December 31 after a successor is elected or the incumbent is reelected	N/A
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These changes take place in Sections 98-102.

Additionally, Wis. Stat. § 11.1113 allows contributions from sole proprietorships (sub. 1), partnerships (sub. 2), and LLCs (sub 3.) *to any committee*. The entity making the contributions must report the names of the members and the share of the contribution attributable to each member. However, the language requiring the identification of the members and share of the contributions attributable to them is different in the provisions concerning LLCs than it is in the provisions concerning sole proprietorships and partnerships. The provision applicable to sole proprietorships and partnerships requires that the information be given “to the committee.” However, the language concerning LLCs adds in some parts the word “candidate” before “committee.” As a result of the drafting, it appears that LLCs are only required to provide the names of their members and the share of the contribution attributable to them if the contribution is made to a “candidate committee.” It is unclear why LLCs should be subject to different requirements than sole proprietorships and partnerships. The Commission recommends amending [WIS. STAT. § 11.1113\(3\)](#) to remove “candidate” where it appears immediately before “committee.” This change occurs in Section 103 of the draft.

E. Conduits

A conduit is a person other than an individual that receives a contribution of money, deposits the contribution in their account, and then releases contribution to a candidate committee, legislative campaign committee, political party, or PAC at the direction of the contributor. See, [WIS. STAT. § 11.0101\(7\)](#). The Commission recommends clarifying that only individuals can contribute through a conduit. Additionally, because individuals can give to any committee in their capacity as an individual, an individual should be allowed to contribute to any committee via a conduit. This is accomplished in Section 1 of the draft.

F. Filing Fees

Currently, the law requires each committee that is required to register to pay a \$100 filing fee to the Commission. See, [WIS. STAT. § 11.0102\(2\)\(a\)](#). Previously, the statutes only required committees that had to register with the board to pay filing fees. As a result, the statutes require local recall committees and local referendum committees that register with local clerks to pay that filing fee to the Commission. The Commission recommends that only to committees that are required to register with the Commission must pay the filing fee. This is accomplished in Section 3 of the draft.

G. Campaign Recordkeeping

Currently, the statutes require the treasurers of candidate committees, political parties, legislative campaign committees, PACs, IE Committees, conduits, and recall committees to maintain the records for a period of 3 years *after the date of the election* in which the committee participates. The drafting of this provision leaves the following possibilities:

For a candidate who does not hold office he or she is seeking, the contribution period runs from the date he or she becomes a candidate until the day before that term of office begins. The Commission would have 3 years from the date of the election to audit for contribution limits violations. The current wording of the statute works in this scenario.

However, the recordkeeping statute does not properly address what happens once a candidate is sworn into the office. When do they have to begin keeping records for the new period that runs from when they take office until the end of that term? If the term is longer than 3 years, how far back can the Commission require records? What does “participate” mean here? Does a candidate committee participate in an election when it contributes to another committee, but its candidate does not appear on the ballot? Or does a candidate committee only participate in an election when the candidate actually appears on the ballot? What happens if, at the end of a 4-year, 6 year, or 10-year term, the candidate decides not to run again? When does the recordkeeping requirement end in that situation?

The draft addresses these issues by cross-referencing the periods that contribution limits are calculated in [WIS. STAT. § 11.1103](#) (as amended, see explanation in subsection c above) and then requiring a candidate committee to keep records for 3 years from the last day of the period in [WIS. STAT. § 11.1103](#) (as amended). So, under the draft, a candidate that doesn’t hold office has a contribution period that runs from when he or she becomes a candidate until the day before the winner takes office. Records from that period must be kept for 3 years after the day before the winner takes office. If he or she wins, the candidate must then keep records covering from the day that he or she takes office until the day before the winner of the next election is sworn in. Those records must be maintained for 3 years after the day before the winner is sworn into a new term of office. By doing this, the Commission can not only audit for contribution limit violations for “new” candidates, it can also audit to ensure that an officeholder does not violate the contribution limits during his or her term of office. These changes occur in Sections 13, 27, 38, 47, 58, 69, and 87 of the draft. The contribution limit periods have been amended for clarity as described in Subsection C herein in Section 98-102.

H. Loans Under \$20

Currently, the statutes require a committee to give the date, full name, and street address of each person who has made a contribution to the committee, together with the amount of the contribution. There is no applicable threshold, so each contribution must be reported. The definition of “contribution” in [WIS. STAT. § 11.0101\(8\)\(a\)1](#) defines “contribution” to include a loan. However, the statutes also have a specific reporting requirement of “each loan of money made to the committee in an aggregate amount or value in excess of \$20” and requiring certain information. Since a loan is a contribution, the Commission recommends that the \$20 threshold applicable only to loans be removed. This will result in itemizations of loans in a manner that is consistent with all other contributions. This is accomplished in Sections 14, 28, 39, 48, 59, 78, and 88.

I. Common School Fund

[Wis. STAT. § 11.1302](#) requires a committee making a donation to a charitable organization or the common school fund to notify the committee’s filing officer within 5 days, and in writing, of the name of the donee, the date of the donation, and the reason the amount donated is not being retained in the account. It is not known why this information has to be provided within 5 days instead of when the next campaign finance report is due. Currently, the statutes allow charitable donations or donations to the common school funds for the following reasons: a committee on exempt status that receive an unanticipated contribution, disposal of residual funds after requesting termination, receives a contribution after filing a termination report, receives an anonymous contribution in excess of \$10, receives a cash contribution in excess of \$100, or may do so out of generosity. The Commission has recommended that the 5-day reporting requirement be repealed and that committees be required to disclose this information on its next campaign finance report. This is accomplished in Section 104 of the draft.

QUESTION: Does the Legislature wish to maintain the provision requiring an explanation for not retaining the amount donated to charitable organizations?

J. Express Advocacy Disclaimer

Wisconsin law requires source identification for any express advocacy paid for by any contribution or disbursement. Express advocacy is defined as communications about a clearly identified candidate. It does not include advocacy for or against an issue. The Commission recommends that referenda committees be required to have a disclaimer on their advocacy for or against an issue. This is accomplished in Section 105 of the draft.

II. LOBBYING

A. Prohibited Practices for lobbyists and principals

[Wis. STAT. § 13.625](#) is not clearly or logically organized. It meanders amongst prohibitions for lobbyists, prohibitions for lobbyists and principals, and it has exceptions interwoven throughout. The Commission recommends that this be reorganized into a clearer presentation of prohibitions and exceptions. This is done in Sections 106-126.

Additionally, the Commission has recommended that the Legislature codify the long-standing policy concerning “lobby days.” The practice has been that a public official can attend a lobby day event and accept food if they pay for it. This is not clearly addressed in statutes. This is accomplished in Section 114.

B. Mailing of Written Notices to Lobbyists

Statute requires the Commission to send certified mail to for failure to timely file reports. The Commission requests this be amended to allow for email notifications. The Commission currently utilizes this process with a high rate of success. This is accomplished in Section 129 of the draft.

C. Lobbying Information Provided to Chief Clerks

The statutes require to Commission to provide the Chief Clerks with names of licensed lobbyists, the principals they represent, and state agency legislative liaisons every Tuesday. The report is required to be made available to the public. This information is maintained on the eye on lobbying website and is updated daily. This requirement is no longer necessary. This is addressed in Section 130 of the draft.

D. Lobbyist License Application

Currently, the statutes require the Ethics Commission to obtain certain information when a lobbyist applies for a license. The statute is silent on whether the address provided must be the lobbyist's residential, professional, or other address. As a result, many simply provide their professional address. When the Commission audits to determine whether a lobbyist has made a contribution outside of the window during which lobbyists are allowed to make contributions, it can be difficult to determine whether it is the lobbyist or someone with an identical or similar name to a lobbyist that made the contribution. By providing that information before an audit is conducted, the Commission will be able to determine whether such contributions came from a lobbyist or some other person without having to contact the person. It will reduce "false positive" results that require Commission staff to follow up. The Commission recommends allowing lobbyists to voluntarily provide their residential address on their application. This is accomplished in Section 127 of the draft. The Commission also requests that the residential address be confidential. This is accomplished in Section 145 of the draft.

III. ETHICS

A. Statements of Economic Interest

Exclude the following from the definition of "security:" defined benefit retirement plans, annuities, money market funds, mutual funds, and exchange-traded funds. This is accomplished in Section 134-139 of the draft bill.

[WIS. STAT. § 19.43\(1\)](#) requires any person who is an "official required to file" in January of any year to file an SEI with the Commission no later than April 30th. A person is required to file even if they only hold office for one day in January. This is problematic in the context of some state public officials whose term ends in January. Even though those individuals may serve less than a week, they will be required to file an SEI. The Commission has recommended that officials only need to file an SEI if they held office for at least 14 days. This is done in Section 140 of the draft. Additionally, the Commission recommends creating a terminal report that must be filed within 21 days after leaving office. This is done in Section 141.

B. Agency Budget Request

[WIS. STAT. § 19.45\(12\)](#) prohibits an agency, or officer or employee of an agency, from using interests outside of the agency to present any request for appropriations which exceed the amount requested in the agency's most recent budget request. This provision was ruled unconstitutional. Therefore, it should be repealed. This is accomplished in Section 142 of the draft.

C. Disposition of Gifts

The Commission inherited from prior boards [Guideline 1235](#) that provides that, if an official receives a gift that they are not allowed to accept, they may dispose of it in the following fashion:

- Turn it over to their agency for use or sale (to persons other than agency employees);
- Turn it over to another state agency, public institution such as school, library or museum that can use the item;
- Donate it to a charity that he or she is not associated with;
- Return the item to the donor; or
- Purchase the item by paying full retail value and retain it (only if the donor is not a lobbyist or principal).

There is no statutory basis for this broad of a disposition policy. The only statutory disposition provision in subch. III, Ch. 19, of the Statutes is found in [Wis. STAT. § 19.56\(4\)](#). However, that provision applies only to unauthorized honoraria payments. It provides that the unauthorized payment must be deposited with his or her agency, return it, or convey it to the state or a charity other than one with which the official is associated with. The Commission recommends codifying the Guideline to provide a broader statutory exemption consistent with long standing precedent of its predecessors. For state level officials, this is done in Section 143 of the draft. For local level officials, this is done in Section 146 of the draft.

D. State Contract Website ([Wis. STAT. § 16.753\(4\)](#))

This statute requires the Commission to maintain a website for agencies to post information about pending contracts. This information is available on VendorNet and OpenBook Wisconsin. The Commission requests that, due to the duplicative nature of this requirement, it no longer be required to maintain this website. In a 2011 LAB report, it was noted that this requirement was outdated and should be repealed. This is accomplished in Section 133, 144, and 147 of the draft.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 18, 2020
TO: Members, Wisconsin Ethics Commission
FROM: Daniel A. Carlton, Jr., Administrator
SUBJECT: 2020 Annual Agency Report

FOR COMMISSION ACTION

For the 2020 Annual Agency Report, the Commission may:

1. Approve the 2020 Annual Agency Report as drafted; or
2. Suggest revisions and authorize staff to file the report once amended.

The Wisconsin Ethics Commission is required to submit an annual report containing certain information to the Governor and Chief Clerk of each house of the Legislature no later than October 15. Attached to this memo is the draft of the 2020 Annual Agency Report. The substance of the report is largely unchanged from last year's submission. However, the performance data table on page 6 has been updated to include FY 2020 performance statistics and some of the goals for the next couple of years have been revised. Additionally, the report contains summaries of the advice given by the Commission during FY 2020. Finally, technical and stylistic changes were made as appropriate.

The Commission can either approve the 2020 Annual Agency Report as drafted and direct staff to submit the report or the Commission can make changes and direct staff to submit the report once the changes are made.

Enclosure: 2020 Annual Agency Report Draft



State of Wisconsin
Ethics Commission

2020 Annual Agency Report

October 15, 2020

Ethics@wi.gov
<https://ethics.wi.gov>

Table of Contents

Introduction.....	3
Information Required of All Agencies under WIS. STAT. § 15.04(1)(d)	4
Mission.....	4
Agency Description	4
Statutory Duties of the Ethics Commission and the Agency’s Compliance	5
Programs, Goals, Objectives and Activities.....	5
Performance Measures, Goals, and Performance	7
Information the Ethics Commission is required to Report under WIS. STAT. § 19.47(5).....	8
Statutory Duties of the Administrator and Compliance with Each Duty	8
Duties of All Individuals Employed by the Ethics Commission	10
Recommendations for Potential Legislation	13
Determinations and Advisory Opinions Issued Under WIS. STAT. § 19.46(2)	14
Summary of Investigations Conducted	29
Policies and Procedures of the Commission	29
Appendix A: Statutory Duties and Compliance.....	30
Appendix B: Nonpartisan Staff Policy.....	43
Appendix C: Delegation of Authority for Informal Advisory Opinions Policy	45
Appendix D: Campaign Finance Standard Settlement Schedule	47
Appendix E: Lobbying Standard Settlement Schedule	50
Appendix F: Statements of Economic Interests Standard Settlement Schedule and Waiver Policy	52
Appendix G: Campaign Finance Auditing Schedule	56
Appendix H: Lobbying Auditing Schedule	62
Appendix I: Complaints and Investigations Procedures	64
Appendix J: Commission Chair and Vice-Chair Terms and Vacancies	71
Appendix K: Administrative Suspension of Registrants	72

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 Required of All Agencies under WIS. STAT. § 15.04(1)(d)

Mission

The mission of the Ethics Commission is to promote and strengthen the faith and confidence of the people of Wisconsin in their government, support the operation of open and responsible government, preserve the integrity of the governmental decision-making process, and protect the rights of individuals through the administration of Wisconsin's campaign finance, lobbying, and ethics laws, and through readily available and understandable disclosure of information.

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 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 Administrator and staff are non-partisan. 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 (Wisconsin Chapter 11), lobbying (Wisconsin Chapter 13, Subchapter III), and the Code of Ethics (Wisconsin Chapter 19, Subchapter III). The duties of the Ethics Commission are codified in WIS. STAT. §§ 11.1304, 13.685, and 19.48.

Additional information about the Commission, its members and staff, meetings, and resources provided to the public is available on the Ethics Commission's website at <https://ethics.wi.gov>.

Commission activities are arranged by five general functions:

1. General administration;
2. Assistance to state public officials, candidates, lobbyists, principals, political committees and officeholders;
3. Assistance to local governments;
4. Education and training; and
5. Enforcement.

Within these functional areas, the Commission develops policy, issues formal and informal 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 performs 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, party committees, 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, enforcing registration and reporting requirements, and enforcing source restrictions and contribution limits. Information is available to the public on the Commission's website: <https://ethics.wi.gov/campaign-finance>, and through <https://cfis.wi.gov>.

Lobbying

Wisconsin lobbying law regulates 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's website: <https://ethics.wi.gov/Pages/Lobbying/LobbyingOverview.aspx>, and <https://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's website: <https://sei.wi.gov/>.

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 Commission's website: <https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx>.

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.

Programs, Goals, Objectives, and Activities

Program 1: Ethics, Campaign Finance, and Lobbying Regulation

A. Goal: Facilitate compliance with the requirements of Wisconsin's campaign finance, lobbying, and ethics laws.

A-1. Objective/Activity: Provide training, educational materials, and assistance to the regulated community and the public, focusing on applicable registration and reporting requirements.

A-2. Objective/Activity: Conduct timely audits of registration and report information, consistent with statutory requirements.

A-3. Objective/Activity: Provide informal and formal advisory opinions, as well as informal guidance, in a timely manner whenever requested to do so.

B. Goal: Support the operation of open and responsible government, and preserve the integrity of governmental decision-making, and protect the rights of individuals.

B-1. Objective/Activity: Promptly make reported campaign finance, lobbying, and financial disclosure information publicly available.

B-2. Objective/Activity: Maintain the Wisconsin Campaign Finance Information System (CFIS), Eye On Lobbying website, and Statements of Economic Interests website in order to facilitate the registration and reporting requirements under applicable Wisconsin Statutes, as well as making the disclosure of reported information readily accessible and understandable.

B-3. Objective/Activity: Investigate complaints of possible violations of the ethics code, lobbying law, and campaign finance law and seek appropriate remedies as circumstances merit.

Performance Measures, Goals, and Performance

The table below includes the performance measures established by the Wisconsin Ethics Commission in 2019.

Performance Measure (by Fiscal Year)	Goal 2020	Actual 2020	Goal 2021	Goal 2022
Campaign finance reports filed on/before the required date	95%	90.3%	96%	96%
Percentage of committees in compliance, based on audit findings	93%	93.8%	95%	95%
Lobbying fees received by electronic payment methods	75%	87.0%	85%	90%
Lobbyist time reports completed on/before the required date	99%	99.8%	99%	99%
Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	99%	98.3%	99%	99%
Percentage of principals in compliance, based on audit findings	99%	99.5%	99%	99%
Required SEIs filed on or before the required date	95%	95.5%	96%	96%
Statements of Economic Interest filed electronically	93%	93.7%	95%	96%

Information the Ethics Commission is required to Report under WIS. STAT. § 19.47(5)

Statutory Duties of the Administrator and Compliance with Each Duty

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 agenda item for requests for advice on every closed session meeting agenda to present the information required under this provision. The Commission first delegated the authority to the Administrator to issue informal advisory opinions at its meeting on March 7, 2017.

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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

10. *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 a formal investigation upon payment of specified amounts by the alleged offender. 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 has promulgated WIS. ADMIN. CODE ETH 26 pursuant to this directive 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when 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 include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

Duties of All Individuals Employed by the Ethics 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 responds 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%); and,
- 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).

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%); and,
- E. Perform all other duties as assigned by the Administrator (10%).

Ethics Specialists

Five positions under the Ethics Commission are classified as Ethics Specialists. Ethics Specialists' responsibilities are related to all program areas: campaign finance, the lobbying law, and the Code of Ethics. Entry and senior level Ethics Specialists share similar position descriptions, with slightly different allocations of effort, duties and responsibilities.

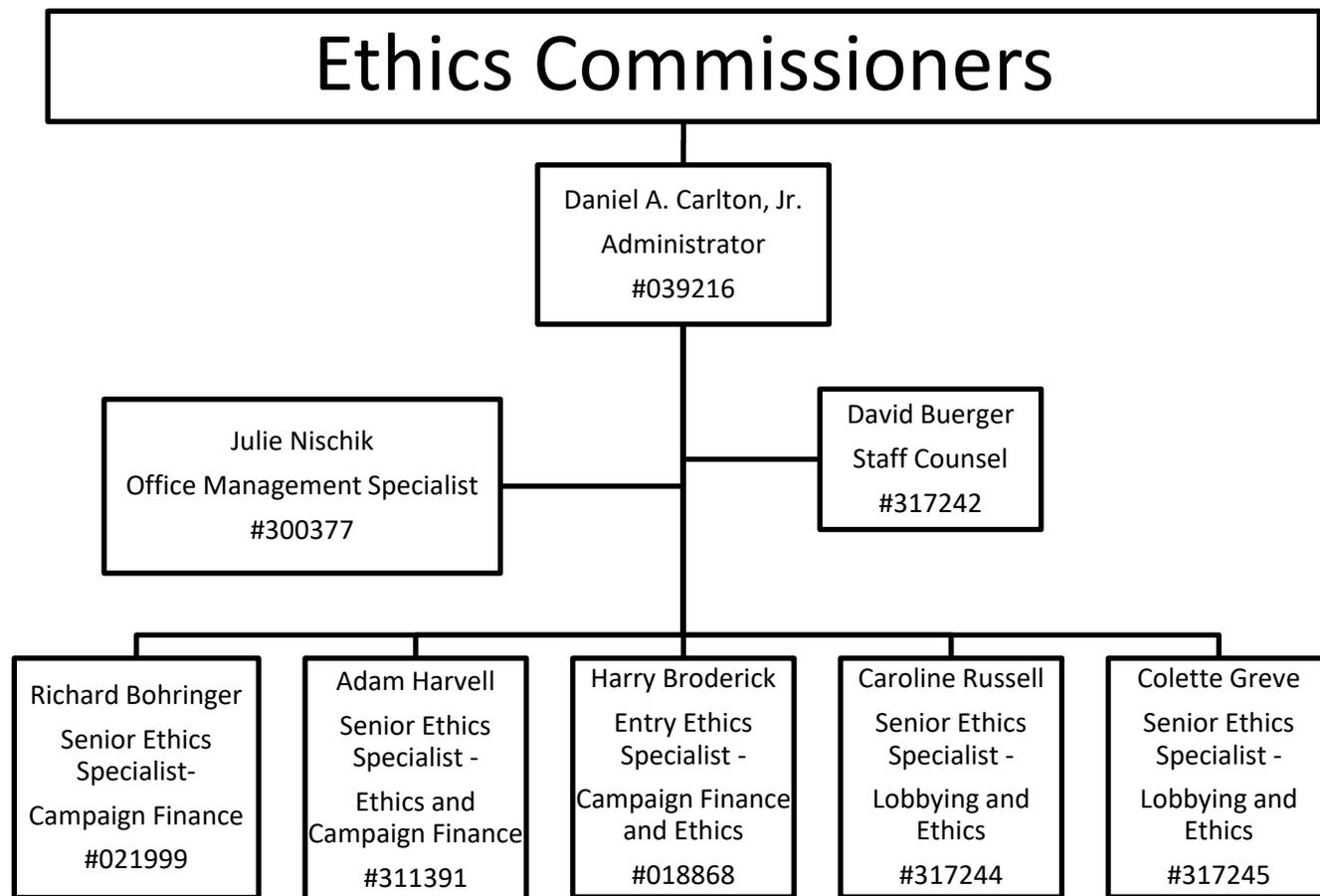
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensure compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws. 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 review 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 Ethics Specialists include the following:

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

Organizational Chart



Recommendations for Potential Legislation

These recommendations 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. The Ethics Commission asks that the Legislature consider addressing the issues outlined below through legislation. The Ethics Commission approved these recommendations at its meeting on August 20, 2019. Commission staff is available to assist Legislators and their staff regarding any of the potential changes addressed in this memorandum, as well as any other potential changes to the statutes that the Commission administers.

2016 & 2017 Recommendations for Potential Legislation

In 2016, the Ethics Commission adopted 23 recommendations for potential legislation. In 2017, the Commission adopted 7 more recommendations. The full text of those recommendations is available in both of the Ethics Commission's Annual Agency Reports for 2017 and 2018 which are available on the Commission's website.

2018 Recommendations for Potential Legislation

In its 2018 Annual Report, the Commission included one additional legislative recommendation, which is summarized below.

Campaign Finance (Chapter 11, Wisconsin Statutes)

In response to RA-2018-001, regarding the use of cryptocurrencies for campaign contributions and disbursements, the Ethics Commission decided to exercise the option granted by WIS. STAT. § 19.46(2)(c)(4) to refer the matter to the standing legislative oversight committees. On May 4, 2018, the Commission sent letters to the Senate Committee on Elections and Local Government and the Assembly Committee on Constitution and Ethics detailing the Commission's concerns on this matter. Appendix L contains this letter.

2019 Recommendations for Potential Legislation

At its meeting on December 11, 2018, the Commission directed staff to work with the Legislative Reference Bureau to exercise the agency's drafting privileges regarding the legislative recommendations to date. In calendar year 2019 to date, the Commission has added two additional legislative recommendations.

Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)

The Commission inherited Guideline 1235 from its predecessors. This Guideline addresses recommendations concerning the disposition of items that a covered official may receive but is not allowed by law to accept. The Guideline provides that the official may take one of the following actions:

- Turn the item over to the agency, if the item is one the agency can use or sell;
- Turn the item over to another state agency or to a public institution, such as a local school, library, or museum that can use the item;
- Donate the item to a charitable organization (other than one with which the official or a family member is an officer, director, or agent);
- Return the item to the donor; or
- If the donor is neither a lobbyist nor an organization that employs a lobbyist, purchase the item (by paying the donor the full retail value), and retain it.

2018 Act 369 requires guidance documents that the Commission issues or maintains to have a certification attesting that the document does not have any standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule. While WIS. STAT. § 19.56(4) contains a statutory provision that is similar in nature to Guideline 1235, that Guideline has historically been more broadly applied by the Commission and its predecessors than contemplated by WIS. STAT. § 19.56(4). The Commission has recommended that this longstanding practice be codified.

The other new legislative recommendation in the area of lobbying concerns receipt of food, drink and other items from lobbyists or principals. WIS. STAT. § 13.625 contains a broad prohibition on a lobbyist or principal giving, and state public officials accepting, anything of value. There is a statutory exception that allows a state public official to accept from a principal "transportation, lodging, food, meals, beverages, or any other thing of pecuniary value which is also made available to the general public."

The Commission inherited Guideline 1211, which addresses what state public officials may accept and retain. This Guideline advises that a state public official may accept from anyone, even a lobbyist or principal, food and drink at an event conducive to the discussion of state governmental processes, proposals, and issues if he or she pays the highest of the price charged others, the food or drink’s true value, or the sponsor’s cost. The source of this policy statement is a direction to staff that is reflected in minutes of the Ethics Board meeting on March 8, 1995, advising staff not to interpret and apply the lobbying law to prohibit receipt of these items from a lobbyist or principal. However, there is limited basis in statute to support this interpretation. As with the previous legislative recommendation, there is insufficient statutory basis for the Commission to certify a revision of this Guideline, as required by 2018 Act 369, that includes reference to this practice. Since this practice has been in effect since at least 1995, the Commission has recommended that a narrow statutory exception be created to expressly allow the acceptance of food and beverage from a lobbyist or principal at events that are conducive to the discussion of state governmental processes, proposals, and issues. The state public official could accept the food or beverage if he or she pays the highest of either the actual cost incurred by the lobbyist or principal or the cost of admission to the event. The Commission also recommended that a state public official be allowed to attend such an event at no cost if he or she does not eat or drink and there is no discreet cost of admission.

Determinations and Advisory Opinions Issued Under WIS. STAT. § 19.46(2)

The table below provides a summary of requests for advisory opinions the Commission has received during fiscal year 2020, between July 1, 2019, and June 30, 2020. Below each request is a summary of the Commission’s determinations and any advisory opinion issued related to that request, where applicable.

Request #	Description	Type
RA-2019-14 2019 ETH 02	Candidate Screening Processes	Informal Opinion Formal Opinion
It is the opinion of the Commission that neither the pledge of support described nor the answer to the candidate screening interview question described would violate WIS. STAT. § 19.45(13) as it would not be with respect to any proposed or pending matter.		
RA-2019-19	Former Official Participation in Similar Project	Informal Opinion
It is the opinion of the Commission that a former state public official is not prohibited by WIS. STAT. § 19.45(8)(c) from acting for compensation on behalf of a party other than the state in a matter where the initial steps undertaken during the official’s tenure did not yet constitute an application.		
RA-2019-20	Conflict of Interest of a Subcontractor	Informal Opinion
It is the opinion of the Commission that an official should refrain from participating in official action, including discussion, deliberation, and votes, related to an entity if the official has a substantial financial interest that could be affected or if the official could personally substantially benefit from the official action. The official is not prohibited from participating in any official action which would affect an entire class of similar interests and would not affect the official’s interests more substantially or differently than that of the rest of the class.		

Request #	Description	Type
RA-2019-21	State Public Officials Test Driving Electric Vehicles	Informal Opinion
<p>It is the opinion of the Commission that neither the lobbying law nor the Code of Ethics would be violated if a lobbying principal provides test drives of electric and alternate fuel vehicles to legislators and legislative staff as a test drive is not “anything of pecuniary value,” “anything of value,” or “transportation” as those terms are used in WIS. STAT. §§ 13.625(3), 19.45(3), (3m).</p>		
RA-2019-22	Co-hosting Broadband Listening Session with Broadband Provider	Informal Opinion
<p>It is the opinion of the Commission that a legislator may serve as a co-host of a broadband listening session and the broadband provider may advertise that session, including a reference to the legislator. The legislator may accept refreshments at the event consistent with the exceptions to the Code of Ethics.</p>		
RA-2019-23	Membership on a Lobbying Principal Board	Informal Opinion
<p>It is the opinion of the Commission that a state public official is not prohibited from concurrently serving on both a lobbying principal’s board and an examining board, nor is the official prohibited from participating in matters before the examining board due to the positions or actions taken by the lobbying principal unless the official action contemplated would have a substantial effect on a matter where the lobbying principal has a substantial financial interest or would produce a substantial benefit to the lobbying principal.</p>		
RA-2018-24	Participation in an International Delegation	Informal Opinion
<p>It is the opinion of the Commission that the state public officials described may attend an international conference as part of the Wisconsin delegation and accept payment of travel expenses consistent with the exceptions to the Code of Ethics. The officials should be mindful of the prohibitions of the Code of Ethics before accepting anything of value that is offered to them in their official capacities while attending the conference. An official required to file a Statement of Economic Interests should also be mindful of the need for disclosure of the identity of any person from which the official received gifts in excess of \$50.</p>		
RA-2019-25	Solicitation	Informal Opinion
<p>It is the opinion of the Commission that not all individuals described are subject to the lobbying or ethics laws. To the extent that an individual is a covered official, those individuals are restricted from engaging in solicitations of lobbyists or lobbying principals, or solicitations that could reasonably be expected to influence the official’s vote, official actions, or judgment, or could reasonably be considered a reward for past action or inaction, except as provided. Individuals who are not covered officials may not solicit on behalf of a covered official if that official would be prohibited from directly making such a solicitation.</p>		

Request #	Description	Type
RA-2019-26	Participation in an International Delegation	Informal Opinion
<p>It is the opinion of the Commission that the state public officials described may attend an international conference as part of the Wisconsin delegation and accept payment of travel expenses consistent with the exceptions to the Code of Ethics. The officials should be mindful of the prohibitions of the Code of Ethics before accepting anything of value that is offered to them in their official capacities while attending the conference. An official required to file a Statement of Economic Interests should also be mindful of the need for disclosure of the identity of any person from which the official received gifts in excess of \$50.</p>		
RA-2019-27	Participation in an International Delegation	Informal Opinion
<p>It is the opinion of the Commission that the state public officials described may attend an international conference as part of the Wisconsin delegation and accept payment of travel expenses consistent with the exceptions to the Code of Ethics. The officials should be mindful of the prohibitions of the Code of Ethics before accepting anything of value that is offered to them in their official capacities while attending the conference. An official required to file a Statement of Economic Interests should also be mindful of the need for disclosure of the identity of any person from which the official received gifts in excess of \$50.</p>		

Request #	Description	Type
RA-2019-28	Use of Social Media Accounts	Informal Opinion
2020-ETH-01		Formal Opinion
<p>It is the opinion of the Wisconsin Ethics Commission that:</p> <ol style="list-style-type: none"> 1. Where the sender requests or intends for an initial recipient(s) to share the original communication with others, the Commission would count the republications by the initial recipient(s) done at the request of the original sender as if they were done by the original sender. 2. An elected official would likely be in violation of WIS. STAT. § 11.1205 if paying for a newspaper advertisement using public funds during the campaign period because the newspaper will likely print more than 50 copies. 3. An elected official would not be prohibited by WIS. STAT. § 11.1205 from using public funds to pay for a radio advertisement during the campaign period as a radio advertisement is a single broadcast. However, any single radio advertisement should not be played more than 49 times. 4. An elected official would likely be in violation of WIS. STAT. § 11.1205 if paying to mail a legislative newsletter to a Postal patron route or “Every Door Direct Mail” list with public funds during the campaign period. 5. Paid promotion of a social media post or tweet by an elected official with public funds during the campaign period would likely be prohibited by WIS. STAT. § 11.1205 as it would likely involve distribution of more than 49 pieces of substantially identical material. 6. Legislative staff may only post and manage legislative content on a mixed-use website or social media account while on state time and where such materials are distributed more broadly to the press and public. Legislative staff may only post personal, business, or campaign content to a mixed-use website or social media account on personal time and without the use of state resources. 7. Paid promotion of a mixed-use social media account could potentially benefit the official, their immediate family, or organizations with which the official is associated via other content contained within and disseminated by that mixed-use social media account (i.e., business, campaign, etc.) Therefore, the Commission advises against officials using state resources to promote mixed-use social media accounts as it could be a potential violation of WIS. STAT. § 19.45(2). 		
RA-2019-29	Conflict of Interest of Subcontractor	Informal Opinion
<p>It is the opinion of the Commission that neither the official, an immediate family member, or an organization with which the official is associated with has a substantial interest in the matters described. Neither matter would produce or assist in the production of a substantial benefit to the official, an immediate family member, or an organization with which the official is associated. Nor is there any indication that the official, an immediate family member, or an organization with which the official is associated would obtain financial gain or anything of substantial value as a result of either matter. Therefore, the official is not prohibited from participating in, or voting on, the issues described.</p>		
RA-2019-30	Acceptance of an Award	Informal Opinion
<p>It is the opinion of the Commission that the laws administered by the Commission do not pose any obstacle to an agency official accepting an award of no pecuniary value from a lobbying principal.</p>		

Request #	Description	Type
RA-2019-31	Legislator Attending and Presenting at a Conference Hosted by a Lobbying Principal	Informal Opinion
<p>It is the opinion of the Commission that a legislator may accept airfare, transportation, meals, and beverages from a lobbying principal under both the state's ethics and lobbying laws to the extent that they are actual and reasonable costs related to presenting a talk or participating in a meeting. Unless an exception applies, the legislator is required to identify the principal providing these expenses on the legislator's next Statement of Economic Interests.</p>		
RA-2019-32	Legislator Attending and Presenting at a Conference Hosted by a Lobbying Principal	Informal Opinion
<p>It is the opinion of the Commission that a legislator may accept airfare, transportation, meals, and beverages from a lobbying principal under both the state's ethics and lobbying laws to the extent that they are actual and reasonable costs related to presenting a talk or participating in a meeting. Unless an exception applies, the legislator is required to identify the principal providing these expenses on the legislator's next Statement of Economic Interests.</p>		
RA-2019-33	Conflict of Interest	Informal Opinion
<p>It is the opinion of the Commission that the laws administered by the Commission do not pose any obstacle to a local public official who has no personal financial interest from participating in a vote amending the zoning of the parcels of land described. While it is clear that the local public official's parents would benefit from the official action, parents are not "immediate family members" unless either the official provides them more than half of their support or they provide the official more than half of the official's support.</p>		
RA-2019-34	State Public Official Letter of Endorsement	Informal Opinion
<p>It is the opinion of the Commission that an official writing a letter of endorsement for an entity the official is not associated with is not prohibited by either WIS. STAT. § 19.45(2) or WIS. STAT. § 19.46(1)(b).</p>		
RA-2019-35	Candidate Forums	Informal Opinion
<p>It is the opinion of the Commission that the laws administered by the Commission do not prohibit a lobbying principal from hosting candidate forums no matter whether only a single candidate is invited or chooses to attend, so long as there is no transfer of any property or service.</p>		
RA-2019-36	Conflict of Interest	Informal Opinion
<p>It is the opinion of the Commission that a state public official may participate in anticipated rulemaking despite a personal financial interest in situations where the rule would impact an entire class of similarly situated interests, where the official's interest is insignificant when compared to all affected interests in the class, and where the official action's effect on the official's private interest would neither be significantly greater nor less than upon other members of the class.</p>		

Request #	Description	Type
RA-2019-37 2020 ETH 02	Duties Exclusive or Non-Exclusive to Lobbying	Informal Opinion Formal Opinion
<p>It is the opinion of the Commission that to the extent the lobbyist duties described include grassroots efforts or tasks related to things other than lobbying or lobbying communications, the duties are not exclusively limited to lobbying. Therefore, the lobbyist described must be authorized by the fifth day of lobbying communication on behalf of the lobbying principal within a six-month period.</p>		
RA-2019-38	Acceptance of Theatre Tickets	Informal Opinion
<p>It is the opinion of the Commission that a state public official may accept theatre tickets from an friend who is employed by a lobbying principal, but who is not a lobbyist, despite the fact that the tickets originated from the employer where the friend is allowed to provide the tickets to whomever they wish, there is no use of office to obtain the tickets, and the official believes they have clear and convincing evidence that the tickets are being provided for a reason unrelated to holding public office.</p>		
RA-2019-39	Application of Lobbying Laws to Requests for Technical Assistance	No Opinion Offered
<p>This request for an opinion was withdrawn prior to any opinion being offered by the Commission.</p>		
RA-2019-40	Conflict of Interest	Informal Opinion
<p>It is the opinion of the Commission that in circumstances where an official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest in the matter, the official should refrain from acting an official capacity and the official should recuse from any discussions or votes on the matter. As an employee is not necessarily associated with his or her employer, in situations where the official's employer has a substantial financial interest in a matter, recusal is not always required. However, it is reasonable to expect an individual's judgment to be affected by their loyalty to their employer and so the safest course of action for the employee is to recuse from any official discussions or votes involving their employer. An official may also wish to recuse from any official action where they feel they may have any conflicting loyalties due to the common law duty of undivided loyalty.</p>		
RA-2019-41	Acceptance of Conference Expenses	Informal Opinion
<p>It is the opinion of the Commission that the officials described are subject to the code of ethics and therefore acceptance of conference expenses from another may be limited to those items permitted by the exceptions to the code of ethics. If an official is required to file a Statement of Economic Interests, any expenses accepted in excess of \$50 should be reported on the next SEI if accepted as honorarium, gifts, or expenses related to official duties. Alternatively, the candidate committee of an official may also pay the expenses described if they are not for strictly personal use and, if doing so, the committee would be required to report the expenses on its next campaign finance report. An official need not report on his or her SEI expenses accepted from a committee if otherwise properly reported by the committee.</p>		
RA-2019-42 2020 ETH 03	Application of 50-Piece Rule to Communications with Petition Signatories and Newspaper Advertisements	Informal Opinion Formal Opinion
<p>It is the opinion of the Commission that a legislator subject to the 50-Piece Rule who receives a petition may respond to each petition signatory under the exception for answering communications of constituents. The Commission has also determined that, in the case of a newspaper advertisement, there is an individual piece for each printed copy of a newspaper that is produced. Therefore, a newspaper ad would violate the 50-Piece Rule if there are more than 50 individual newspapers produced containing the advertisement.</p>		

Request #	Description	Type
RA-2019-43	Event Invitation by Lobbying Principal to Spouse of Official	Informal Opinion
<p>It is the opinion of the Commission that neither the lobbying law nor the code of ethics prohibits the official from accepting the offer described. The lobbying laws' restrictions only apply to items of pecuniary value given by lobbyists or lobbying principals to covered officials, not their spouses. If the direct invitee is allowed to bring a guest, a covered official may be that guest provided there is no indication the lobbyist or lobbying principal is attempting to do indirectly what they could not do directly. Additionally, it does not appear that the invitation has any relation to the official's position or is in any way related to official actions. As to those provisions that do not require a use of office, there is an exception for situations where the things of value are being offered for reasons completely unrelated to holding public position. While the burden would ultimately be on the official to prove that the exception would apply if a complaint were to be filed, it appears the official would have sufficient evidence to meet that burden.</p>		
RA-2019-44	Lobbying Principal Gift to Non-Statutory Committee	Informal Opinion
<p>It is the opinion of the Commission that an agency official on a non-statutory committee created by executive order may accept educational or informational material provided by a lobbyist or principal. Alternatively, the non-statutory committee may wish to collaborate with the Department of Tourism to solicit the items described. As the gift would not appear to provide any private benefit and is solely a public benefit, it appears unlikely to present an issue under the code of ethics.</p>		
RA-2019-45	Reserve Judge Providing Mediation Services to a Lobbying Principal	Informal Opinion
<p>It is the opinion of the Commission that a person holding a judicial position should refrain from accepting payment from a lobbying principal for mediation or arbitration services except where he or she believes the lobbying principal can demonstrate that the principal selected him or her to provide mediation or arbitration services as a result of an objective selection process open to a substantial number of similar mediators or arbitrators, not unduly limited geographically, that gives no special advantage to state officials.</p> <p>If the person holding a judicial position is selected to provide mediation services by an insurance company or law firm independent of the suggestions, desires, or advice of the lobbying principal, and the lobbying principal has no right to select or veto the person's hiring, or accept or reject or approve or disapprove of the person's work, then the person may accurately be seen as working for the insurance company or law firm and not the lobbying principal and may accept payment from the insurance company or law firm. Alternatively, if the person is appointed by the court to conduct a mediation and payment for those services are made by a lobbying principal to the court, the person may accept payment from the court system.</p>		

Request #	Description	Type
RA-2019-46	Research Subscription Services and Joint Research Projects	Informal Opinion
<p>It is the opinion of the Commission that as described in your request, the two structures for obtaining research that you have presented would not result in a contribution, in-kind or otherwise, to a committee that subscribes to, or contracts for, such services. As described, both structures would have, or would establish, uniform prices (including tiered pricing packages) and those services would be available to anyone at the established prices, regardless of whether the purchaser or subscriber is a committee. Those prices would ensure that the entity providing the services would recoup its expenses and generate a commercially reasonable profit. A committee that purchases those services in the manner described in your request would either have made a disbursement or incurred an obligation, depending on the facts of that purchase. The committee would be required to report the disbursement or obligation on the appropriate campaign finance forms.</p>		
RA-2019-47	Legislator Recording Video for Partisan County Party Committee	No Opinion Offered
<p>This request for an opinion was withdrawn prior to any opinion being offered by the Commission.</p>		

Request #	Description	Type
RA-2019-48	Acceptance of Cheese Samples from a Constituent	Informal Opinion
<p data-bbox="198 218 1429 615">It is the opinion of the Commission that under the lobbying law, a lobbyist or lobbying principal may not give “food, meals, beverages, money, or any other thing of pecuniary value” to a legislative employee or elective state official, except as specifically permitted. While the exception for educational or informational materials has not previously been applied to samples of food, the Commission does not think it is an unreasonable application of the law if the officials in question are being asked to take official action regarding a particular food and the sample provides the official with some sort of information that may be of value to their official deliberations. The Commission would however caution officials against accepting the sample if it does not present any such informational opportunity. Alternatively, if the constituent is a lobbying principal, another option to consider is making the cheese samples available to the public.</p> <p data-bbox="198 655 1429 1125">Under the code of ethics for state public officials, an official may not accept “food or beverage” except as permitted. One of the exceptions to the ethics code is that an official may accept food or beverage on behalf of the state if the official can show by clear and convincing evidence that the receipt of the food and beverage was primarily to the benefit of the state and not primarily for the private benefit of the official or any other person. While not explicitly stated like in the lobbying law’s exception, as above, the Commission believes that there is a reasonable argument that an official could accept a small sample of cheese when being called upon to take official action regarding that type of cheese if the acceptance provides some sort of information which could assist the official in their official deliberations as that would primarily be a benefit to the state in having informed decisionmakers. However, again, if the official would gain no new information by partaking of the cheese, the Commission would caution against accepting the cheese under this exception as without the informational content, all that remains would be the private benefit to the official.</p> <p data-bbox="198 1165 1429 1455">Alternatively, if the provider is not a lobbyist or lobbying principal, the official may also accept the cheese if the official pays the price charged to all others if the event is open to the public (if free to all others, the official may also accept for free), or if the event is not open to the public, the highest of: (1) the price charged to others, (2) the item’s true value, or (3) the furnisher’s cost, provided the opportunity to purchase the item itself is not a thing of value. At that point, the official is partaking of the cheese on the same terms as any other person and the official may avail themselves of the exception provided for items offered for reasons unrelated to hold state public office.</p> <p data-bbox="198 1495 1429 1747">The Commission would also issue a note of caution that even in situations where it may be legally permissible to accept an item, an official’s acceptance may present the appearance of impropriety. Certainly, the acceptance of free samples of cheese could be seen by the public as improper, especially when considering an official action that could provide a benefit to the persons providing the officials with cheese. While state public officials are not required to avoid the mere appearance of impropriety, it is something that officials may wish to consider prior to accepting a sample as well as when determining the size of the sample they consume.</p>		

Request #	Description	Type
RA-2019-49	Acceptance of Travel Expenses to Attend Bowl Game in Official Capacity	Informal Opinion
<p>It is the opinion of the Commission that a state public official may accept a ticket to a bowl game and lodging at a hotel as part of an official travel party if acceptance of those expenses was primarily to the benefit of the state. While the burden of proof for meeting this exception will ultimately fall on the official, it is our understanding of the facts and past practices of similar events that similar attendance as a member of the official travel party at this event would primarily be a benefit to the state. If the official chooses to accept admission to any other events offered to him or her in his or her role as a member of the official travel party, he or she may similarly be able to accept where the acceptance would primarily benefit the state and not the official personally. However, the Commission would advise against accepting admission to events where the official’s role is uncertain or only tenuously related to the interests of the state unless some other exception were to apply.</p> <p>If the official is required to file a Statement of Economic Interests (“SEI”), the official should ensure the organizations providing for his or her travel expenses should be identified on the official’s next SEI.</p>		
RA-2019-50	Municipality Contracting with Company Employing Local Public Official’s Spouse	Informal Opinion
<p>It is the opinion of the Commission that a local public official is not associated with his or her spouse’s employer and is therefore not prohibited from taking official action where the employer has a substantial financial interest. The local public official’s spouse’s compensation is something of substantial value and personal benefit, therefore, the code of ethics would prohibit the official from taking official action that would affect the spouse’s compensation. From our understanding of the facts, the spouse’s compensation will not be affected by the official action contemplated, therefore, the official is not prohibited from taking official action. However, the official should be mindful of his or her duty of undivided loyalty to the municipality and may wish to recuse from any official action if the official feels he or she may have conflicting loyalties due to the spouse’s employment with the company.</p>		
RA-2020-01	Applicability of Post-Officeholding Restrictions	Informal Opinion
<p>Nothing in the laws within the Commission’s jurisdiction prevents a former state public official from entering, or staying in, a partnership with the other members of an LLC. There may be some restrictions on a former state public official’s participation in certain matters. As long as a former state public official does not have any interaction with officials or employees from his or her prior agency for a period of twelve months, and does not have contact with other state officials or state employees concerning matters he or she was responsible for at the former agency for 12 months, WIS. STAT. § 19.45(8)(a) & (b) are not an impediment to the other members of the LLC applying for services and loans through the official’s prior agency. Finally, the Commission has advised generally about the application of WIS. STAT. § 19.45(8)(c). Due to the fact intensive nature of inquiries concerning that section, a former state public official is encouraged to contact the Commission for guidance as specific situations or questions arise. As noted above, the restrictions in WIS. STAT. § 19.45(8) are personal to the former state public official and do not apply to the other members of the LLC.</p>		
RA-2020-02	Wearing Official Uniform to Meeting	Informal Opinion
<p>The local code of ethics does not prohibit an elected constable from wearing his or her deputy sheriff uniform to meetings of a municipal governing body. The elected official is encouraged to confirm with the Sheriff’s Department that this use of the uniform is permissible under Department rules.</p>		

Request #	Description	Type
RA-2020-03	Applying for Assistant District Attorney Position as District Attorney	Informal Opinion
<p>It is the opinion of the Commission that the Code of Ethics does not restrict a District Attorney from applying for an Assistant District Attorney position in his or her office if he or she surrenders his or her hiring authority as District Attorney. Furthermore, if he or she is offered the position, he or she may accept as long as he or she resigns as District Attorney.</p>		
RA-2020-04	Interest Payments to a Candidate	Informal Opinion
<p>The Commission advises that where a candidate takes out a personal loan from a commercial lending institution and subsequently loans those funds to their candidate committee for campaign costs, the repayment of the principal plus interest equal to or less than the amount charged by the lending institution back to the candidate is not a strictly personal use contrary to WIS. STAT. § 11.1208(2)(a). Wisconsin law does not define “strictly personal use” but prior decisions of the Commission as well as the practice of the FEC indicate that if the principal borrowed by a candidate from a commercial lending institution is campaign related, the interest accrued is also campaign related. Accordingly, a candidate may loan to their committee the principal the candidate personally received from a commercial lending institution and the candidate may personally accept payments for the principal plus interest from their committee up to the amount charged by the commercial lending institution. This opinion is limited to the arrangement as described herein.</p>		
RA-2020-05 2020 ETH 04	Contributions to Partisan Elective State Officials by Lobbyists	Informal Opinion Formal Opinion
<p>It is the opinion of the Commission that a lobbyist may contribute to partisan elective state officials and candidates for partisan elective state office during the period of time in which the “contribution window” is open, regardless of whether the individual is on the ballot for that election. Therefore, all of the following lobbyist contributions to partisan elective state officials and candidates for partisan elective state office are permissible under the applicable statutes:</p> <ol style="list-style-type: none"> <li data-bbox="243 1176 1435 1312">1. To the lieutenant governor, secretary of state, state treasurer, or attorney general or to the candidate committee of a candidate for one of these offices during the contribution window that opens prior to a general election, regardless of whether he or she is on the ballot. <li data-bbox="243 1354 1435 1491">2. To any partisan state elective official or to the candidate committee of any candidate for partisan elective state office during the contribution window that opens when a special election is called, regardless of whether the partisan elective state official or candidate is on the ballot. <li data-bbox="243 1533 1435 1648">3. To the federal campaign committee of a partisan elective state official during the contribution window that opens for a general or special election, regardless of whether the federal election or partisan official is on the ballot. <li data-bbox="243 1690 1435 1791">4. To the local campaign committee of a partisan elective state official during the contribution window that opens for a general or special election, regardless of whether the local election or the partisan official is on the ballot. 		

Request #	Description	Type
RA-2020-06	Lobbying Law Open to the General Public Exception	Informal Opinion
<p>There is no indication that the membership criteria described gives a preference or confers an advantage to covered officials. Further, the same offer or notice of the availability of the things of pecuniary value is given to all members and all members will have the same access to them. The offer of a thing of pecuniary value in these circumstances does not have the effect of conferring an advantage to covered persons. Therefore, a membership organization that is a lobbying principal could furnish, and a covered person that is a member of that organization independent of his or her status as a covered person may accept, things of pecuniary value made available to all attendees at a member-only event. However, a state or local public official should also be mindful of the potentially applicable provisions of subch. III, Ch. 19, of the Wisconsin Statutes.</p>		
RA-2020-07	Campaign Proceeds from Services at Event	Informal Opinion
<p>The arrangement to provide services at an event is permissible. However, the payment for those services would be a contribution. As the event organizer is a corporation, the political party cannot deposit that contribution in its political party's main account. Any proceeds from those services must be deposited into the political party's segregated fund account and be reported accordingly.</p>		
RA-2020-08	Permissibility of Provision of Additional Compensation	Informal Opinion
<p>It is the opinion of the Commission that a foundation may not offer or give, and a state public official may not solicit or accept, additional compensation from the foundation either to supplement the state public official's compensation for his or her existing duties or to take on additional duties for the foundation for additional compensation. Either arrangement could reasonably be seen as a reward for the official actions of the state public official contrary to WIS. STAT. § 19.45(3).</p>		
RA-2020-09	Permissibility of COVID-19 Election Impact Responses	Informal Opinion
<p>The provisions of the Code of Ethics do not prohibit a legislator or his or her legislative staff from advising whether the Spring Election will occur as scheduled, advising whether the Spring Election has been delayed or cancelled, or from advising that a voter may request an absentee ballot through the myvote.wi.gov website. WIS. STAT. § 11.1205 would be implicated if the legislator is a candidate on the Spring Election Ballot or if the Spring Election is moved to a date after April 15, 2020.</p>		
RA-2020-11	50-Piece Rule Exemption for Communications Related to Public Health Emergency	Informal Opinion
<p>The exemption created by 2019 Wisconsin Act 185 allows legislators to communicate regarding the public health emergency declared in Executive Order 72. This exemption is in effect until June 10, 2020, unless modified. The exemption applies broadly to communications that are solely related to the public health emergency, such as public health information, its effect on governmental operations, and its effect on public policy. The exemption does not require a specific reference to the Executive Order or the public health emergency as long as the communication clearly addresses the public health emergency. Each house of the Legislature is the judge of whether the communications are permissible under the public purpose doctrine. As such, legislators and staff are encouraged to vet communications with the Chief Clerk to assure compliance with chamber rules and the public purpose doctrine.</p>		

Request #	Description	Type
RA-2020-13	Conflict of Interest	Informal Opinion
<p>It is the opinion of the Commission that the laws administered by the Commission do not pose any obstacle to the agency’s current practice of accepting voluntary donations to a foundation and transferring those contributions to the foundation, the agency accepting contributions from the foundation, or a board member’s service on the foundation’s grants committee or the writing of thank you notes to foundation donors. The laws administered by the Commission may pose an obstacle to the board member participating in his or her capacity as an agency board member in any official actions or discussion regarding the MOA between the agency and the foundation and we would strongly advise contacting the Commission to seek further advice if the board member would like to participate in any such official action.</p>		
RA-2020-14	Virtual Commencement Speech and 50-Piece Rule	No Opinion Offered
<p>This request for an opinion was withdrawn prior to any opinion being offered by the Commission.</p>		
RA-2020-15	Appearance at Graduation Ceremony and 50-Piece Rule	Informal Opinion
<p>The 50-Piece Rule does not apply to a legislator’s participation in a virtual graduation if the legislator will not be using any state resources or public funds to participate.</p>		

Request #	Description	Type
RA-2020-17	Use of Internet Service and Facilities at a County Party Office	Informal Opinion
<p>As to WIS. STAT. § 19.45(2), the facilities and the internet services provided at the county party resource center are available to anyone who would like to use them at no cost. A legislator would personally receive a thing of value by having a space with higher quality internet to conduct official business. However, there is no indication that the legislator used his or her official position or office to gain access to the facilities or to use their services. There is no indication that the legislator is getting special access or treatment due to his or her position. The legislator would be simply following the same policies as any other person would to access and use the facilities. As there appears to be no use of the legislator’s position or office to obtain the rights to use the facility and its internet services, WIS. STAT. § 19.45(2) would not be violated by a legislator’s use of the facilities and internet service there.</p> <p>Concerning WIS. STAT. § 19.45(3), it is clear that the legislator would be accepting use of the facilities and internet service. However, the legislator has not indicated that there is any official business concerning the county party coming up in the Legislature. Nor does there appear to be any official action that the legislator has recently taken concerning the county party. Further, when facilities and internet services are being made available to the public on the same terms as the legislator would receiving, it does not appear that a reasonable person could conclude that a legislator’s use of the facilities and internet are being given to influence the legislator’s vote, official action, or judgment. Nor would it appear it could reasonably be seen as a reward for past official action or inaction. The legislator is simply availing himself or herself of the same opportunity that any other member of the public has. Therefore, it does not appear that WIS. STAT. § 19.45(3) would be violated by a legislator’s use of the facility and its internet services.</p> <p>Finally, concerning WIS. STAT. § 19.45(13), this prohibition does not appear to apply because the only use of the facility and internet service described is for legislative business. Since there is no indication that the legislator would be using the facilities for campaign business, using the facility and internet service would not be a campaign contribution. Nor is there any indication that the legislator has offered, given, withheld, or offered to promise or withhold his or her vote or influence, or taken or refrained from taking, any official action in exchange for a contribution. Finally, there currently does not appear to be a proposed or pending matter in the Legislature affecting the county party. Therefore, it does not appear that WIS. STAT. § 19.45(13) applies.</p>		

Request #	Description	Type
RA-2020-19	Conflict of Interest	Informal Opinion
<p>Nothing in Wisconsin’s ethics laws prohibits an individual from holding positions on the boards of corporations while serving as a state public official. In the event that the official, an immediate family member, or an organization that the official is associated with may benefit if the official take official action or uses his or her position, the official may want to recuse from the matter. There may be times where an official is permitted to act even though the official, an immediate family member, or an organization that the official is associated with may benefit. If a specific circumstance arises, the Commission can provide advice specific to those circumstances.</p> <p>As for guidance on avoiding conflicts or the appearance of conflicts, an official may want to consider publicly disclosing his or her relationships with associated organizations if a matter comes before the official that affects those organizations. Finally, an official in this position will have an opportunity to evaluate for potential conflicts of interest when preparing and filing the Statement of Economic Interests. While it is commonly thought of as a tool to help the public evaluate an official’s potential conflicts of interest, completing a Statement of Economic Interests is also an opportunity for an official to evaluate for potential conflicts of interest.</p>		

Summary of Investigations Conducted

The Ethics Commission is required by WIS. STAT. § 19.47(5) to specify in its annual report the total number of investigations conducted by the Commission since its last annual report and include a description of the nature of each investigation, including whether the investigation related to campaign finance, ethics, or lobbying. The required information is provided in the table below.

Case #	Nature of the Investigation	Campaign Finance?	Lobbying?	Ethics?
2019-ETH-36	Conflict of Interest	No	No	Yes
2019-ETH-37	Use of Office for Private Gain	No	No	Yes
2019-ETH-38	Conflict of Interest	No	No	Yes
2019-ETH-39	Conflict of Interest	No	No	Yes
2019-ETH-40	Conflict of Interest	No	No	Yes

Policies and Procedures of the Commission

Current policies and procedures adopted by the Commission are provided as appendices to this report. If the Commission makes changes to current policies or adopts new policies, those actions will be promptly reported as required under WIS. STAT. § 19.47(9)(a). All of the policies and procedures listed in the appendices to this report were approved or reapproved by the Commission at its meeting on August 18, 2020.

Appendix A: Statutory Duties and 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.	https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx
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.	https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx
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.	https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx
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.	https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx
11.1304(4)	Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.	https://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.
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). The Commission shall provide complete instructions to any committee that files a report under this subsection.	Every committee that is required to file with the Commission files electronically. 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.

Statute	Language	Summary
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.	https://campaignfinance.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.
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 by staff, as required.
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 https://campaignfinance.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.

Statute	Language	Summary
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.
11.1304(16)	Make available a list of delinquents for public inspection.	The Commission publishes a list of late filers on its website after each campaign finance report filing deadline. The Commission has not yet determined a policy for how to complete this requirement for all other campaign finance reporting requirements.
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 an 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: https://lobbying.wi.gov
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)	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.	The Commission 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.
13.695	(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: (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.	Agencies complete their reporting through a customized application within the Eye On Lobbying website: https://lobbying.wi.gov
13.74	(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.	The Commission conducts audits of all lobbying reports consistent with its lobbying program auditing schedule: https://ethics.wi.gov/Pages/Enforcement/Audits.aspx .

Statute	Language	Summary
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.</p> <p>(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. Fees may be paid on the Commission’s website by ACH, credit card or debit card. There is a 2.5% surcharge to recover the actual cost associated with payments made via credit card or debit card.</p>
15.04(1)(d)	<p>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.</p>	<p>19.47(5) requires the Commission to report annually the information required under 15.04(1)(d).</p>
15.06(5)	<p>FREQUENCY OF MEETINGS; PLACE. Every commission shall meet on the call of the chairperson or a majority of its members. Every commission shall maintain its offices in Madison, but may meet or hold hearings at such other locations as will best serve the citizens of this state. The elections commission and the ethics commission shall meet in person at least 4 times each year and shall conduct meetings in accordance with accepted parliamentary procedure.</p>	<p>The Commission maintains its Madison office at 101 East Wilson Street, Suite 127; the Commission holds at least four in-person meetings per year.</p>
19.43	<p>Collect Statements of Economic Interests from appointees, nominees, candidates, and continuing officials, and quarterly reports of economic transactions from Investment Board members and employees.</p>	<p>The Commission collects paper reports from Investment Board members and new candidates. All other public officials renew yearly statements of economic interests via https://sei.wi.gov</p>

Statute	Language	Summary
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 addressed within the Commission's settlement schedule for late SEI filings: https://ethics.wi.gov/Pages/Enforcement/SettlementSchedules.aspx .
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 complies with these requirements regarding any requested or issued any formal or informal advisory opinions. Additional information about requests for advice is available in a separate section of this report.
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 authorized the Administrator to issue informal advisory opinions on its behalf at its meeting on March 7, 2017. Since that authority was delegated, the Administrator has reported informal advisory opinions issued at the next regularly scheduled meeting of the Commission in accordance with this section of the statutes.
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 has also researched 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 Daniel A. Carlton, Jr., to serve as the Commission 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). The Commission will submit reports annually that cover each fiscal year.
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.
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).	Policies and procedures adopted by the Commission are included in the annual report and are annually adopted with the approval of this report.

Statute	Language	Summary
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 complies 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.	The Commission is aware of this and will exercise its discretion to do so where appropriate.
19.47(10)	EMPLOYEES. All employees of the Commission shall be nonpartisan.	The Commission adopted a nonpartisan staff policy, which is included with this annual report.
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.	https://docs.legis.wisconsin.gov/code/ad_min_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.
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.

Statute	Language	Summary
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 available, consistent with the agency's public records request policy.
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.
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.

Statute	Language	Summary
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.	https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx
19.49	Follow statutory procedures for complaints outlined within this provision of statutes.	The Commission has established complaint procedures that comply with all statutory requirements.
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's standard settlement schedules are set forth in WIS. ADMIN. CODE CH. ETH 26.
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.
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.

Statute	Language	Summary
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 and the Commission annually approves the audit schedule.
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.
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	<p>(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).</p> <p>(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.</p>	The Commission complies with this requirement as applicable.
20.9305(2)(e)	<p>The governor shall post on the Internet site maintained by the ethics Commission under s. 16.753 all of the following:</p> <p>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.</p> <p>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.</p>	The Commission complies with this requirement related to contract sunshine.
49.857(2)	<p>(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.</p> <p>(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.</p>	MOU in place with DCF for lobbyist license checks; checks are being conducted.
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:</p> <p>73.0301(2)(a)1.</p> <p>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.</p> <p>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.

Statute	Language	Summary
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 in place with DWD for lobbyist license checks; checks are being conducted.
778.135	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.	Forfeitures received are transferred through the Department of Administration and the Bureau of Public Lands to the Common School Fund.

Appendix B: Nonpartisan Staff Policy

The staff of the Ethics Commission shall be nonpartisan pursuant to WIS. STAT § 19.47(10). Political neutrality is imperative so staff can maintain the confidence of the Commission, the individuals and organizations that the Ethics Commission regulates, and the public. Therefore, all staff members are prohibited from participating in any political activity that compromises the ability of that person to discharge with neutrality, efficiency, and integrity his or her duties and obligations to the Commission.

Employees who wish to participate in any political activities shall disclose their intentions to the Administrator. If the Administrator decides an employee's involvement may reasonably compromise the employee or the Commission, the Administrator will review the situation and make a determination as to whether the involvement in the political activity is appropriate. The Administrator may also authorize employees to participate in certain activities that have a business purpose consistent with the agency's mission, that have historical significance, or are merely collateral to a prohibited political activity.

Employees are strongly encouraged to consult with the Administrator prior to any activity that may be perceived as compromising the employee's ability to objectively perform their official responsibilities.

In addition to the provisions of WIS. STAT. § 230.40, prohibited activities include, but are not limited to the following:

1. Being a candidate for any partisan office (national, state, or local).
2. Being a member of any national, state, or local political party.
3. Directly or indirectly soliciting, receiving, or making contributions to any political party or partisan candidate for public office.
4. Soliciting votes in support of or in opposition to any party or partisan candidate for public office.
5. Circulating or signing nomination papers or petitions, including recall petitions, for partisan political office.
6. Serving as an agent of any political party or partisan candidate in any capacity (e.g., polling place observer, delegate, partisan poll worker, or get out the vote activities).
7. Publicly supporting or opposing a partisan candidate for public office or political party office in a political advertisement, broadcast, campaign literature, or similar material.

Seeking Elective Office

Any employee who wishes to run for partisan elective office must take an unpaid leave of absence effective from the time nomination papers can first be circulated and must resign (or be terminated) if and when such nomination papers are filed.

Any employee who files a campaign registration statement to register as a candidate for partisan elective office prior to the time that nomination papers can first be circulated shall report that filing to the Administrator, who shall place the employee on unpaid leave until the nomination papers are filed or until the employee is no longer a candidate for partisan office.

In addition to avoiding partisan activities, staff should also avoid running for nonpartisan office if the Commission is the filing officer for that contest. This would put the staff member in the position of enforcing campaign finance regulations upon her or his own committee, or against potential opponents. Any employee seeking a nonpartisan office where the Commission is the filing officer is required to take an unpaid leave of absence from the time the employee files a campaign registration statement until the employee is no longer a candidate. If the employee is elected, the employee shall resign or be terminated.

Appendix C: Delegation of Authority for Informal Advisory Opinions Policy

The Ethics Commission is required by WIS. STAT. § 19.47(9)(a) to report adopted policies to the appropriate standing committees of the Legislature under WIS. STAT. § 13.172(3). At its meeting on March 7, 2017, the Ethics Commission adopted a policy to authorize the Commission Administrator or his or her designee to issue an informal written advisory opinion, consistent with WIS. STAT. § 19.46(2)(b). That section of the statutes states the following:

(b)

- 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.*
- 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.*
- 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.*

Additionally, WIS. STAT. § 19.46(2)(a)4 requires the Administrator to report the issuance of informal opinions to the Commission and the options the Commission may exercise upon receiving such a report:

- 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 commission may determine to issue a formal advisory opinion adopting or modifying the informal advisory opinion. If the commission disagrees with a formal or informal advisory opinion that has been issued by or on behalf of the commission, the commission may withdraw the opinion, issue a revised formal or informal advisory opinion, or request an opinion from the attorney general. No person acting after the date of the withdrawal or issuance of the revised advisory opinion is exempted from prosecution under this subsection if the opinion upon which the person's action is based has been withdrawn or revised in relevant degree.*

Adopted Policy Delegating Authority to Issue Informal Opinions

1. The request for an informal opinion must be received in writing (e.g., email, or a typed or written letter).
2. The issuance of an informal opinion must be provided in writing (e.g., email, or a typed or written letter).
3. Every informal opinion issued shall be consistent with all applicable formal advisory opinions issued by the Commission, statute or other law, and case law as required by WIS. STAT. § 19.46(2)(b)1; as well as United States and Wisconsin constitutional law.
4. The Commission Administrator, or the Staff Counsel upon delegation by the Administrator, may issue an informal opinion consistent with the policy adopted by the Commission

How to Request an Informal Advisory Opinion

We recommend that requests for informal advisory opinions explicitly state that an informal opinion is requested. Requesters should also provide as much detail as possible regarding the facts and circumstances related to the request to ensure that the opinion provided sufficiently addresses the matter. Requests can be directed to the Administrator or Staff Counsel, directly, or to the agency in general. Contact information for the Administrator, Staff Counsel, and the agency is available on our website here: <https://ethics.wi.gov/Pages/AboutUs/ContactUs.aspx>.

Appendix D: Campaign Finance Standard Settlement Schedule

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. The Commission adopted this schedule at its October 10, 2016, meeting. This schedule has since been codified in WIS. ADMIN. CODE CH. ETH 26. At its meeting on June 18, 2019, the Commission began the process of revising the standard settlement schedule and making appropriate changes to WIS. ADMIN. CODE CH. ETH 26.

Late Filing of Continuing Campaign Finance Reports-WIS. ADMIN. CODE § ETH 26.02(1)

(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.

Late Filing of Pre-Primary, Pre-Election, and Special Post-Election Reports-WIS. ADMIN. CODE § ETH 26.02(2)

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

Late Payment of Annual Filing Fees-WIS. ADMIN. CODE § ETH 26.02(3)

(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.

Late/Incomplete Filing of 72-Hour Reports-WIS. ADMIN. CODE § ETH 26.02 (4) and (5)

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.

Incomplete Contribution Information-WIS. ADMIN. CODE § ETH 26.02 (6)

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.

Cash Balance Discrepancies-WIS. ADMIN. CODE § ETH 26.02 (8)

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.

Exceeding Contributions Limits-WIS. ADMIN. CODE § ETH 26.02 (9)

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).

Prohibited Corporate Contributions-WIS. ADMIN. CODE § ETH 26.02 (10)

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).

Prohibited Lobbyist Contributions-WIS. ADMIN. CODE § ETH 26.02 (11)

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).

Appendix E: Lobbying Standard Settlement Schedule

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. The Commission adopted schedules for late filing of semi-annual reports and late reporting of first communication on a lobbying matter at its meeting on October 10, 2016. The Commission adopted schedules for unauthorized lobbying and late payment of lobbying fees at its meeting on February 27, 2018. At its meeting on June 18, 2019, the Commission amended the standard settlement schedule for late payment of lobbying fees and unauthorized lobbying.

Late filing of semi-annual lobbying report (WIS. STAT. §13.68)– WIS. ADMIN. CODE § ETH 26.03 (1) (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

Late reporting of the first communication on a lobbying matter-WIS. ADMIN. CODE § ETH 26.03 (2)

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.

Late Payment of Lobbying Fees

Calendar Days Late	Lobbyist	Principal
1-30	Warning	Warning
31-45	\$100	\$200
46-60	\$200	\$400
61+	\$300	\$600

The lobbyist is responsible for the payment of their lobbyist license fee and the principal for the fees associated with the principal registration and lobbyist authorization. (WIS. STAT. §§ 13.63, 13.75.)

Unauthorized Lobbying (WIS. STAT. § 13.65)

Violator	First Instance of Unauthorized Lobbying	Second Instance of Unauthorized Lobbying	Aggregate Total Maximum
Lobbyist	\$100 per excess communication	\$200 per excess communication	\$1,000
Principal	\$200 per excess communication	\$400 per excess communication	\$2,000

Before engaging in lobbying on behalf of a principal, a lobbyist or the principal must obtain authorization for the lobbyist to represent the principal.

Appendix F: Statements of Economic Interests Standard Settlement Schedule and Waiver Policy

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 aggravating circumstances, such as the number of previous offenses and the nature of the official's position, and may modify procedures and penalties accordingly. The Commission adopted this schedule at its meeting on October 10, 2016. This has since been codified at WIS. ADMIN. CODE CH. ETH 26.

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

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).

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 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).

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.

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. In addition, 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)

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. STAT. §§ 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 Ethics Commission may waive any financial disclosure requirement:

WIS. STAT. § 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 commission may extend the time for filing or waive any filing requirement if the commission 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 commission shall set forth in writing as a matter of public record its reason for the extension or waiver.

The Commission adopts and will apply the following considerations on a case-by-case basis in determining whether 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 to run for office an individual can take financial disclosure requirements into consideration, the Commission 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 Commission 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 commissions with limited jurisdiction and are more likely than full-time officials to have other jobs and active business interests. Such individuals' service on state commissions 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 Ethics Commission, The Elections Commission, 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 Commission 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 ought 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 Commission 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 Commission 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 Commission will give great weight to this factor.

The Commission 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 Commission will consider this as a factor in determining whether to grant a waiver.

Conclusion

The Commission 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 Commission 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 Commission 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 a statutory conflict would otherwise exist.

Appendix G: Campaign Finance Auditing Schedule

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. The Ethics Commission first reviewed and approved these procedures at its meeting on October 10, 2016. These procedures have continued to be reviewed on an annual basis and are updated as needed based on court decisions and legislative changes.

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.

Restrictions on Release of Records

The Commission is prohibited under WIS. STAT. § 19.50(1) 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 law specified in WIS. STAT. § 978.05(1) or (2). Under WIS. STAT. § 19.55(3), 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. 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.

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 on the Ethics Commission’s internal SharePoint site.
5. When potential violations are identified, staff will send out an initial communication to the committee or individual with a request to respond or resolve possible violations and may be given up to 30 days to resolve the potential violation. All notices of possible violations will be sent via email to the email addresses included in the committee’s registration statement. 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 reference the Ethic’s Commission standard settlement schedules and settlement amounts but will not include settlement agreements.
6. During the 30-day window, staff will work with committees to correct erroneous reports. If a mistake is corrected, staff will close the audit for that committee or person.
7. The audit findings will be added to the agenda for the next Commission meeting. Requests to appear before the Commission by phone or in person will be communicated to the Chair and Vice Chair for approval.
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 regularly scheduled Commission meeting for the Commission to review and determine whether to issue a settlement agreement for the amount specified in the standard settlement schedule.
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 and sign the settlement agreement. Once executed, a settlement is no longer confidential.

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 further 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.
12. Commission staff will inform the Commission of all late reports, settlement offers, paid settlements and administrative suspensions, and will compile an annual summary for each calendar year.

Audit Planning for Fiscal Year 2021 (July 1, 2020 – June 30, 2021)

Termination Audits

Period: Up to three years from the date of the most recent election in which the committee participated through Termination

Start Date: Ongoing

Termination audits cover a number of issues, such as whether the committee has \$0 cash on hand, whether the committee has \$0 in outstanding debts and loans, whether there are cash balance discrepancies, whether there is an outstanding filing fee, whether there are outstanding settlements, and other issues. These audits are conducted on an ongoing basis as committees request to terminate. If time and other work priorities permit, staff will contact unsuccessful candidates and advise them of their options regarding continued reporting, exemption, and termination. Committees identified through this audit could be subject to any of the applicable sections of the Campaign Finance Settlement Schedule.

Campaign Finance Filing Fees

Period: Annually

Start Date: January 15

Annual filing fees are due the same date that 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. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(3).

Timely Filing of Campaign Finance Reports

Period: Each Required Campaign Finance Report

Start Date: Day After 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). Committees identified through this audit could be subject the standard settlement as provided for in WIS. ADMIN. CODE ETH 26.02(1) or (2).

Pending Transactions Review (Courtesy Review Prior to Audits)

Period: Semi-Annually

Start Date: Following Each Continuing Report

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 will use a query to identify all unfiled transactions semi-annually, before the cash balance audit. This information will be gathered merely to assist committees in ensuring that all transactions that were meant to be reported are filed. Committees will be provided with notice of pending transactions and staff will recommend that committees review the transactions and file amended reports if transactions were meant to be filed or delete the transactions if they are duplicates. This action is recommended as unfiled transactions may impact all other audit results.

Cash Balance Audit

Period: Semi-Annually

Start Date: Following Each Continuing Report

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 identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(8).

Corporate Contribution Audit

Period: Annually

Start Date: Following July Continuing Report

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,” “Inc,” or “LLC.” Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(10).

Lobbyist Contribution Audit

Period: Annually

Start Date: Following July Continuing Report

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. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(11).

Anonymous and Unitemized Transactions

Period: Annually

Start Date: Following July Continuing Report

The new law effective January 1, 2016, requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(6).

Contribution Limits Audit – Spring/Fall

Period: Semi-Annually

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

The campaign period for spring candidates runs until July 31. Therefore, the final report of the campaign period is the January Continuing Report of the following year. The campaign period for fall candidates runs until the first Tuesday in January. Therefore, the final report of the campaign period is July Continuing Report of the following year.

After all reports from those periods are entered, and annual audits have been started, staff audit the campaign period for each office for violations of the contribution limits by individuals or committees. Staff conducts an annual 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.

Committees identified through this audit could be subject to the standard settlement provided for in Wis. Admin. Code ETH 26.02(9).

Name/Address

Period: Annually

Start Date: TBD

The new law effective January 1, 2016, requires committees collecting non-anonymous contributions of any amount to report the name and address of the contributor. Staff is preparing a process for the Commission's approval.

Occupation Information Audit

Period: Annually

Start Date: TBD

The new law effective January 1, 2016, requires that committees must report the occupation of any contributor giving more than \$200 in a calendar year. Staff is preparing a process for the Commission's approval.

Independent Expenditure Reporting/72 Hour Reporting Audit

Period: TBD

Start Date: TBD

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. Staff is still developing a process to complete this audit. It will not be conducted until a process that is satisfactory to the Commission is approved. Any violations would be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(4) or (5).

Appendix H: Lobbying Auditing Schedule

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. The Ethics Commission first reviewed and approved these procedures at its meeting on October 10, 2016. These procedures have continued to be reviewed on an annual basis and are updated as needed based on court decisions and legislative changes.

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...

Staff conducts an audit to ascertain which principals do not meet the deadline.

Period: Each Required Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Late 15-Day Report of Lobbying Interest 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 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.

Period: Each Required Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Late Payment of Lobbying Fees Audit

The Commission adopted a standard settlement for the late payment of lobbying related fees at its meeting on February 27, 2018, in accordance with § 13.75. The Commission must receive lobbying related payments from principals and lobbyists promptly.

Period: Continuous

Start Date: December 1, 2020

Unauthorized Lobbying Audit

§ 13.65 Lobbyist Authorization

Before engaging in lobbying on behalf of a principal, a lobbyist or the principal who employs a lobbyist shall file with the commission a written authorization for the lobbyist to represent the principal, signed by or on behalf of the principal. A lobbyist or principal shall file a separate authorization for each principal represented by a lobbyist.

Staff conducts an audit to determine if lobbyists communicated more than the allowable four-day threshold before obtaining their authorization from the principal and paying the applicable fees.

Period: Each Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Appendix I: Complaints and Investigations Procedures

The procedures outlined below are intended to comply with and implement the statutes and administrative rules governing the processing and resolution of complaints filed with the Ethics Commission. Staff originally presented to the Commission an outline of proposed complaint procedures at its October 10, 2016, meeting. Following the advice and recommendations of the public and the Commission members, staff has revised the below procedures to better track the statutes and Commission recommendations. 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.

Complaint Intake

1. A complaint may be received by paper or electronically. When received on paper (mailed or in-person) Front Desk staff shall forward the complaint to the Commission Administrator (“Administrator”) and Staff Counsel (“Counsel”). Any other member of the staff that receives a complaint shall forward those to the Administrator and Counsel.

If the Administrator and Counsel are unavailable to receive a complaint filed in-person, a staff person receiving a complaint in-person should review the complaint to ensure it meets the applicable standards (see Step 2) and that all referenced exhibits are attached. If there appears to be any insufficiency, staff shall notify the person delivering the complaint of the insufficiency but keep possession of the original complaint.

2. Regardless of the form of the submission, the Administrator or Counsel shall determine whether it constitutes a sworn complaint. A valid complaint should:
 - a. List a named complainant with contact information;
 - b. List a named respondent with contact information;
 - c. Contain allegations of violations within the jurisdiction of the commission; and,
 - d. Be sworn under oath before a notary.
3. Complaints will be 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.
4. If the submission constitutes a sworn complaint to be included in the Database, the Administrator or staff, at the direction of the Administrator, shall
 - a. Create a record in the Complaint tracking list entering all required fields;
 - i. Complaint ID shall be entered in the form: YYYY-ETH-[3 digit sequential number] (e.g., 2017-ETH-001 for the first complaint of 2017); and,
 - ii. Required fields include Complaint ID, complainant, respondent, date received, and short summary of the allegations.

- b. Create a folder to store documents related to the complaint in the Complaints section of SharePoint under the respective year;
 - i. The folder shall be labeled with to the complaint ID assigned and the parties involved (e.g., 2017-ETH-001 Smith v. Johnson);
 - ii. If the complaint involves allegations against a local public official, the suffix “Local” should be appended to the folder name (e.g., 2017-ETH-001 Smith v. Johnson (Local));
 - iii. All documents received related to the complaint should be saved in the folder. Paper documents should be scanned and uploaded to the folder before being forwarded to Staff Counsel for retention; and,
 - iv. A redacted copy of the complaint should also be prepared and saved to the complaint folder. Staff should redact the name and contact information of the complainant and redact any indication of the complainant’s identity from the allegations of the complaint.
5. If the complaint alleges a violation by a local public official or candidate for local office, the Administrator or staff, at the direction of the Administrator, shall notify the complainant that the Commission’s established policy is to defer to the local district attorney in such matters and advise the complainant that they may wish to file their complaint with the local district attorney. A copy of such a notification should be saved in the complaint’s SharePoint folder.
6. The Administrator or staff, at the direction of the Administrator, shall notify the respondent for each valid complaint within 5 days of the complaint being received. Staff should update the SharePoint Complaint list with the date this notification is sent. A copy of the notification should also be saved in the complaint’s SharePoint folder. The notification should include:
 - a. A statement that a complaint has been filed against them and that they have 15 days from receipt of this notice to file a response if they wish to respond; and
 - b. *An unredacted copy of the complaint.*
7. If a response is received, staff shall save a copy of the response to the complaint’s SharePoint folder and update the SharePoint Complaint list with the date the response was received. Any hardcopy response should be scanned and saved to the complaint’s folder before being forwarded to Counsel for retention.

Complaint Processing

1. Any person may file a complaint if he or she believes a violation of Ch. 11, Ch. 13 Subch. III., or Ch. 19 Subch. III of the Wisconsin Statutes has occurred or is occurring.¹ Neither the Commission nor any member or employee of the Commission, including the Commission Administrator, may file a sworn complaint.²
 - a. A complaint must comply with certain requirements. It **must**:

¹ WIS. STAT § 19.49(2)(b).

² WIS. STAT § 19.49(2)(a).

- i. Provide the full name and address of the person filing the complaint (called the complainant); and
 - ii. Be signed and sworn.
 - b. In order for a complaint to be considered complete and proper, it **should**:
 - i. Clearly recite the facts that show specific violations under the Commission's jurisdiction (citations to the law and/or regulations are valuable);
 - ii. Clearly identify each person, committee or group that is alleged to have committed a violation (called the respondent[s]);
 - iii. Include any documentation supporting the allegations, if available; and
 - iv. Differentiate between statements based on the complainant's (the person who files the complaint) personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.
2. The Administrator reviews each complaint to determine whether it states a violation within the jurisdiction of the Commission and satisfies the above criteria for a proper complaint. If the complaint does not meet these requirements, the Administrator notifies the complainant of the deficiencies.
- a. Non-jurisdictional & Local Complaints
 - i. Within five (5) 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.
 - b. Jurisdictional Complaints
 - i. Within five (5) days of receipt of a complaint that is within the jurisdiction of the Ethics Commission, staff will verify the receipt of the sworn complaint to the complainant and respondent. Before voting on whether to take any action regarding the complaint, other than to dismiss, the commission shall give each person receiving a notice 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 on the basis of the complaint.³
 - ii. A respondent who is or intends to be represented by legal counsel should inform the Commission by sending a statement regarding the designation of counsel, including the name and address of the individual(s).

³ WIS. STAT. § 19.49(2)(b).

3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)

- a. Each complaint that is assigned to Counsel or other staff will be submitted to the Commission with recommendations on whether there is "reasonable suspicion" that the respondent has committed or is committing a violation of the law.⁴⁵⁶ The Commission makes the final decision by voting for or against a "reasonable suspicion" determination or otherwise terminating the complaint. (Four affirmative votes are required to go forward with any enforcement action). In making this determination, the Commissioners may consider the complaint, the respondent's reply, available information on the public record and the staff's analysis and recommendations.
- b. If the Commission fails to find "reasonable suspicion" that a violation has occurred or is occurring with respect to all of the allegations, or if the Commission dismisses the matter for other reasons, the case is closed, and the parties involved are notified.⁷ If, on the other hand, the Commission finds that there is "reasonable suspicion" that the respondent has violated or is violating the law, the Commission may either authorize an investigation via resolution or enter directly into settlement negotiations by the same.⁸
 - i. When a complaint is designated for settlement, the Administrator shall assign it to a staff member and/or Counsel for processing and resolution.
 - ii. If the complaint is designated for an investigation by resolution, the resolution shall specifically set forth any matter that is authorized to be investigated.⁹
 - iii. To assist in the investigation, the Commission may elect to retain a special investigator. If the Commission elects to retain a special investigator, the Administrator shall submit to the Commission the names of three (3) qualified individuals to serve as a special investigator.¹⁰
 - iv. If the Commission retains a special investigator to investigate a

⁴ 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.

⁵ "Reasonable suspicion" has been defined as "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry v. Ohio*, 392 U.S. 1 at 21.

⁶ Reasonable suspicion findings indicate only that the Commission either found or failed to find sufficient legal justification to open an investigation to determine whether a violation of the law has occurred, and not a definitive determination that a respondent violated any provision of the law.

⁷ WIS. STAT. § 19.50(2)(c) specifically allows for the release of "communications made to the attorney of an investigator, prosecutor, employee, or member of the Commission or to a person or the attorney of a person who is investigated or prosecuted by the Commission."

⁸ WIS. STAT. § 19.49(1)(b) The Commission may compromise and 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 under such chapter.

⁹ WIS. STAT. § 19.49(2)(b) 3.

¹⁰ *Id.*

complaint against a person who is a resident of this state, the Commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the complaint.¹¹

Formal Investigation Procedures

1. The goal of the formal investigation stage is to determine whether the Commission can make a finding that probable cause exists to believe that one or more violations under have occurred or are occurring, together with a recommended course of action.
2. Reports to Commission¹²
 - a. Special Investigators: Each special investigator who is retained by the Commission shall make periodic reports to the Commission, as directed by the Commission, but in no case may the interval for reporting exceed 30 days.
 - b. Administrator: 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.
3. Investigation Review¹³
 - a. 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. If, after receiving a report, the Commission does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval.
 - b. The Commission shall not expend more than \$25,000 to finance the cost of an investigation before receiving a report on the progress of the investigation and a recommendation to commit additional resources.
 - c. The Commission may vote to terminate an investigation at any time. If an investigation is terminated, any complaint from which the investigation arose is deemed to be dismissed by the Commission.
 - d. The Commission may close any complaint, at any time, for other cause within its discretion.
4. Probable Cause Determination¹⁴
 - a. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the Administrator shall present to the Commission one of the

¹¹ *Id.*

¹² WIS. STAT. § 19.49(2)(b)4.

¹³ *Id.*

¹⁴ *Id.*

following:

- i. A recommendation to make a finding that probable cause exists to believe that one or more violations have occurred or are occurring, together with a recommended course of action.
 - ii. A recommendation for further investigation of the matter together with facts supporting that course of action.
 - iii. A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation has occurred or is occurring.
- b. At the conclusion of its investigation, the Commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation has occurred or is occurring. If the Commission determines that no probable cause exists, it shall dismiss the complaint.¹⁵
- i. Whenever the Commission dismisses a complaint, or a complaint is deemed to be dismissed for other reasons, the Commission shall immediately send written notice of the dismissal to the accused and to the party who made the complaint.
 - ii. The Commission shall inform the accused or his or her counsel of exculpatory evidence in its possession.

5. Post-Probable Cause Finding

- a. If the Commission finds that there is probable cause to believe that a violation has occurred or is occurring, the Commission may authorize the Administrator to do one of the following:¹⁶
 - i. File a civil complaint against the alleged violator.
 - ii. Request the assistance of special counsel to file a civil complaint and prosecute the 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 three (3) qualified individuals to serve as special counsel. The Commission may retain one of the individuals to act as special counsel.
 - iii. Refer the matter to an appropriate district attorney or Attorney General.¹⁷
- b. If a special investigator or the Administrator, in the course of an investigation authorized by the Commission, discovers evidence outside the scope of the original investigation or jurisdiction of the Commission, the Commission may thereupon authorize the investigation of the additional conduct or if outside the jurisdiction of the Commission, refer the matter to an appropriate district attorney or the Attorney General.¹⁸

¹⁵ WIS. STAT. §§ 19.49(2)(b)7 and 8.

¹⁶ WIS. STAT. §§ 19.49(2)(b)5 and 9.

¹⁷ WIS. STAT. § 19.49(2)(b)13 and 14 provide special procedures should a district attorney decline to prosecute a potential violation.

¹⁸ WIS. STAT. §§ 19.49(2)(b)11 and 12 provide the procedures for amending and authorizing the review of matters outside the original investigation and the referral of matters outside the Commissions jurisdiction respectively.

Post Complaint Action

1. 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.
2. 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.

Appendix J: Commission Chair and Vice-Chair Terms and Vacancies

Officer Positions of the Ethics Commission

Wisconsin Statutes require the Commission to select a Chair. The process for selecting a Chair for the Ethics Commission is governed by WIS. STAT. § 15.06(2)(b)2. which reads:

The chairperson of the ethics commission shall be chosen from the members appointed under s. 15.62(1)(a)1. to 4. by affirmative vote of at least two-thirds of the commission members at the commission's first meeting every 2 years. The chairperson shall serve a 2-year term. The first chairperson shall be chosen from the commissioners affiliated with the same major political party. The major political party from which to select the first chairperson shall be determined by lot. The 2nd chairperson shall be chosen from the commissioners affiliated with the other major political party. Each subsequent chairperson shall be chosen from the commissioners affiliated with the 2 major political parties on a rotating basis.

The Chair of the Ethics Commission is responsible for leading each meeting of the Commission.

The Ethics Commission also established an officer position of Vice-Chair, to be selected from the opposite party of the Chair. The Vice-Chair is responsible for signing the minutes of each meeting of the Commission. The Vice-Chair may also lead a meeting of the Commission during a temporary absence of the Chair.

The Chair and Vice-Chair are jointly responsible for determining the agenda of each Commission meeting, in collaboration with the Administrator.

Terms of Commission Officers and Procedures for Addressing Vacancies

The Ethics Commission has established that each party will retain the position of Chair or Vice-Chair for a full two-year term. The Commission unanimously approved the following terms for the Commission Chair and Vice-Chair at the June 19, 2018, Commission Meeting. The Chair and Vice-Chair will serve a two-year term. Each term shall begin on July 1 of even numbered years, and end June 30 in the next even numbered year. After each term, the parties will switch retention of officer positions. Upon a vacancy in either the Chair or Vice-Chair positions, the Commission shall elect a successor to serve out the remainder of the term from the members appointed by the same party.

Appendix K: Administrative Suspension of Registrants

The Ethics Commission is required by WIS. STAT. § 19.47(9)(a) to report adopted policies to the appropriate standing committees of the Legislature under WIS. STAT. § 13.172(3). At its December 5, 2017, meeting, the Ethics Commission unanimously adopted the following to establish internal policies and procedures for placing registrants (e.g., campaign committees and lobbying principals) on an administrative suspension status in order to minimize the requirements of staff to continually attempt to contact non-responsive registrants. Nothing in this policy affects the registration effectiveness or rights of any registrant.

Administration Suspension Policy

It is the policy of the Ethics Commission to place on administrative suspension any registrant who violates any provision of Chapter 11 or subchapter III of Chapter 13, who fails to subsequently respond to Commission communications regarding that violation, and where further attempts to contact the registrant are reasonably expected to be futile. Commission staff shall make reasonable efforts to find new contact information by consulting available data sources before placing a registrant on administrative suspension.

If Commission staff has been unsuccessful in contacting a registrant over a period of at least six consecutive months, staff need not continue to send a notice to the registrant regarding any violations that may continue to occur while on administrative suspension. Commission staff shall document any such violations by a registrant but need not include such registrants in their regular audits and subsequent reports to the Commission. This policy does not relieve a registrant of the duty to file reports when due or other obligations under state law.

If a registrant who is placed on administrative suspension subsequently is located by Commission staff, or contacts Commission staff to return the registrant to active status, the registrant may be returned to active status if requested, but the Commission shall be notified at its next meeting so as to consider taking appropriate action on any violations that may have accrued by the registrant while on administrative suspension.

Commission staff shall maintain a list of methods of contact to utilize before placing a registrant on administrative suspension and document all attempts to contact a registrant regarding placing them on administrative suspension. Commission staff shall report to the Commission at the next regular meeting any registrants placed on administrative suspension since the last report.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 18, 2020

TO: Members, Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

COVID-19 Agency Response

The Commission staff have been following the guidance of DOA on the response to the public health emergency. Staff have been working remotely since the end of March and will continue to do so until the office building is open to the public. As of July 31, 2020, we are in Phase II of the Badger Bounce Back Government plan, which includes a phased reopening to the public. At this time, we do not know when the public will be allowed back into the building. Employees are required to social distance, and wear a face covering when inside a state facility. The Commission staff procured plexiglass shields for the reception area and the cubicles closest to the entry way. Signs have been placed through the building with guidance on social distancing for in-person customers. DOA has also provided face masks for staff and the public to use while in the office.

Fiscal Year End 2020

The Commission staff closed fiscal year 2020 as of August 7th and certified the agency appropriations by August 11, 2020.

Training

Campaign Finance- Commission staff developed a training plan for Spring and Summer in preparation for the 2020 general election. Short training videos are now available on our website. There are four videos for state candidates and three for local candidates. Topics for the videos include registration, exemption, and termination; reporting; duties and prohibitions; and information for candidates. Staff has conducted two webinars for candidates participating in the 2020 general election and their treasurers, two webinars for reporting in CFIS, and one webinar for PACs, Independent Expenditure Committees and Conduits. Recordings of the trainings are available on our website. Feedback on these trainings and videos has been positive. In the fall, staff will be conducting trainings for County Party Committees.

Ethics- Since the last meeting, staff conducted 4 training webinars for legislative staff. These trainings addressed the aspects of campaign finance law and lobbying law that were pertinent to the legislative context. Additionally, the training provided a deeper dive into the pertinent ethics laws. Two similar trainings are scheduled for this fall with two boards. In December, Commission staff will also participate in the trainings for new legislators.

Lobbying- Staff will be planning several training sessions to educate lobbyists and principals about the new website. Additionally, in anticipation of the new session, trainings will be made available for lobbyists and principals concerning registration, reporting, and restrictions.

Campaign Finance

July Continuing 2020

The July Continuing 2020 reports were due July 15, 2020. There were 1,045 committees required to file this report. This includes all types of committees that have not claimed the exemption from filing campaign finance reports. There were 983 committees that filed by July 15, 2020 (94%). An additional 36 committees filed after July 15 (3.5%). There are 26 committees that still have not filed (2.5%) at the time of this memo.

Pre-Primary Fall 2020

All candidates on the August, Primary ballot, not claiming the exemption from filing finance reports are required to file a Pre-Primary Fall 2020 finance report. There are approximately 300 candidates required to file this report by August 3, 2020. In addition to the candidates, any PAC, Independent Expenditure Committee, Party, Legislative Campaign Committee that makes a contribution to, or independent expenditure on behalf of, one of these candidates must file the report by August 3, 2020.

Lobbying

2019-2020 Legislative Session

As of July 28, 2020, there were 798 lobbying principals registered, 691 lobbyists licensed, and 1,745 lobbyist authorizations.

Statutes require each lobbying principal to submit a Statement of Lobbying Activities and Expenditures (SLAE) twice a year. The January – June 2020 SLAE was due on July 31, 2020. The next deadline is January 31, 2021, which will cover activity from July 1 – December 31, 2020. After principals and lobbyists file their reports, staff will conduct audits for late SLAEs, late 15-day reports, lobbying without authorization, and late payment of lobbying fees.

Legislative Liaison Reporting

The 6-month legislative liaison report was due July 31, 2020. There are 90 state agencies that file, and as of July 30, all but 18 had filed. Staff will continue to follow up with agency contacts until all reports are filed.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (SEIs)

As of July 27, 2020, there were 2,485 total state public officials required to file an SEI for 2020. There are 2251 annual filers who had their SEI due by April 30, 2020. This year, the new candidate module of the SEI website went live, allowing candidates for the fall election to file their SEIs

electronically. As of June 4th, there were 411 candidate records processed for the November election, including 45 candidates that dropped out before filing nomination papers. 366 candidates filed the SEI, including incumbents who filed earlier in the year. Approximately 40 new candidates filed via paper or .pdf file, but about 90% filed online.

State of Wisconsin Investment Board Quarterly Reports

The 2020 second quarter reports were due by July 31, 2020. As of July 30, 49 of the 56 SWIB filers had filed. Staff will continue to follow up until all reports are filed and transfer them to the Legislative Audit Bureau. The next quarterly reports will be due by October 31st, covering July 1st to September 30th.

