

# Wisconsin Ethics Commission

Room 411 South, Wisconsin State Capitol  
Madison, Wisconsin  
Tuesday December 5, 2017, 9:00 a.m.

## Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Minutes of August 22, 2017 Meeting Page 3
- D. Personal Appearances
  - 1. Campaign Finance Website Feedback
  - 2. Eye on Lobbying Website Feedback
  - 3. Other Personal Appearances
- E. User Feedback Survey RE: current and future campaign finance site Page 7
- F. User Feedback Survey RE: current and future lobbying site Page 9
- G. New Statements of Economic Interest System Demonstration Page 11
- H. Ability to Place Registrants on Administrative Suspension Page 13
- I. Administrative Rules Update Page 17
- J. Guidance to Staff on Conducting Audits Using External Data Page 35
- L. Closed Session
  - 1. Complaints and Investigations
  - 2. Requests for Advice
  - 3. Litigation Update
  - 4. Performance Evaluation - Administrator
- M. Reconsideration of Standard Settlement Schedules Page 39
- N. Segregated Funds Draft Guideline Page 43
- O. Staff Report Page 47
- P. Consideration of Future Agenda Items (Open Session)
- Q. Adjourn

*The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(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 to adjourn 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) The Commission's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.

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

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

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## Wisconsin Ethics Commission

Board Room  
212 E. Washington Avenue  
Madison, Wisconsin  
August 22, 2017  
9:00 a.m.

### Open Session Minutes

Present: David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota,  
Timothy Van Akkeren, and Jeralyn Wendelberger

Staff present: Brian Bell, David Buerger, Richard Bohringer, David Divine, Adam Harvell,  
Julie Nischik, Colette Reinke, and Caroline Russell

#### **A. Call to Order**

Commission Chair David Halbrooks called the meeting to order at 9:00 a.m.

#### **B. Report of Appropriate Meeting Notice**

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

#### **C. Minutes of the June 7, 2017 Meeting**

Commissioner Davis requested the first motion in Item D be amended to clarify if there is a vacancy, a successor is elected to fill the remaining portion of the term.

**MOTION:** Approve the minutes. Moved by Commissioner Wendelberger, seconded by Commissioner Strachota. Motion carried unanimously.

#### **D. Personal Appearances**

There was one personal appearance by a member of the public:

Mike Wittenwyler appeared regarding the advisory opinion request related to section 527 organizations and non-resident PACs. Mr. Wittenwyler is generally supporting of the first letter drafted stating the law is silent as to the applicability of source restrictions to section 527 organizations and nonresident PACs, and argued it would be inconsistent for the Commission to issue the second letter which states the Commission declines to offer an opinion as to the applicability of source restrictions to section 527 organizations and nonresident PACs and that

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*Administrator*

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the issue has been referred to the Legislature. Mr. Wittenwyler also brought up a concern in the first letter where contributions in the name of another is not applicable in this situation, and should be a reference to the statute related to earmarking.

#### **E. Request for Advice RA-2017-2 Response – Opinion or Letter**

Staff Counsel Buerger presented the memo starting on page 9 of the meeting materials.

The Commission discussed the two letters drafted in the memo. In the first letter, the Commission directed staff to change the statement “the law is silent” to “the law has not regulated”, as well as refer to the legislature for clarification on the law. The Commission directed staff to also include the references to the earmarking prohibition as well as contributions in the name of another.

The Commission decided to return to this agenda item after closed session is completed and specific facts have been discussed.

#### **F. Administrative Rules**

Staff Counsel Buerger presented the memo starting on page 15 of the meeting materials.

Regarding Chapters ETH 1 (Campaign Finance) and ETH 15 (Statements of Economic Interest), staff suggested waiting to make further updates until requirements for the new system have been developed to inform the revision process.

Commission Administrator Bell and Commission Staff Caroline Russell presented the updates for Chapter ETH 16 (Lobbying). Staff notified the Commission of the plan to update the scope statement to request, rather than require, personal addresses of registered lobbyists, and that the information would be kept confidential.

**MOTION:** Proceed with the scope statement for Chapter ETH 16 with proposed language change of voluntarily providing address, and striking requiring an address. Moved by Commissioner Wendelberger, seconded by Commissioner McCallum. Motion carried unanimously.

#### **G. Proposed Update to Records Disposition Authorizations**

Commission Administrator Bell and Commission Staff Julie Nischik presented the memo starting on page 21 of the meeting materials.

**MOTION:** Adopt the following changes to the proposed Records Disposition Authorizations:

- Guidelines should be kept for 6 years, then transferred to the Wisconsin Historical Society.
- Create two RDAs for Advisory Opinions: Formal and Informal. Informal opinions to be destroyed after 6 years. Formal opinions keep the proposed event, retention, and disposition as proposed in the memo.

- Create two RDAs for Investigations: for those that result in action, retain for 6 years, then transfer to the State Historical Society. For those where no action is taken, retain for 6 years, then destroy.
- Lobbying and Campaign Finance records to be transferred to the Wisconsin Historical Society after 6 years (no change from existing RDA).

Moved by Commissioner Davis, seconded by Commissioner Van Akkeren.

Roll call vote:

Strachota:	Aye	Halbrooks:	Aye
Davis:	Aye	Van Akkeren:	Aye
McCallum:	Aye	Wendelberger:	Nay

#### **H. Agency Annual Report – Fiscal Year 2017**

Administrator Bell presented the report starting on page 23 of the meeting materials.

Commissioner Davis requested adding informal opinions in the last paragraph on page 3 of the report.

Commissioner Wendelberger requested changing item six on page 18 of the report to request, rather than require lobbyists to provide a personal address on their application.

Commissioner Wendelberger requesting changing item seven on page 13 of the report to include a two-year term, and to clarify length of term or election period.

**MOTION:** The Commission approves the report with changes as suggested. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

#### **I. Potential Meeting Dates for Calendar Year 2018**

Administrator Bell presented the memo starting on page 89 of the meeting materials.

Discussion.

**MOTION:** The Commission approves the proposed 2018 meeting dates. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

#### **J. Staff Report**

Administrator Bell presented the memo starting on page 91 of the meeting materials.

Discussion.

No action taken.

**K. Consideration of Future Agenda Items**

Administrator Bell suggested adding a public feedback session for the proposed Campaign Finance system at December 2017 meeting. Commission Staff would also provide a report on systems used by other states.

Administrator Bell suggested adding a public feedback session for the new Statement of Economic Interests system at the December 2017 meeting. Would provide a demonstration of the system and allow for public and Commission comment. Administrator Bell also suggested holding the meeting at the Capitol for better audio/visual equipment.

Commissioner Davis suggested adding a review of the Administrator in Closed Session.

**L. Closed Session**

**MOTION:** The Commission went into closed session pursuant to WIS. STAT. §§ 19.50, 19.55(3), 19.85(1)(g), (h). Moved by Commissioner McCallum, seconded by Commissioner Van Akkeren. Motion carried unanimously.

Return to agenda item **Request for Advice RA-2017-2**

**MOTION:** The Commission directs staff to amend the advice to state “has not regulated” rather than “silent” in letter #1, as well as include earmarking in additions to laundering restrictions. The final draft should be reviewed by the Chair and Vice Chair prior to sending to the requester. Moved by Commissioner McCallum, seconded by Commissioner Strachota. Motion carried unanimously.

**M. Adjourn**

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

The Commission adjourned at 6:03 p.m.

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August 22, 2017 Wisconsin Ethics Commission meeting minutes prepared by:

\_\_\_\_\_  
Julie Nischik, Office Management Specialist

December 5, 2017

August 22, 2017 Wisconsin Ethics Commission meeting minutes certified by:

\_\_\_\_\_  
Katie McCallum, Vice Chair

December 5, 2017



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Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

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**DATE:** For the December 5, 2017 Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** David Divine, Ethics Specialist

**SUBJECT:** Public Comment on the Campaign Finance Information System (CFIS) through Survey

At the August 22, 2017 meeting, Commissioners asked for public comment on both the Eye on Lobbying (<https://lobbying.wi.gov>) site and the Campaign Finance Information System (<https://cfis.wi.gov>) in preparation for upcoming revision and updating of both sites. In addition to proper notice for public comment, staff decided to send out surveys to the public and users to gain more substantive feedback.

As of November 20, there were 153 respondents. The survey will remain open for circulation through the end of January to allow registrants logging in to complete their January Continuing 2018 report an opportunity to respond. Ninety-two percent of respondents had used CFIS in the last 6 months.

CFIS received positive feedback for its extensive search options when looking up reports and individual transactions, as well as its upload functionality, which saves committees significant data entry time. Many respondents cited the availability of staff to help walk filers through using CFIS as key to their success in using the system. Overall, 50.6 percent of respondents rated their experience with CFIS as either somewhat positive or mostly positive, with another 32.7 percent having a neutral impression.

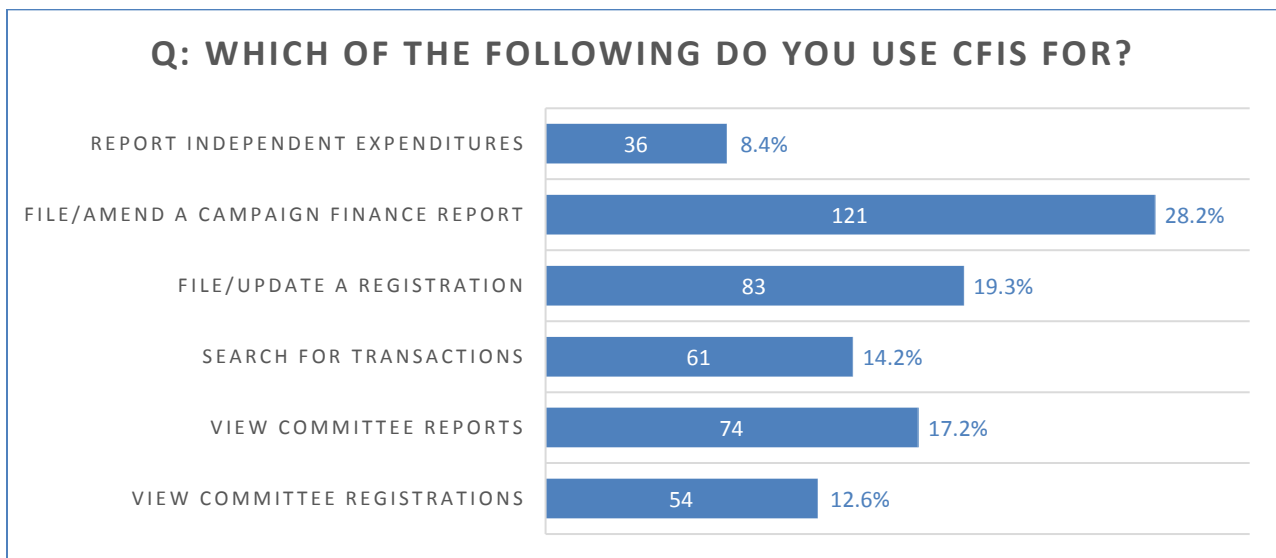
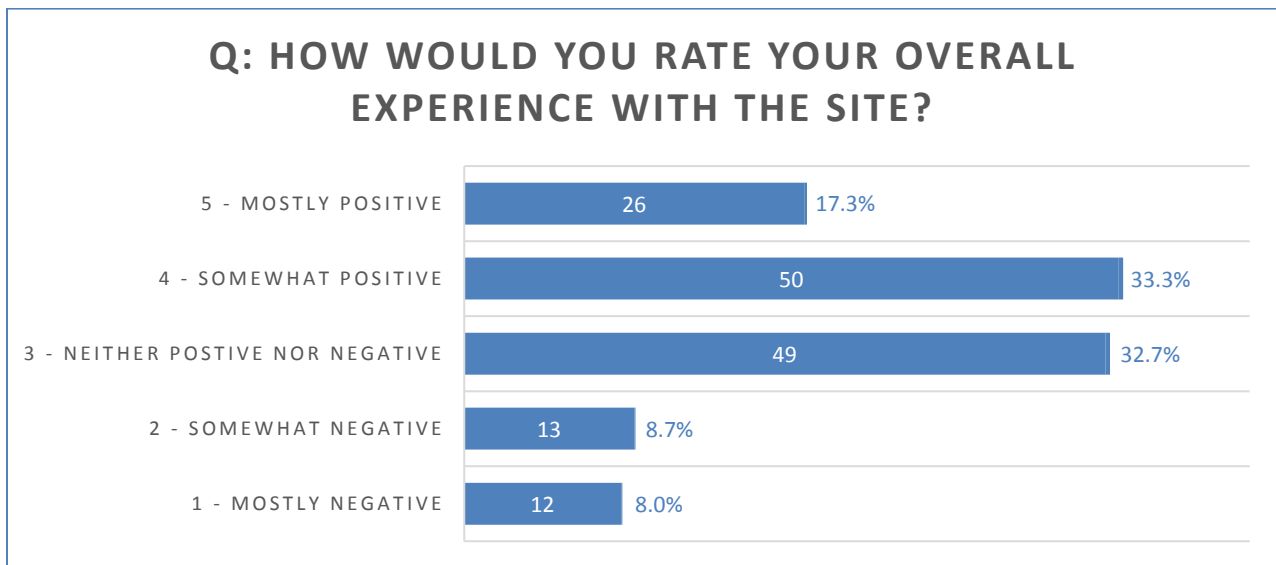
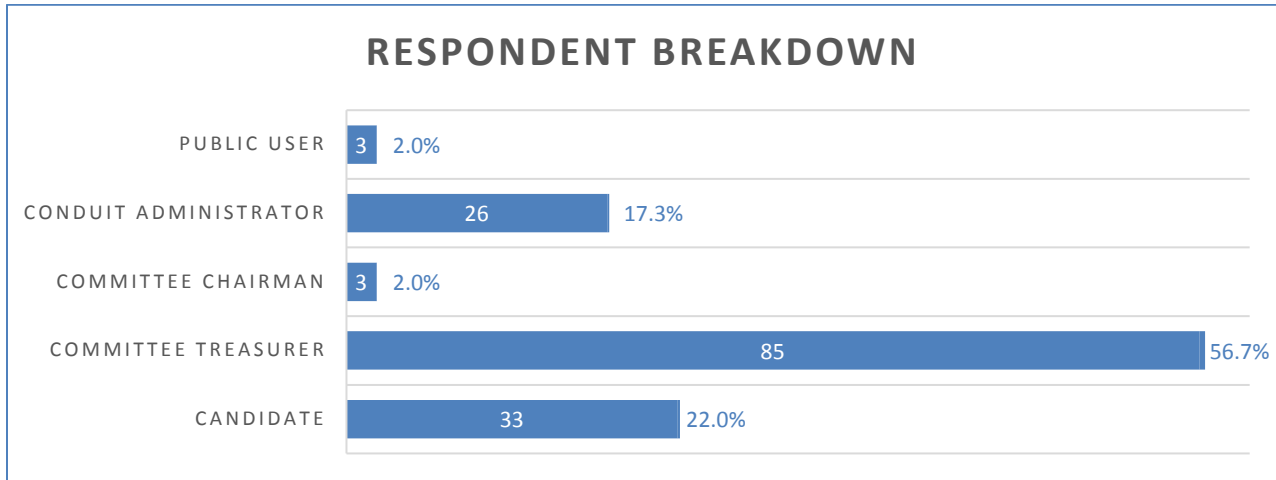
For improving CFIS, the most asked for functionality was the ability to lookup previous contributors or payees when entering new transactions. This is functionality that CFIS was designed to have, but it was causing poor system performance and data quality discrepancies across committees, so the functionality was disabled. Staff have identified this as key functionality for a future-state campaign finance reporting system. Other frequent functionality requests include a mobile-friendly site design, contributor totals in a cycle to help avoid contribution limit violations, automated error checking, reliable compliance flags, and fewer expense purpose codes.

Some of these are improvements that Staff can implement in CFIS today. Staff have begun reviewing the list of expense purpose codes to eliminate unnecessary codes and consolidate where possible, and Staff is working with PCC, the software company that supports CFIS, to review the logic behind the compliance flags to ensure they are a useful indicator for committees that a transaction may be in violation of campaign finance regulation. Other feedback received from the survey and from today's public comments can be incorporated into the plans for a future state campaign finance reporting system.

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212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
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**DATE:** For the December 5, 2017 Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Caroline M. Russell, Ethics Specialist

**SUBJECT:** Public Comment on the Eye on Lobbying Site Administered through Survey

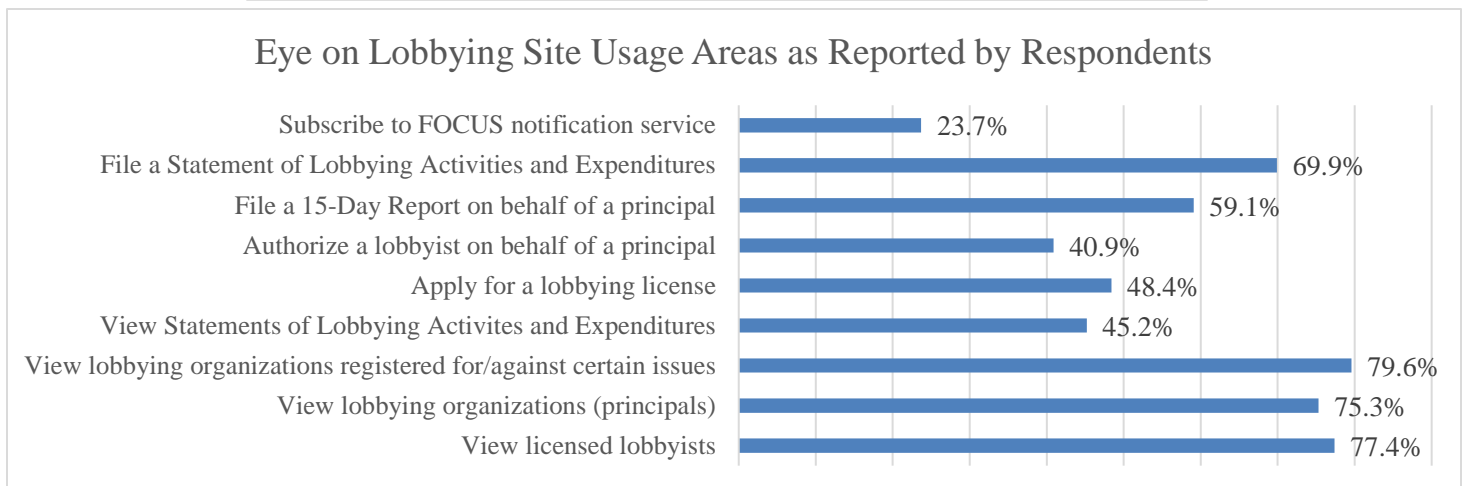
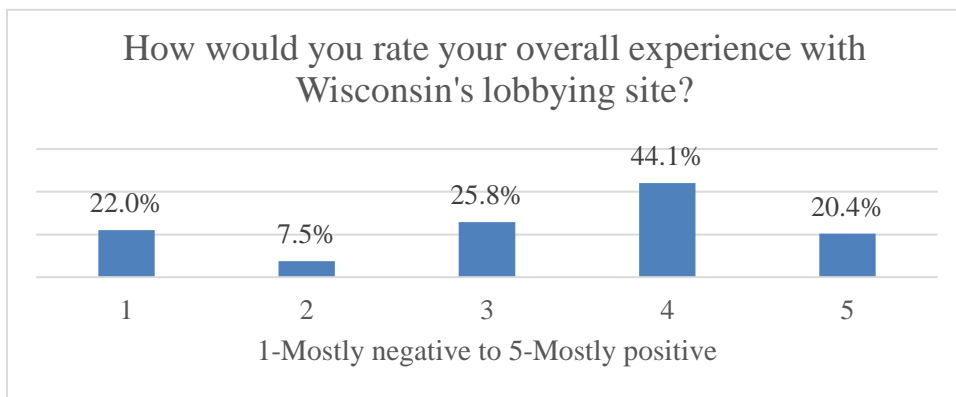
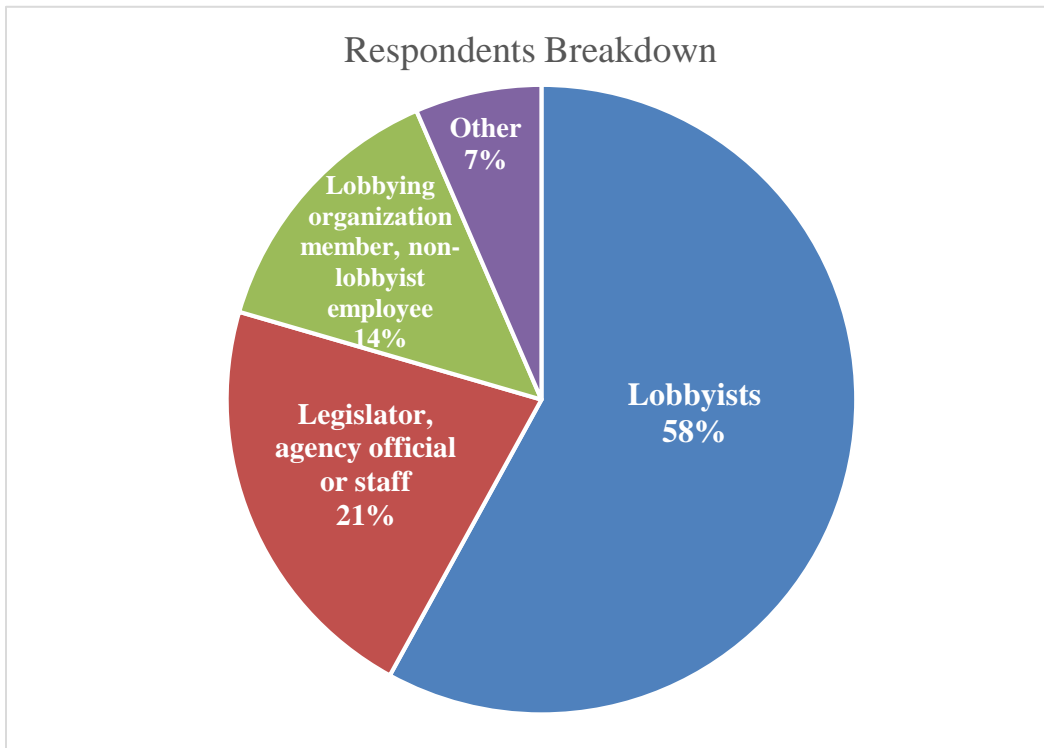
At the August 22, 2017 meeting, Commissioners asked for public comment on both the Eye on Lobbying (<https://lobbying.wi.gov>) site and the Campaign Finance Information System (<https://cfis.wi.gov>) in preparation for upcoming revision and updating of both sites. In addition to proper notice for public comment, staff decided to send out surveys to the public and users to gain more substantive feedback.

As of November 15, there were 93 respondents. This survey will remain open for circulation through the next Statement of Lobbying Activities and Expenditures (SLAE) deadline on January 31, 2018 to hopefully gain more responses. All respondents had visited the site within the last six months.

Eye on Lobbying received positive feedback in terms of reliability of information regarding not only lobbying organizations, but bill/budget bill subject, and topic information as well. Staff also received positive feedback in our ability to support the site. Certain portions of the site received praise for their straightforwardness, while others certainly did not.

Based on responses, the biggest areas for improvement for the Eye on Lobbying site were the searching capabilities, intuitiveness of navigation, and a mobile responsive design. Searching capabilities were viewed as cumbersome in that they required “too many clicks” to view the information they were looking for. The layout of the site was critiqued in terms of navigation with many respondents stating needing to go to separate tabs such as “Who is Lobbying?” and “What Are They Lobbying About?” for each type of information was not intuitive. There was also a high number of respondents which would like to see a more intuitive process for filing Statements of Lobbying Activities and Expenditures (SLAEs) as well as paying fees. Lastly, as expected, an overwhelming majority of respondents called for the site to be updated with a mobile responsive design so as to more readily enter and monitor information.

Moving forward, staff will integrate these suggestions within the framework of the prospective new Eye on Lobbying site. We would like to create a central home screen with searching capabilities across all principals, lobbyists, reported interests, and legislative liaisons. We are also hoping to address navigation issues simultaneously with the mobile-responsive redesign and redesigning the registration and reporting navigation, and ensuring that the entire site can be used on any device.





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212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
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**DATE:** For the December 5, 2017 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Adam Harvell, Ethics Specialist

**SUBJECT:** SEI Website Modernization

For the past several months, staff has been working on a replacement to the current Statement of Economic Interests (SEI) database, which relies on printed forms mailed to officials and data entry by our staff using a Microsoft Access database. The new web-based system would allow users to log in and update their SEIs online. The website has progressed to the point of user testing. The memo below describes the major stages in development of the new site, and planning for the collection of SEI data for 2018.

## Goals of SEI Modernization

There are several major objectives in creating a web-based application for SEIs:

- 1) Eliminate the need for printed SEIs and mailing of forms.
- 2) Eliminate data entry by staff, without requiring any additional effort from officials required to file SEIs.
- 3) Record candidate SEIs in the system, and share information about who has filed their SEI with the Elections Commission automatically for ballot access purposes.
- 4) Allow the public to view an index of filers grouped by agency, name, or a date range, and to request SEIs for state public officials electronically. Notification and payment collection could also be automated.
- 5) Collect data on quarterly reports from State of Wisconsin Investment Board members and employees, and make the information available to the Legislative Audit Bureau to make their auditing more efficient.
- 6) Include the court system and University of Wisconsin officials required to file statements, to share the benefits of the new system, and ensure officials with multiple positions need to only file once.

## Progress So Far and Demonstration

Planning for the new system began in 2016, and staff has continued to document and refine the requirements for the new system. Our developer, Kavita Dornala, has completed several major requirements, including setting up agency views, linking each agency to its positions and filers, adding and updating information on current officials, and creating a data entry portal to collect SEI data.

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*Administrator*

Brian M. Bell, MPA

### Major Upcoming Events

12/1/2017 – Beginning date for circulation of nomination papers for spring ballot access – Notification sent to clerks, all municipal and multi-jurisdictional judges, and state court judges on the ballot in 2018.

1/2/2018 – Date for notifications to reserve judges (If a reserve judge takes a case, SEIs are due 21 days afterward – earliest possible due date is 1/23/2018).

1/5/2018 – Deadline for candidates to file SEI for April ballot access.

1/15/2018 – Date for notifications to annual filers.

4/30/2018 – Deadline for annual filers to submit SEIs.

### Plan of Implementation

The end of November was dedicated to system testing, corrections of major issues, and data conversion. Until the new system has been thoroughly vetted, staff will maintain the older SEI database, with the ability to generate and email or mail pre-printed forms. Ethics staff will use the new system, and annual filers will be offered use of the new system, with a pre-printed form as back up. Emphasis in early 2018 will be on filer convenience, and a gradual transition.

Spring candidates will have to file by paper form in January, but fall candidates should be able to use the new system by their June filing deadline. The ability to track and collect Investment Board reports and the ability for the public to request and view SEIs will be implemented in 2018. The current SEI database will be decommissioned over the course of the year, and replaced by the new online system. Future developments also include attempting to fully-automate requests to view SEIs and notifying officials of those requests.



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

**DATE:** For the December 5, 2017 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** David Buerger, Staff Counsel  
**SUBJECT:** Administrative Suspension Research

## FOR COMMISSION ACTION

The Commission could decide to:

1. Adopt the recommended policy as written.
2. Adopt the recommended policy as amended by today's discussion.
3. Direct staff to continue developing this policy consistent with today's discussion and bring it back to the Commission at its next meeting.
4. Choose not to adopt a policy regarding this issue at this time.

### Question Presented

May the Commission place a registrant on administrative suspension?

### Brief Answer

The Commission may adopt an internal policy to place a registrant on administrative suspension and refrain from pursuing further enforcement action, but must continue to notify the registrant of missing reports and may not prohibit the registrant from returning to active status if it wishes.

### Background

At its August 22, 2017 meeting, the Commission directed staff to conduct additional research into the options available to the Commission should staff be unable to contact a registrant. In many cases, registrants shut down operations without properly terminating their registration with the Commission. This leads to violations accruing against the registrant as it misses filing deadlines. Where the registrant can still be contacted, the Commission has often pursued settlement agreements that recognize the fact that no further reportable activity occurred and agreed to let the registrant terminate upon filing of the proper no-activity reports with or without further penalty depending on the circumstances. However, where the registrant cannot be contacted, there is no good option available.

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The Commission's predecessor agencies handled these situations where an inactive registrant could not be contacted by placing such registrants on administrative suspension. Administrative suspension was a separate status category that was created to prevent the registrant from appearing in reports with other active registrants, but maintain the registrant's information in the filing system in the event of their subsequent return. The Elections Board's policy also established that staff were no longer required to advise registrants on administrative suspension of coming deadlines or contact them regarding further violations as they missed deadlines to file required reports. This was an effort to reduce costs as well as confusion among the public regarding which registrants were active and which were not.

The Commission first placed registrants on administrative suspension in December 2016. At that time, staff advised the Commission of the Government Accountability Board's prior practice, but no formal policy was adopted.

### **Analysis**

The Commission is obligated to create and maintain filing systems that compile and make available the information provided by registrants. WIS. STAT. §§ [11.1304\(7\)](#), [19.48\(10\)](#). The Commission is further obligated to audit each registrant who is required to file with the Commission. WIS. STAT. §§ [11.1304\(9\)](#), [13.74](#). If a registrant fails to file reports as required, the Commission must send the registrant a notice. WIS. STAT. §§ [11.1304\(10\)](#), [13.74\(1\)](#). Finally, the Commission is required to "make available a list of delinquents for public inspection." [WIS. STAT. § 11.1304\(16\)](#).

The Legislature does not describe how the Commission is to handle registrants who cannot be reached via the contact information provided in their original registration. In the lobbying context, both lobbyists and lobbying principals expire at the end of each two year cycle. *See* WIS. STAT. §§ [13.63\(1\)\(a\)](#), [13.64\(2\)](#). This process regularly purges the filing system of inactive registrants. There is no similar structural process in place that would purge inactive campaign finance registrants. Campaign finance registrants remain registered until termination. The Commission has no explicit statutory authority to unilaterally terminate a committee or conduit registration. Termination as described by state law may only be requested by the registrant. *See* [WIS. STAT. § 11.0105](#).

The decisions by the Elections Board and Government Accountability Board to place non-responsive committees in a separate status and treat them differently than active registrants appear to be mostly consistent with the requirements of state law. By placing a registrant on an "administrative suspension" status, prior agencies continued to make information provided by the registrant available to the public as required by WIS. STAT. §§ [11.1304\(7\)](#) and [19.48\(10\)](#), and was able to continue tracking the registrant's ongoing failures to file required reports; however, not notifying the administratively suspended registrants of their continued failures to file may have been inconsistent with the duties imposed by WIS. STAT. §§ [11.1304\(10\)](#), [13.74\(1\)](#). Certainly, if mail or email to a given address is returned undeliverable and a phone number is disconnected, it would be illogical to expect further attempts at communication via those means to bear fruit. However, in the absence of any exception to this duty to notify, if the Commission wishes to direct staff to cease further attempts to contact such a registrant, the Commission should consider

documenting the process staff are required to use before ceasing attempts to notify a registrant. Some suggested processes would include requiring multiple attempts to notify the registrant over a period of time, consulting extrinsic sources of data for contact information (WisVote, USPS, etc.), or taking other affirmative steps to locate the registrant and re-establish communications.

As for inactive registrants that subsequently re-appear and wish to return to active status, the Commission is obligated to accept and file any information related to the purposes of ch. 11, subch. III of ch. 13, and subchapter III of ch. 19, which is voluntarily supplied by any person. [WIS. STAT. § 19.48\(3\)](#). However, this does not excuse the inactive registrant's failures to file in the intervening inactive period. Assuming the violations were still actionable, the Commission would retain its ability to seek any missing reports from the returning registrant and pursue enforcement action, if necessary.

### **Proposed 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 on at least two separate occasions over a period of at least 6 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.







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**DATE:** For the December 5, 2017 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** David Buerger, Staff Counsel  
**SUBJECT:** Administrative Rule Update

## FOR COMMISSION ACTION

1. For ETH 1 does the Commission wish to:
  - a. Begin the promulgation process to repeal the unenforceable provisions, or
  - b. Delay promulgation in order to address a wider scope of changes to ETH 1 (e.g., regarding a new campaign finance website, clarifications of the new campaign finance laws)
2. For ETH 16, does the Commission approve the attached scope statement for revision of ETH 16 and direct staff to begin drafting the proposed rule?

### I. Chapter ETH 6 (Procedure) & ETH 25 (Forms)

ETH 6 & 25 have been reviewed by the standing committees in the Senate and Assembly and the Joint Committee on Review of Administrative Rules (JCRAR). The rules are ready to proceed to final promulgation by filing a certified copy of each rule (see Attachments A & B) with the Legislative Reference Bureau and the Legislative Reference Bureau publishing each rule in the Administrative Register. The final rules will be effective upon the first day of the month commencing after publication, which staff expect will be January 1, 2018.

### II. ETH 21 (Advisory Opinions) & ETH 26 (Settlement Schedule)

ETH 21 & 26 are in the process of being reviewed by JCRAR. The Senate Committee on Elections and Utilities referred the rules to JCRAR on September 12<sup>th</sup>. The Assembly Committee on Constitution and Ethics requested a meeting with the agency on these rules on September 15<sup>th</sup> and a public hearing was held on October 10<sup>th</sup>. Administrator Bell and Vice Chair McCallum testified before the committee and answered several questions from its members. Staff review of ETH 26 in preparation for the hearing also uncovered a mistake in ETH 26.02(7)(b). The original text referred to contributions, when it should have referred to disbursements. A modification of the rule (see Attachment C) was

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*Administrator*  
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submitted on October 10<sup>th</sup> to the clerks of both houses of the Legislature, which extended the standing committee review period for 10 days. Both rules are currently being reviewed by JCRAR with the review periods ending on November 24<sup>th</sup> for ETH 21 and December 7<sup>th</sup> for ETH 26 if no further action is taken.

### **III. Chapter ETH 1 (Campaign Finance)**

Staff is seeking direction from the Commission on how to proceed with this rule. As described in previous updates there are several provisions of the current rule that are either unenforceable due to legal challenges or are inconsistent with Chapter 11 as revised by 2015 Wisconsin Act 117.

Staff could proceed to draft a scope statement to repeal the parts of ETH 1 that are unenforceable or inconsistent with the new Chapter 11; however, it is likely that as the Commission proceeds to consider replacing the Campaign Finance Information System and committees continue to gain experience operating under the new law that further rulemaking will be needed. It may be more economical to hold off on initiating revisions to this rule until further feedback can be gathered on what other revisions may be needed and all needed revisions can be made in the same rulemaking process. Delay may also be preferable so as to avoid upsetting expectations or creating uncertainty in the middle of the 2018 election cycle.

### **IV. Chapter ETH 15 (Statements of Economic Interest)**

Staff is waiting until completing development of the new SEI reporting system before proceeding to avoid any unnecessary duplication of effort and to address the full scope of administrative rule requirements.

### **V. Chapter ETH 16 (Lobbying)**

The Commission initially approved the attached scope statement for this rule on August 22. Staff submitted the scope statement to the Governor's office and received approval to continue with rulemaking on September 18. Staff submitted the scope statement to the Legislative Reference Bureau for publication in the Administrative Register on September 18. The scope statement was published in Register No. 741B on September 25. If the Commission approves, staff will begin drafting the proposed rule and associated documents for delivery to the Legislative Council's Rules Clearinghouse.

### **VI. Attachments**

- A. ETH 6 – Final Rulemaking Order and Certification
- B. ETH 25 – Final Rulemaking Order and Certification
- C. ETH 26 – Original and Modified Rule Text
- D. ETH 16 – Scope Statement

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State of Wisconsin	)	
	)	<b>CERTIFICATE</b>
<b>Wisconsin Ethics Commission</b>	)	
	)	Clearinghouse Rule 17-036
	)	
	)	

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I, Brian M. Bell, Administrator of the Wisconsin Ethics Commission, do hereby certify that the enclosed rule to repeal ETH 6.05 (5) and (6); to renumber ETH 6.04 (1) (a); to amend ETH 6.02 (1) and (2), 6.03, 6.04 (1) (d), (2), (3) (a) and (b), (4) to (6), 6.05 (1) (a), (c), (f), and (2); and to create ETH 6.04 (1) (g), related to campaign finance reporting procedures used by the Ethics Commission; was duly approved and adopted by this Commission on June 7, 2017.

I further certify that this copy has been compared by me with the original on file at our office and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have  
hereunto set my hand at 212 E. Washington  
Ave., in the City of Madison, on

December 5, 2017

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Brian M. Bell, MPA  
Administrator  
Wisconsin Ethics Commission

ORDER OF THE WISCONSIN ETHICS COMMISSION  
CR 17-036

The Wisconsin Ethics Commission proposes an order to repeal ETH 6.05 (5) and (6); to renumber ETH 6.04 (1) (a); to amend ETH 6.02 (1) and (2), 6.03, 6.04 (1) (d), (2), (3) (a) and (b), (4) to (6), 6.05 (1) (a), (c), (f), and (2); and to create ETH 6.04 (1) (g), related to campaign finance reporting procedures used by the Ethics Commission.

**RULE SUMMARY**

1. **Statutes interpreted:** ss. 11.0102, 11.0103, 11.0104, 11.0105, 11.0202, 11.0203, 11.0204, 11.0302, 11.0303, 11.0304, 11.0402, 11.0403, 11.0404, 11.0502, 11.0503, 11.0504, 11.0505, 11.0602, 11.0603, 11.0604, 11.0605, 11.0702, 11.0703, 11.0704, 11.0802, 11.0803, 11.0804, 11.0902, 11.0903, 11.0904, 11.1001, 11.1304, 19.46(2).

2. **Statutory authority:** The Ethics Commission 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.

3. **Explanation of agency authority:** The Ethics Commission has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19. Each state 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.

4. **Related statute(s) or rule(s):** ETH 1.39.

5. **Plain language analysis:** Chapter ETH 6 was created and transferred to the Ethics Commission pursuant to the determination of the Secretary of Administration as directed by 2015 Wisconsin Act 118, Section 266(6). The purpose of this rulemaking is simply to update Chapter ETH 6 to remove language related to the subject matter now under the jurisdiction of the Elections Commission and add relevant statutory references that changed under 2015 Wisconsin Act 117.
6. **Summary of, and comparison with, existing or proposed federal regulations:** There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule. However, similar rules for the FEC require a committee to file all reports electronically if their total contributions or expenditures exceed \$50,000 in a calendar year. 11 CFR 104.18. The FEC does not permit filing by fax. All filings must either be filed electronically, by mail, or by hand-delivery.
7. **Comparison with similar rules in adjacent states:**

Illinois: The Campaign Disclosure Guide published in 2016 states that reports may be submitted facsimile so long as the original record of the document and transmission date are retained by the filer. Neither the Illinois Campaign Disclosure Act of 2016, nor rules of the Illinois State Board of Elections address informal advice given from staff to interested parties.

Iowa: All filing reports are permitted to be sent by facsimile transmission, electronic mail, United States postmark or by hand so long as they are received prior to the due date. IOWA CODE § 68.402(1). In practice the Board issues informal advice on a regular basis and issues declaratory orders when a formal petition is submitted to the Board regarding the applicability of statutes, policies decisions, or orders. IOWA ADMIN. CODE r. 351—12.7(1).

Michigan: State law requires committees that received or expended \$5,000 in the preceding calendar year to file all statements and reports electronically. MICH. COMP. LAWS § 169.218. Staff may issue advice within the parameters of declaratory rulings and interpretive statements already issued at the discretion of the Secretary of State. For matters outside of declaratory rulings, interested persons must submit a request for a new ruling. MICH. COMP. LAWS § 169.215(2).

Minnesota: All campaign finance filings are required electronically, unless a waiver is granted by the Campaign Finance and Public Disclosure Board. Filing electronically allows automatic rejection if filings, reports and registrations are incomplete or incorrect. MINN. STAT. § 10A.025 (2016). Filing by facsimile or electronic transmission has the same force as an original paper document, however the filer is required to maintain an original copy with the date of transmission. MINN. R. 4501.0500 (2006).

8. **Summary of factual data and analytical methodologies:** N/A
9. **Analysis and supporting documentation used to determine effect on small businesses:**  
N/A

10. **Effect on small business:** N/A

11. **Agency contact person:**

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

12. **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 June 6, 2017. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; 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 6.02 (1) and (2) are amended to read:

- ETH 6.02 Registration statement sufficiency.** (1) Any registration filed with a filing officer under ss. 11.0201, 11.0202, 11.0203, 11.0301, 11.0302, 11.0303, 11.0401, 11.0402, 11.0403, 11.0501, 11.0502, 11.0503, 11.0601, 11.0602, 11.0603, 11.0701, 11.0702, 11.0703, 11.0801, 11.0802, 11.0803, 11.0901, 11.0902, and 11.0903, Stats., which is insufficient as to essential form, information or attestation shall be rejected by such officer and shall be promptly returned if possible to the proposed registrant indicating the nature of the insufficiency. The proposed registrant shall be informed that the attempted registration is not effective.
- (2) Any registration statement filed with a filing officer under ss. 11.0201, 11.0202, 11.0203, 11.0301, 11.0302, 11.0303, 11.0401, 11.0402, 11.0403, 11.0501, 11.0502, 11.0503, 11.0601, 11.0602, 11.0603, 11.0701, 11.0702, 11.0703, 11.0801, 11.0802, 11.0803, 11.0901, 11.0902, and 11.0903, Stats., which is insufficient or incomplete in some manner but substantially complies with law shall be accepted by such officer who shall then promptly notify the registrant indicating the nature of the incompleteness or insufficiency. The registrant shall then have 15 days from the date of such notice to rectify the problem. If the incompleteness or insufficiency is not rectified by the registrant within 15 days from the date of the notice, the registration lapses and is not effective.

SECTION 2. ETH 6.03 is amended to read:

**ETH 6.03 Assistance by ethics commission staff.** Pursuant to the authority and responsibility vested in the ethics commission by the statutes, specifically s. 19.46 (2), Stats., the staff of the ~~board~~ commission is authorized to provide advice to any interested person with respect to the proper application of ~~title H~~ ch. 11, subch. III of ch. 13, and subch. III of ch. 19, Stats. Such

advice should not be construed as a formal opinion of the ~~board~~ commission under s. 19.46 (2) (c), Stats.

SECTION 3. ETH 6.04 (1) (a) is renumbered ETH 6.04 (1) (ar).

SECTION 4. ETH 6.04 (1) (ag) is created to read:

**ETH 6.04 (1) (ag)** “Commission” means the ethics commission.

SECTION 5. ETH 6.04 (1) (d), (2), (3) (a) and (b), and (4) to (6) are amended to read:

- (d) "Filing Local filing officer" means ~~the ethics commission or any other~~ an elections official, other than the commission, with whom ~~elections or~~ campaign finance documents are required to be filed by ~~chs. 5 to 12~~ under ch. 11, Stats.
- (2) ~~Nomination papers, recall petitions, and those campaign~~ Campaign finance reports provided in ss. 11.0103, 11.0204, 11.0304, 11.0404, 11.0504, 11.0505, 11.0604, 11.0605, 11.0704, 11.0804, 11.0904, and 11.1001, Stats., may not be filed with the commission or a local filing officer by facsimile process. ~~Nomination papers and recall petitions shall not be considered filed with the filing officer until the signed original of each nomination paper and recall petition is received in the offices of the filing officer.~~ Campaign finance reports which are provided in ss. 11.0103, 11.0204, ~~11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904, and 11.1001,~~ Stats., and which are delivered by the U.S. mails are considered filed with the local filing officer when the report is postmarked. Campaign finance reports which are provided in ss. 11.0103, 11.0204, ~~11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904, and 11.1001,~~ Stats., and which are not delivered by the U.S. mails, are considered filed with the local filing officer when received in the local filing officer's offices. Campaign finance reports that are provided in ss. 11.0103, 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, 11.0904, and 11.1001, Stats., are considered filed with the commission when received in the commission's offices.
- (3)
- (a) A duplicate copy of the document is received by the commission or local filing officer, in its offices, by facsimile process, no later than the day and hour at which the document is required to be filed and
- (b) The signed original of the document is received at the offices of the commission or local filing officer with a postmark not later than the filing deadline; or the signed original is delivered to the commission or local filing officer not later than the filing deadline.
- (4) Any document which is filed by facsimile process under this rule shall be considered received at the time of transmission as recorded and entered by the receiving equipment by the commission or local filing officer's staff when the facsimile copy is delivered to the commission or local filing officer's offices.
- (5) If, for any reason, transmission of a document is not received at the commission or local filing officer's offices, whether because of a failure in the receiving system of the commission or local filing officer or because of a failure in the transmitting system of the person attempting to file or for any other reason, a document shall not be considered received or filed until a facsimile copy is delivered to and received at the commission or local filing officer's offices and the signed

original is received at the commission or local filing officer's offices with a postmark not later than the filing deadline.

- (6) The burden of establishing that a document has been received by facsimile process at the offices of the commission or local filing officer shall be upon the person who, or the committee or group which, is required to file the document.

SECTION 4. ETH 6.05 (1) (a), (c), (f) and (2) are amended to read:

- ETH 6.05 (1)** (a) "Campaign period" for a candidate, ~~personal campaign committee or support committee~~ has the same meaning as provided in s. 11.1103, Stats., and for any other registrant begins on January 1 of an odd-numbered year and ends on December 31 of the following year.
- (c) "Electronic format" means ~~computer diskette or a computer data file created using Access or Excel software or software that produces a delimited text file.~~ the online system maintained by the commission for campaign finance registration and reporting.
- (f) "Report" means any filing required by ss. 11.0103, 11.0204, 11.0304, 11.0404, ~~11.0501, 11.0502, 11.0503,~~ 11.0504, 11.0505 (~~3~~), 11.0604, 11.0605 (~~3~~), 11.0704, 11.0804, 11.0904, and 11.1001, Stats.
- (2) Any registrant who files with the ethics commission and who accepts contributions or makes disbursements in a total amount or value of ~~\$20,000 or~~ more than \$1,000 during a campaign period shall file each campaign finance report that is required to be filed by ch. 11, Stats., in an electronic format.

SECTION 5. ETH 6.05 (5) and (6) are repealed.

SECTION 6. EFFECTIVE DATE: This rule shall take effect on the first day of the first campaign finance reporting period following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.



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State of Wisconsin	)	
	)	<b>CERTIFICATE</b>
<b>Wisconsin Ethics Commission</b>	)	
	)	Clearinghouse Rule 17-037
	)	
	)	

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I, Brian M. Bell, Administrator of the Wisconsin Ethics Commission, do hereby certify that the enclosed rule to repeal ch. ETH 25, related to Ethics Commission forms, was duly approved and adopted by this Commission on June 7, 2017.

I further certify that this copy has been compared by me with the original on file at our office and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have  
hereunto set my hand at 212 E. Washington  
Ave., in the City of Madison, on

December 5, 2017

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Brian M. Bell, MPA  
Administrator  
Wisconsin Ethics Commission

ORDER OF THE WISCONSIN ETHICS COMMISSION  
CR 17-037

The Wisconsin Ethics Commission proposes an order to repeal ch. ETH 25, related to Ethics Commission forms.

**RULE SUMMARY**

1. **Statutes interpreted:** s. 19.48(2), Stats.
2. **Statutory authority:** There is no specific statutory authority for an administrative rule prescribing forms, but the Ethics Commission 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.

Furthermore, the forms enumerated in ch. ETH 25 are not required to be created via rule as their content is prescribed by other rule or statute as indicated on the bottom of each form.

3. **Explanation of agency authority:** The Ethics Commission is required to prescribe and make available forms for use under Chapter 11, subchapter III of Chapter 13, and subchapter III of Chapter 19.
4. **Related statute(s) or rule(s):** N/A.
5. **Plain language analysis:** This rule repeals the listing of campaign finance and ethics forms currently in the administrative code. The Ethics Commission will continue to prescribe and make available the forms necessary to administer Chapter 11, subchapter III of Chapter 13, and subchapter III of Chapter 19.

6. **Summary of, and comparison with, existing or proposed federal regulations:** The Federal Election Commission has the duty to prescribe rules, regulations and forms to carry out provisions of the Federal Election Campaign Act. 52 U.S.C. § 30111. There is no existing or proposed regulation that is intended to address the prescription of specific forms.

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

Illinois: The State Board of Elections publishes official forms but no statute, administrative rule, or code prescribes such forms. ILL. ADMIN. CODE tit. 26 § 100.20.

Iowa: Requires the Iowa Ethics and Campaign Finance Disclosure Board make all necessary forms available but no statute, administrative rule, or code prescribes such forms. IOWA CODE § 68.201.

Michigan: Designated forms are determined at the discretion of the Secretary of State which oversees campaign finance disclosure and lobbying activities, but no statute, administrative rule, or code prescribes such forms. MICH. COMP. LAWS § 169.218.

Minnesota: Requires reports and statements to be submitted on electronic forms provided by the Campaign and Public Disclosure Board, unless a waiver for paper forms has been approved. There is no statute, administrative rule or code which prescribes such forms. MINN. R. 4501.0500 (2006).

8. **Summary of factual data and analytical methodologies:** N/A

9. **Analysis and supporting documentation used to determine effect on small businesses:**  
N/A

10. **Effect on small business:** N/A

11. **Agency contact person:**

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

12. **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 June 6, 2017. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; 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. Chapter ETH 25 is repealed.

SECTION 2. 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.

**(5) FAILURE TO TIMELY FILE A SPECIFIC EXPRESS ADVOCACY REPORT.** If a person fails to timely file a specific express advocacy report, the commission may extend a settlement offer of 5 percent of the disbursement not timely reported.

**(6) FAILURE TO PROVIDE CONTRIBUTOR INFORMATION.**

(a) If contributor information is not included on a campaign finance report, but is received within 30 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 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.

**(7) FAILURE TO PROVIDE DISBURSEMENT INFORMATION.**

(a) If disbursement information is not included on a campaign finance report, but is received within 30 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 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 disbursement information.

**(8) CASH BALANCE DISCREPANCIES.** If a registrant's cash balance at the beginning of a reporting period does not match the registrant's cash balance reported at the end of the prior reporting period; or the reported beginning balance of a report, plus all receipts, minus all expenditures, does not equal the reported ending balance of that report; and the cash balance is corrected:

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

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

**(9) EXCEEDING CONTRIBUTION LIMITS.** If a registrant receives an excess contribution, the commission may extend a settlement offer in the amount by which the contribution exceeded the applicable limit.

**(10) PROHIBITED CORPORATE, UNION, ASSOCIATION, OR TRIBAL CONTRIBUTIONS.**

**(5) FAILURE TO TIMELY FILE A SPECIFIC EXPRESS ADVOCACY REPORT.** If a person fails to timely file a specific express advocacy report, the commission may extend a settlement offer of 5 percent of the disbursement not timely reported.

**(6) FAILURE TO PROVIDE CONTRIBUTOR INFORMATION.**

(a) If contributor information is not included on a campaign finance report, but is received within 30 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 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.

**(7) FAILURE TO PROVIDE DISBURSEMENT INFORMATION.**

(a) If disbursement information is not included on a campaign finance report, but is received within 30 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 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.

**(8) CASH BALANCE DISCREPANCIES.** If a registrant's cash balance at the beginning of a reporting period does not match the registrant's cash balance reported at the end of the prior reporting period; or the reported beginning balance of a report, plus all receipts, minus all expenditures, does not equal the reported ending balance of that report; and the cash balance is corrected:

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

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

**(9) EXCEEDING CONTRIBUTION LIMITS.** If a registrant receives an excess contribution, the commission may extend a settlement offer in the amount by which the contribution exceeded the applicable limit.

**(10) PROHIBITED CORPORATE, UNION, ASSOCIATION, OR TRIBAL CONTRIBUTIONS.**

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

**Rule No.:**     ETH Ch. 16

**Relating to:** Lobbying

**Rule Type:**   Permanent

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

The Commission proposes to amend ETH 16.03(1) to clarify the level of detail required, repeal ETH 16.03(3) to reflect the current procedure for reporting on administrative action, and create ETH 16.03(4) to incorporate the Commission’s new policy that topics of lobbying communications are reported by pre-determined topic categories, similar to how budget bill subjects are reported. The Commission proposes to amend ETH 16.04(1) to only require agency name and scope statement number, and repeal ETH 16.04(2). Finally, the Commission proposes to create ETH 16.05 to request lobbyists voluntarily provide a residential address when applying for a lobbyist license. This information would be used to audit for prohibited campaign contributions by the lobbyist while so licensed.

**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 changes to ETH 16.03 are the result of new policy and procedures adopted by the Commission for the reporting of topics under Wis. Stat. § 13.67. The Commission proposes to require lobbying principals to report topics of lobbying communications by a pre-defined list, similar to budget bill subjects, in addition to the current requirements provided in ETH 16.03(1) and (2). Additionally, the Commission proposed repealing ETH 16.03(3). This will make reporting more consistent and easier for the public to follow.

The changes to ETH 16.04 are the result of improvements to the online reporting process which only requires reporting the state agency name and scope statement number. The Ethics Commission has worked with the Legislative Technology Services Bureau (LTSB) to automate providing the Administrative Register number and date, and properly references the online publishing of the register.

The creation of ETH 16.05 is an extension of the Commission’s audit plan, which was adopted on October 10, 2016. The lobbyist contribution audit requires Commission staff to identify if the identity of any contributor to a candidate matches the identity of a licensed lobbyist. Contributions are itemized by date, full name, and street address of the contributor. Matching contributors to lobbyists with only a name can sometimes lead to

erroneous matches or make it more difficult for Commission staff to verify when a prohibited contribution has been made.

**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 Subchapter III of Chapter 13.

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:**

Lobbyists, lobbying principals, 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. This proposed rule includes no significant economic impact on small businesses.

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

A handwritten signature in cursive script, appearing to read "Brian Bell". The signature is written in black ink on a white background.

Brian M. Bell, MPA  
Administrator  
Wisconsin Ethics Commission

August 23, 2017  
Date Submitted





# Wisconsin Ethics Commission

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

**DATE:** For the December 5, 2017 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Adam Harvell, Ethics Specialist

**SUBJECT:** Guidance to Staff on Conducting Audits Using External Data

## FOR COMMISSION ACTION

1. Does the Commission direct staff to:
  - a. Limit 72-hour report auditing to data filed within CFIS, or
  - b. Direct staff to incorporate FCC data into audit procedures
2. In general, what direction does the Commission want to provide to staff regarding the use of external data as a part of audits (e.g., data from other state agencies/the Legislature, federal government, local government, non-governmental agencies)?

At the August 23, 2016, the Commission approved a general overview of campaign finance audits. One of the audits outlined covered independent expenditure reporting and 72-hour reporting of large contributions by candidates and political parties.

Commission staff has not yet run a late reporting/72-hour reporting audit for the Fall 2016 election, but intends to run an audit after the 2018 Fall Election cycle. However, staff would like the Commissioners to provide direction regarding possible audit procedures.

### 72-hour Reporting Auditing Procedures

Current statutes require candidates, political parties, and legislative campaign committees that receive \$1,000 or more later than 15 days prior to an election to report that receipt within 72 hours. (WIS. STAT. §§ 11.0204(7), 11.0304(7), and 11.0404(4)). PACs and Independent Expenditure Committees (IECs) must also report spending \$2,500 or more on express advocacy within 60 days of a primary or election. (WIS. STAT. §§ 11.0505 and 11.0605). Even unregistered entities that spend more than \$2,500 on express advocacy within 60 days of a primary or election must file reports in CFIS within 72 hours. (WIS. STAT. § 11.1001).

After an election cycle, commission staff can compare each committee's 72-hour reports filed in CFIS with the election-related and continuing reports filed for that time period. If there are contributions of \$1,000 or more, or independent expenditures of \$2,500 or more reported on the

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

*Administrator*

Brian M. Bell, MPA

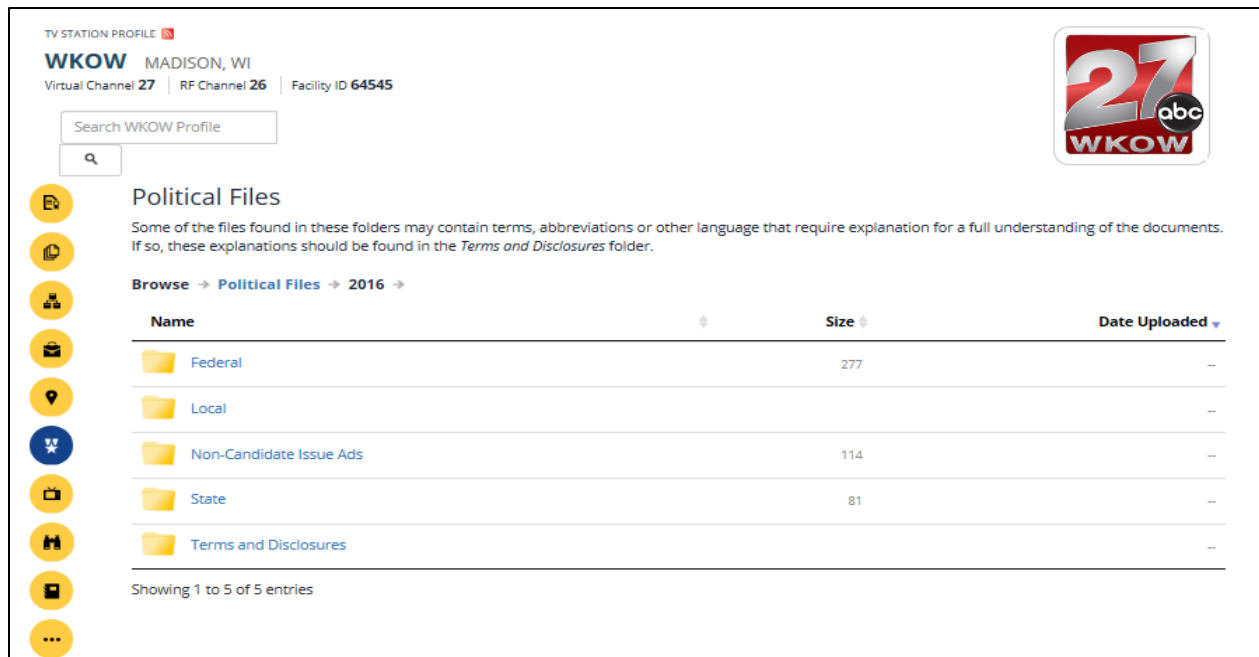
regular reports but not on the 72-hour reports, the Commission may ask the committee to respond, and potentially issue a settlement offer if the committee has failed to file one or more 72-hour reports.

The current settlement schedule calls for an offer of five percent of the amount of the unreported contribution or expenditure. This is a carryover from the 2015 statutes, when an unreported late contribution resulted in a \$25 settlement amount for each \$500 that went unreported. Previous statutes did not address late reporting of independent expenditures. Under the current law and settlement schedule, an unreported \$1,000 contribution would result in a \$50.00 settlement offer, and an unreported \$2,500 expenditure would result in a \$125.00 settlement offer.

### Potential Use of Data from the Federal Communications Commission

The audit procedures described above would identify registered committees that failed to file the required 72-hour reports, but it would not identify unregistered entities required to report under Wis. STAT. §11.1001. Unless alerted to these expenditures by a complaint, staff would have no way to discover the failure to report.

However, the Federal Communications Commission maintains a separate database of political expenditures reported by broadcast television, cable companies, and radio stations. All broadcast television stations and larger radio stations and cable systems currently maintain a political file. All radio stations and all cable systems with more than 1,000 subscribers will also maintain political files beginning no later than March 1, 2018. Each political file separates federal, state, and local races, as well as non-candidate issue advertisements. The files also organize state races further by seat type, then by advertising purchasers. Under each committee or entity that bought advertising, you can view invoices and contracts, including a Political Agreement form (PB-18) that lists the entity paying for each purchase.



The screenshot shows the WKOW TV Station Profile page. At the top, it displays "WKOW MADISON, WI" with "Virtual Channel 27" and "RF Channel 26" below it, and "Facility ID 64545" on the right. A search bar is present. The main content area is titled "Political Files" and includes a note: "Some of the files found in these folders may contain terms, abbreviations or other language that require explanation for a full understanding of the documents. If so, these explanations should be found in the Terms and Disclosures folder." Below this is a breadcrumb trail: "Browse → Political Files → 2016 →". A table lists the folders:

Name	Size	Date Uploaded
Federal	277	--
Local		--
Non-Candidate Issue Ads	114	--
State	81	--
Terms and Disclosures		--

At the bottom of the table, it says "Showing 1 to 5 of 5 entries".

Searching for FCC data on political expenditures in Wisconsin could be difficult for a member of the public. Users must find each TV or radio station's call sign, and drill down into the political file one contest at a time. However, the FCC also provides access to developers to query their database more directly. The FCC's website list options for accessing the data at <https://publicfiles.fcc.gov/developer/>, which makes it possible for developers to obtain more broad-based data by applying filters. For example, a user could request:

1. political ads for
2. state level candidates for
3. Wisconsin stations in
4. a date range covering from 6/1/2018 to 12/31/2018.

Paying a developer to help collect this data would cost money, and the data may still be hard to work with, especially if stations have different naming conventions for the same files. It is hard to measure the reliability of this data without systematically comparing it to CFIS, and we have no power to correct errors in the data if we find them. But the data could potentially help us find groups that do not register or report as required by Wisconsin campaign finance law.

Commission staff would like guidance from the Commissions on whether to pursue an audit involving FCC data, or limit future 72-hour audits to the data collected by the Ethics Commission.





# Wisconsin Ethics Commission

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

**DATE:** For the December 5, 2017 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** David Buerger, Staff Counsel  
**SUBJECT:** Settlement Schedule Review

## FOR COMMISSION ACTION

The Commission could:

1. Take no action and leave the settlement schedule as is.
2. Modify the settlement schedule consistent with today's discussion and direct staff to modify the pending administrative rule accordingly.

At its last meeting, the Commission directed staff to review the settlement schedules adopted by the Commission at its October 10, 2016 meeting to determine if any appeared inconsistent or were in need of revision. Staff has reviewed the settlement schedule last approved by the Commission at its August 2017 meeting and has identified the items listed below as possibly in need of revision.

### Cash Balance Discrepancies

The maximum penalty for a cash balance discrepancy (e.g., ending balance of last report does not match starting balance of next report) is \$500 per unreported transaction that led to the discrepancy. [Wis. STAT. § 11.1400\(1\)](#).

The settlement schedule currently provides a 30-day grace period for a committee to fix their report once notified of a cash balance discrepancy. If the report is fixed later than 30 days after notification the settlement schedule asks for \$100 plus 10 percent of the discrepancy amount. However, if the committee is unable to identify the source of the discrepancy and correct their report, the settlement schedule does not currently specify how to resolve that violation. While the Commission may not want to provide a standard settlement in such cases as it may lead to committees weighing the effort required to find the source of the error against the standard settlement and simply choosing to pay rather than put in the additional work, this is a common scenario that may benefit from being included in the settlement schedule.

The past practice of the Commission has been to offer settlements of \$100 plus a larger percentage of the total cash balance discrepancy to committees that are unable to identify the source of the discrepancy despite a good-faith effort. Increasing the settlement offer from 10 percent to some

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*Administrator*

Brian M. Bell, MPA

larger percentage of the discrepancy (e.g., 30 percent) provides an incentive for committees to identify the source of the discrepancy, but still provides a reasonable ceiling short of the statutory maximum for committees that cannot find the source of the discrepancy despite a good-faith effort. Committees that fail to take reasonable steps to identify the source of their discrepancy could still be handled outside the standard schedule on a case-by-case basis as the Commission sees fit.

### Prohibited Corporate Contributions

The penalty for accepting a prohibited corporate contribution depends on whether you are the recipient of the excess contribution or the contributor. The recipient of an excess contribution faces a maximum penalty of \$500.<sup>1</sup> [WIS. STAT. § 11.1400\(1\)](#). The contributor faces a maximum penalty of \$500 plus treble the excess contribution. WIS. STAT. § [11.1400\(1\), \(3\)](#).

The settlement schedule currently provides for the receiving committee to pay 1.5 times the amount of the illegal contribution and the corporate contributor to also pay 1.5 times the amount of the illegal contribution. Combined these settlements could amount to nearly the statutory maximum of 3 times the contribution plus \$500 from both the recipient and contributor. This standard settlement stands in contrast to the excess contributions scenario where the settlement schedule only asks for the receiving committee to pay the amount of the excess contribution and does not ask anything from the contributor, despite having the same penalty provisions.

Some variance in how these situations are handled may be expected. Excess contribution violations come about from entities that are otherwise eligible to contribute, but have merely exceeded the maximum contribution allowed for that period. Corporate contributions to most committees are strictly prohibited. However, the settlement schedule as adopted does not provide much incentive for a receiving committee or its corporate contributor to settle with the Commission as the schedule is asking in sum for nearly the same amount as the maximum penalties provided by law.

Alternatively, the Commission could take a similar tack to the excess contribution scenario, and merely ask for the receiving committee to disgorge itself of the illegal contribution, instead of paying a premium of 1.5 times the contribution. This would comply with the statutory command for the Commission to ensure that “any settlement made by the commission shall be in such amount as to deprive the alleged violator of any benefit of his or her wrongdoing...”, while providing a better incentive to settle and forgo the risk and expense of litigation. [WIS. STAT. § 19.49\(1\)\(b\)](#). The Commission could leave the corporate contributor settlement amount at 1.5 times the amount of the contribution if it found that to be a suitable deterrent or adjust that amount up or down as it finds necessary to deter future violations. If the Commission wished to maintain the existing expected loss from a violation, but rebalance it between the recipient and contributor, it could do so by increasing the corporate contributor’s settlement amount to compensate, taking it up to 2 times the contribution amount instead of the current 1.5 times the contribution amount.

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<sup>1</sup> The recipient of such an illegal contribution may also be required to disgorge the contribution as the product of an illegal act, but such a remedy could only be ordered by a court. *See* [FEC v. O’Donnell](#) (D. Del., 2017).



### Impact of Changes on Pending Administrative Rule

The Commission is the process of promulgating an administrative rule (ETH 26) that would enshrine the Commission's settlement schedule in the administrative code and permit the Commission to delegate the authority to issue settlement offers to the Administrator if the settlement would not involve payment of more than \$2,500. [WIS. STAT. § 19.49\(2\)\(b\)10](#).

At the time of drafting this memo, ETH 26 is currently before the Joint Committee on Review of Administrative Rules (JCRAR). If the Commission wished to modify the rule staff could submit those modifications to the Legislature, which would pull the rule back to the standing committee review step. While such action would delay the final rule, any delay would likely be shorter than the time required to go through the rulemaking process again to modify the newly adopted rule.





# Wisconsin Ethics Commission

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212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

DATE: For the December 5, 2017 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA  
Commission Administrator

SUBJECT: Segregated Funds Draft Guideline

## FOR COMMISSION ACTION

Question 1: Is it the opinion of the Commission that the \$12,000 limit on contributions to segregated funds is an aggregate limit for PACs and other persons, or is the \$12,000 limit separate from the \$12,000 limit on what PACs and other persons may contribute to the primary fund of a party or legislative campaign committee?

Question 2: Does the Commission agree with the other proposed answers listed below, or does the Commission wish to revise any of the proposed answers?

Question 3: Are there any other questions or information regarding segregated funds that the Commission wishes to address?

Question 4: Does the Commission wish to approve a Guideline on Segregated Funds that incorporates the questions and information addressed through questions 1 through 3?

One of the most frequent categories of questions about the current Wisconsin campaign finance laws that staff receive involves segregated funds. Segregated funds are new to Wisconsin campaign finance laws with 2015 Act 117, and did not exist under the previous campaign finance laws. The current statutes also say very little regarding segregated funds. In order to improve the information available to the regulated community, staff have compiled frequently received questions and proposed response for the Commission to consider, revise and potentially adopt as a guideline.

### *What is a segregated fund?*

2015 Wisconsin Act 117, which completely revised Wisconsin campaign finance laws created the ability of political party committees and legislative campaign committees to establish a segregated fund. A segregated fund is a set of funds accounted for separate of a committee's primary fund. The segregated fund may be held in the same account as the primary fund, but the funds must be accounted for and reported separately. While not required, Ethics Commission staff recommends maintaining separate accounts for the primary and segregated fund.

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*Administrator*

Brian M. Bell, MPA

*What types of Committees may establish a segregated fund?*

Only a political party committee or a legislative campaign committee registered with the Ethics Commission may establish and administer a segregated fund.

*Is a segregated fund required?*

A segregated fund is only required if a political party or legislative campaign committee wishes to accept contributions from corporations, unions, associations (cooperatives), and American Indian tribes. If the committee does not intend to accept funds from those types of contributors, the segregated fund is not required by Wisconsin Statutes.

*Are there restrictions on who may contribute to a segregated fund?*

Yes, independent expenditure committees may not contribute to a political party's primary or segregated fund. An independent expenditure committee may only make contributions to a referendum committee or another independent expenditure committee.

*What are the contributions limits regarding a segregated fund?*

Individuals, candidate committees and party committees may contribute to a segregated fund in unlimited amounts. Political action committees (PACs) and other persons (corporations, unions, tribes, and unregistered committees) may contribute up to \$12,000 in aggregate per calendar year. PACs and unregistered organizations that may give to both the party's primary account and the segregated fund may not give more than \$12,000 in total in a calendar year.

*Are there restrictions on how segregated funds may be used?*

Yes, segregated funds may not be used for making contributions to a candidate committee or making disbursements for express advocacy. Segregated funds may be used for anything allowable by Wisconsin Statutes outside of contributions to a candidate committee or making disbursements for express advocacy. The funds may not be used for strictly-personal use.

*What are some common examples of how segregated funds may be used?*

Some common uses for segregated funds would include, but not be limited to, administrative expenses of the party such as office space rent, office supplies, administrative expenses for fundraising activities, website hosting or development. committees must make sure that such activities do not violate the prohibition on using segregated funds for express advocacy.

### **Additional Resources**

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. For information about how to use the Wisconsin Campaign Finance Information System (CFIS), please visit this webpage: <https://ethics.wi.gov/Pages/CampaignFinance/CFISManuals.aspx>. If you have

additional questions, please contact the Wisconsin Ethics Commission staff by email at [CampaignFinance@wi.gov](mailto:CampaignFinance@wi.gov), or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.

*This document is only a guideline, and does not constitute an informal or formal opinion of Wisconsin Ethics Commission. If you wish to obtain an informal or formal opinion of the Commission, you may make a written request pursuant to [WIS. STAT. § 19.46\(2\)](#). Your request is confidential and any response is as well; however, if the Commission acts formally then statutes require the Ethics Commission to purge identifying information from the opinion and then publish it. An informal or formal opinion issued by the commission will provide some protection to the requestor against an enforcement action pursuant to [WIS. STAT. § 19.49](#), providing the material facts are as stated in the request and the individual or committee is following the advice. No such protection attaches to informal opinions of Commission staff.*





# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

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DATE: For the December 5, 2017 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA  
Commission Administrator

SUBJECT: Ethics Commission Staff Report

## Legislative Updates

[Act 59](#) (*Assembly Bill 64: relating to state finances and appropriations, constituting the executive budget act of the 2017 legislature*)

This is the Wisconsin State Biennial Budget. The bill as amended was passed by the Assembly by a vote of 57-39-2. The bill as amended was then concurred in by the Senate by a vote of 19-14. The Governor reported approval with partial vetoes as 2017 Wisconsin Act 59 on September 21<sup>st</sup>.

Act 59 includes a few provisions that specifically affect the Ethics Commission. First, the act includes the agency's request to decrease its spending authority for the Materials and Services Appropriation from \$11,500 to \$4,500 annually. This appropriation represents any revenue the agency may receive from providing printed materials, which most commonly are requests for paper copies of Statements of Economic Interests.

Second, the budget changes the per diem received by members of the Ethics Commission and the Elections Commission. The Joint Committee on Finance recommended changing the per diem from \$454.11 to \$227, and to limit per diems only to days participating in a meeting, instead of any activity related to the Commission. The Governor exercised a line item veto to reduce the per diem from \$227 to \$27 per day participating in a meeting. The Budget also reduces the funds available for per diems from \$10,900 to \$1,300.

Staff will continue to review the budget for general provisions that may affect the Ethics Commission and report any significant findings to the Commission.

[Senate Bill 278](#) and [Assembly Bill 330](#): *relating to the rule-making authority of certain agencies.*

The bill prohibits a commission or board, including a credentialing board, that has not taken any action with respect to the promulgation of a rule in ten years or more from taking any such action in the future unless a subsequent law specifically authorizes it to do so.

Status: AB 330 passed by the Assembly by a vote of 31-31-2. SB 278 recommended passage by the Committee on Government Operations, Technology, and Consumer Protection by a vote of 3-2.

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[Senate Bill 295](#) and [Assembly Bill 384](#): *relating to the expiration of administrative rules.*

This bill provides for the expiration of each chapter of the Wisconsin Administrative Code after nine years, unless the chapter is readopted by the agency through the readoption process established under the bill.

Status: AB-384 Passed by the Assembly on November 9, 2017 by a vote of 60-33.

[Senate Bill 322](#) and [Assembly Bill 317](#): *relating to review by state agencies of administrative rules and enactments; an expedited process for repealing rules an agency no longer has the authority to promulgate; retrospective economic impact analyses for rules; and reporting by the Legislative Reference Bureau on rules in need of revision.*

Status: Passed by the Assembly on June 14, 2017 by a vote of 62-34. Concurred in by the Senate by a vote of 19-13, and messaged to the Governor.

[Senate Bill 337](#) and [Assembly Bill 426](#): *relating to submission of base budget review reports by state agencies, the legislature, and the courts.*

Status: Administrator Bell provided public testimony at both the Senate and Assembly public hearings. The Senate passed SB 337 as amended by Senate Amendment 1 by a voice vote.

[Senate Bill 412](#) and [Assembly Bill 494](#): *relating to allowing local public officials to receive anything of value that the Wisconsin Economic Development Corporation or the Department of Tourism is authorized to provide.*

Administrator Bell testified for information only at public hearings on each bill on September 20<sup>th</sup>. During the public hearing with the Assembly Committee on State Affairs, Administrator Bell noted that we would add to our website the reports that WEDC and Tourism are required to file with the Ethics Commission regarding the items received and provide under the exceptions. The most recent reports were made available the same day on our website here:

<https://ethics.wi.gov/Pages/Ethics/StatementsOfEconomicInterests.aspx>.

Status: Passed by both houses of legislature by a voice vote, and messaged to the Governor.

[Assembly Bill 153](#): *relating to aggrieved parties petitioning for a recount and making an appropriation.*

Senate Amendment 1 to AB-153 would increase the per diems for Commissions of the Elections Commission and Ethics Commission from \$27 to \$115 per day.

Status: Passed by the Assembly by a voice vote on June 21, 2017. Senate Amendment 1 adopted and concurred in as amended by a vote of 20-13 on November 7, 2017. Senate Amendment 1 concurred in by the Assembly on November 9, 2017, and messaged to the Governor.



## **Attorney General Opinion Requests**

On August 4, 2017, staff received a verbal update from Charlotte Gibson, Unit Director of the Special Litigation and Appeals Unit, regarding the two pending requests for an Attorney General Opinion. The Department of Justice management is currently evaluating the request regarding the ability of a candidate committee to claim exemption from campaign finance reporting in the year the candidate appears on the ballot.

The second opinion request was in regards to the constitutionality of [WIS. STAT. § 13.68\(6\)](#) and the ability of the Commission to suspend a lobbyist's ability to lobby on behalf of a principal as a result of the principal failing to file reports in a timely fashion. Ms. Gibson reports that the attorney responsible for drafting this opinion was working on litigation, but would begin drafting the opinion on August 7. After the attorney drafts the opinion, Department of Justice management must then be reviewed and approved it.

## **Commission Administration**

### Records Management and Records Disposition Authorizations (RDAs)

Following the Commission's approval at the previous meeting of changes to existing RDAs and creation of new RDAs, staff submitted the RDA requests to the State Public Records Board on September 8, 2017. An initial review by the Records Management Committee went well, with no suggested updates prior to the November 20 meeting. At the November 20<sup>th</sup> meeting of the Public Records Board, all submitted RDAs were approved.

Staff completed an inventory of records in storage and will submit a request to archive appropriate records with the Wisconsin Historical Society. We will keep other paper records that have not yet reached their retention period on site in storage. Upon moving to a new office location, staff will request storing those paper records that have not yet reached their retention period at the State Records Center, as it is substantially less expensive than paying rent for onsite storage space. Staff could request to retrieve those records at any time, should a business need to do so arise.

The staff also researched options to scan and index the remaining paper records in the office, which consists mostly of statements of economic interests for current officials required to file, original campaign finance registration forms and notarized independent expenditure oaths, and advice files from previous boards. The cost to have a company digitize the records is significant; the quoted price for scanning SEI documents was greater than \$25,000. Due to the high cost of that process, staff plan to begin the process in-house. Depending on how long this process takes for staff, and how close to the move date (late 2018), we may consider hiring temporary staff to complete the project. The cost to hire a temporary staff person for three months of scanning would cost approximately \$5,200.

### Agency Office Space Request

The Commission's current office space lease runs through December of 2018. Staff received notice of a potential future office location from the Department of Administration (DOA). The proposed

location would be on the first floor of the state office building located at 101 East Wilson Street, in Madison. Staff is working with DOA to draft a floor plan for the proposed location. DOA will address any needed construction, but the Ethics Commission will be responsible for any furniture needed beyond what currently exists in that space and what we already have in our current office. However, DOA may have some surplus furniture available at no additional cost. We are still waiting on confirmation of the new location and a lease which will include start and end dates. December of 2018 is the most likely date for the office location move for the agency. DOA has stated that there is some flexibility in the start date, but it would certainly be available prior to the end of our current lease. By moving the agency towards paperless operations and utilizing shared conference rooms in the building, the lease for the proposed new office location will be approximately \$27,000 less each year compared to the current lease, or nearly 40 percent lower.

### Websites and Subdomains

Staff worked with the Division of Enterprise Technology (DET) at the Department of Administration to secure several subdomains under the WI.gov and Wisconsin.gov domain names so that if anyone trying to reach one of our websites types in the wrong address, they will hopefully redirect to the correct site (e.g. ethicscommission.wi.gov will automatically redirect to ethics.wi.gov).

We secured candidate.wi.gov and candidates.wi.gov, which will redirect to a page that explains the role of both the Ethics Commission and the Elections Commission in working with candidates. We also secured wec.wi.gov, which points to a page on our website that describes the Ethics Commission and the Elections Commission, with links to each agency's main website.

Other subdomains secured will include the website addresses for a modernized campaign finance reporting system (CampaignFinance.wi.gov) and the new Statement of Economic Interests (SEI) system (EconomicInterests.wi.gov).

## **Campaign Finance**

### 2017 July Continuing Reports

There were 848 committees required to file the 2017 July continuing report. And 773 (91 percent) filed by the reporting deadline. As of November 20, 2017, there are currently 3 committees that have not yet filed the report. A list of delinquents available for public inspection, as required by [WIS. STAT. § 11.13.04\(16\)](#), is available on the agency website at: <https://ethics.wi.gov/Pages/CampaignFinance/LateCampaignFinanceReports.aspx>.

### 2018 January Continuing Reports

All registered committees not on exempt status (currently, 868 committees) must file the 2018 January continuing report by January 16, 2018 (the 15<sup>th</sup> falls on Martin Luther King, Jr. Day). The reports will include all activity since the previously filed report through December 31, 2017.

### CFIS Updates

Staff continues to work with PCC (the software vendor) to remove GAB references from CFIS and make other modification to CFIS to address several minor technical issues in order to enhance user experience with the site.

### Updating Campaign Finance Forms, Email Templates, and Public Website Content

Staff is currently working to update all campaign finance forms. We have completed a thorough review of the new campaign finance laws in chapter 11 of Wisconsin Statutes, as well as considered information that would assist staff with conducting audits. These new forms should also help local filing officers collect more complete and accurate information. As soon as we update each form, we will post them on the agency website. These updated forms will also be helpful as the agency looks to modernize the campaign finance online application. Staff has also updated all email templates used in CFIS to provide access to updated training materials, provide more clear instructions, and remove all GAB references.

Staff is also developing new content for the public website to coincide with the release of the new forms. The new web content will include a comprehensive reporting guide and compliance materials to address the most frequently asked questions.

### Special Elections for Assembly District 58 and 66, and Senate District 10

Three separate special elections will occur to fill vacancies in three legislative seats, but the elections and primaries will occur simultaneously. The primary will be on December 19<sup>th</sup>, and the election on January 16<sup>th</sup>. This creates a potential issue regarding the campaign finance reports due for those who are participating in these special elections. The January Continuing report typically includes all activities since the previously filed report and through December 31<sup>st</sup>, and would be due by January 16<sup>th</sup> (the 15<sup>th</sup> is MLK day). The pre-election report would be due by January 8<sup>th</sup> and include all activity since the previous report through January 1<sup>st</sup>. This creates a scenario where a report covering a later period is due prior to a report covering an earlier period. The special pre-primary report would be due by December 11<sup>th</sup> and include activities since the previous report (the July Continuing) through December 4<sup>th</sup>.

As a result, staff issued guidance to committees that if they have reportable activity after the pre-primary reporting period (after December 4<sup>th</sup>) related to any of the special elections and thus, would have to file the pre-election report, that they first file their January Continuing report covering through December 31<sup>st</sup>, and then file their pre-election report (which would then only cover January 1<sup>st</sup>) and file both reports prior to the January 8<sup>th</sup> deadline for the special pre-election report. This would help the committees avoid cash balance issues and audit complications. However, staff did also note that this early reporting of the continuing report would be voluntary.

Staff will continue to monitor reporting and assist committees with compliance, as well as report to the Commission at the February meeting regarding any significant issues the Commission may wish to consider regarding enforcement activities.

## **Lobbying**

### Wisconsin Lobbying Laws: Overview and Best Practices

Staff held training sessions to cover Wisconsin lobbying laws and the Eye on Lobbying reporting application on November 13 and 17. There were 53 attendants in total for both sessions.

### Eye on Lobbying Website Redesign

Staff is starting to search for a Limited Term Employee (LTE) to assist in the redesign of Eye on Lobbying (<https://lobbying.wi.gov>). We hope to hire by the end of December and onboard by January. The LTE employee will work alongside our IT contractor, Kavita Dornala, on the visual design on a new Eye on Lobbying website that will be mobile-responsive.

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

As of November 20, 2017, there were 740 lobbying principals registered, 584 lobbyists licensed, and 1,576 lobbyist authorizations completed for the 2017-2018 Legislative Session.

### Statements of Lobbying Activities and Expenditures

Statutes require each lobbying principal to submit a Statement of Lobbying Activities and Expenditures (SLAE) twice a year. The next deadline is January 31, 2018 which will cover activity from July 1 – December 31, 2017.

### Legislative Liaison Reporting

Statutes require each state agency to certify their agency legislative liaison report twice a year. The next reporting deadline is January 31, 2018.

## **Code of Ethics and Financial Disclosure**

### Design of a new SEI system

Earlier in the agenda, staff provided a demonstration of the new Statement of Economic Interests online application, covering how agencies will be able to manage who is required to file, and how individuals will file their annual Statement of Economic Interests.

Future phases of the project will allow candidates to file their SEI online; allow appointed officials to file their SEI; allow members and trustees of the State of Wisconsin Investment Board to file their quarterly statements online, as well as allow the Legislative Audit Bureau to audit those reports electronically; and automate the process for the public to request to view SEIs and notify the officials of who requested to view their statements.

The staff has also been working with UW System and the State Courts System on MOUs that will allow those organizations to use our new online system for their disclosure requirements. There is

significant overlap between those who file a disclosure report with their organizations and with our agency. Both have adopted a version of our form with a slightly modified confirmation statement. These MOUs will streamline filing for those impacted, as well as reduce the work effort required by all organizations involved, including the Ethics Commission. The MOU with the UW System is completed and signed. The MOU with the Courts System is still in draft and under discussion due to a change in staffing with the Courts System.

#### Statements of Economic Interests

On a regular basis, staff continues to process SEIs for newly nominated and appointed officials, and responds to requests to view statements. Candidates for the three special elections being held January 16, 2018, had to file by November 24, 2017 to achieve ballot status. Candidates in the 2018 Spring Election running for state or judicial offices must file their Statement of Economic Interest no later than January 5, 2018. Annual filers will begin filing their SEIs on January 2, 2018, and the SEIs must be filed by April 30, 2018.

#### State of Wisconsin Investment Board Quarterly Reports

The most recent quarterly reports were due by October 31st, covering July 1<sup>st</sup> through September 30<sup>th</sup>. All reports were filed by October 31<sup>st</sup>, and copies were delivered to the Legislative Audit Bureau. The next quarterly reports will be due by January 31, 2018, covering October 1<sup>st</sup> through December 31<sup>st</sup>.

