

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room

Madison, Wisconsin

Tuesday, April 24, 2018, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Staff Counsel
- C. Approval of Minutes of Prior Meetings
 - 1. Minutes of February 27, 2018 Open Session Meeting Page 3
 - 2. Minutes of April 6, 2018 Open Session Meeting Page 8
- D. Personal Appearances
- E. Review of Lobbying-Related Opinions of Previous Boards Page 11
- F. Administrative Rule Update and Public Hearing on ETH 16 Page 29
- G. Attribution Statements Guideline Page 55
- H. Advisory Opinion Public Hearing – Use of Cryptocurrency for Campaign Contributions and Disbursements Page 59
- I. Staff Report Page 63
- J. Consideration of Future Agenda Items
- K. Closed Session
 - 1. Complaints and Investigations
 - 2. Requests for Advice
 - 3. Personnel Matters
 - 4. Litigation Update
- L. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, June 19, 2018 at 9:00 AM
- Tuesday August 21, 2018 at 9:00 AM
- Tuesday, December 4, 2018 at 9:00 AM

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

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

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

- (c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
- (h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

WIS. STAT. § 19.851(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

212 E. Washington Avenue
Board Room
Madison, Wisconsin
February 27, 2018
9:00 a.m.

Open Session Minutes

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

Staff present: David Buerger, Richard Bohringer, Julie Nischik, Colette Reinke, and
Caroline Russell

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 9:01 a.m.

B. Report of Appropriate Meeting Notice

Staff Counsel David Buerger reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. Approval of Minutes of Prior Meetings

1. Minutes of the January 11, 2018 Meeting

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

2. Minutes of the January 22, 2018 Meeting

MOTION: Approve the minutes. Moved by Commissioner Van Akkeren, seconded by Commissioner McCallum. Motion carried unanimously.

3. Minutes of the January 25, 2018 Meeting

MOTION: Approve the minutes. Moved by Commissioner Van Akkeren, seconded by Commissioner McCallum. Motion carried unanimously.

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke

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D. Personal Appearances

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

Mike Wittenwyler appeared representing the Association of Wisconsin Lobbyists, to provide comment on the unauthorized lobbying audit. Since the January 11 meeting of the Commission, Mr. Wittenwyler spoke with lobbyists, read the report, and sent a letter to the Commission on January 16. Mr. Wittenwyler expressed concerns he had with the unauthorized lobbying audit from his letter to the Commission. First, Mr. Wittenwyler expressed his concern with the limited notice that was provided to lobbyists about the new policy and definition of contract versus in-house lobbyist. Second, Mr. Wittenwyler described the limited notice of how this new audit will be conducted, what the process will look like, how it will be implemented. Finally, Mr. Wittenwyler felt the percentages that were listed in the report of lobbyists that were not in compliance was inaccurate.

The Commission and Mr. Wittenwyler also discussed the definition of lobbying and lobbyists, the litigation case from the Ethics Board, and how this audit might be a disincentive for lobbyists to report their time.

E. Appointment of Interim Administrator

MOTION: To delay this agenda item until after Closed Session. Moved by Commissioner Wendelberger, seconded by Commissioner McCallum. Motion carried unanimously.

F. Administrative Rule Update

Staff Counsel Buerger presented the memo starting on page 13 of the meeting materials.

MOTION: To hold a public hearing on ETH 16. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

MOTION: To approve the public hearing documents for ETH 16. Moved by Commissioner Wendelberger, seconded by Commissioner McCallum.

Discussion.

Amendment to Motion: Approve the proposed rule modifications for public hearing of ETH 16. Amendment taken as friendly by Commissioner Wendelberger and agreed to by Commissioner McCallum.

Motion carried unanimously.

MOTION: For ETH 1, the Commission approves sending the attached scope statement to the Department of Administration for review and approval. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

G. Review of Lobbying-Related Opinions of Previous Boards

Staff Counsel Buerger and Colette Reinke presented the memo starting on page 31 of the meeting materials.

The Commission agreed with the proposed schedule to review lobbying-related opinions.

MOTION: To withdraw the opinions (1-10) as listed on page 33 of the meeting materials. Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

MOTION: To accept revisions of Eth. Bd. Op. 93-06. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren.

Discussion.

Motion carried unanimously.

MOTION: To accept revisions of Eth. Bd. Op. 93-04. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: To accept revisions of Eth. Bd. Op. 98-02. Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

MOTION: To accept revisions of Eth. Bd. Op. 98-06. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

H. Guideline Update

Staff Counsel Buerger presented the memo starting on page 49 of the meeting materials.

1. The 50-Piece Rule Guideline

The Commission discussed the guideline as drafted.

MOTION: Adopt the 50-Piece Rule Guideline, with an amendment: in the second footnote the Attorney General opinion to be listed first and the withdrawn Elections Board opinion to be listed second. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

2. Attribution Statements

The Commission and staff discussed the guideline as drafted and agreed to amend the section on types of communication that do not require attribution statements, to de-emphasize the examples provided. The Commission also requested staff present a

memo at the April meeting regarding the potential rulemaking process and options to address the limitations of this guideline.

I. Standard Settlement Schedules for Lobbying Violations

1. Unauthorized Lobbying

Staff member Caroline Russell presented the memo starting on page 57 of the meeting materials.

The Commission discussed the proposed settlement schedule.

MOTION: To adopt the settlement schedule, with the addition of further explanation of first and second instances, and clarification of multiple violations in the first and second sessions. Moved by Commissioner Strachota, seconded by Commissioner Wendelberger. Motion carried unanimously.

2. Late Payment of Lobbying Fees

Staff member Caroline Russell presented the memo starting on page 59 of the meeting materials.

The Commission discussed the proposed settlement schedule.

MOTION: To adopt the settlement schedule as outlined in option one of the memo, with the amendment to the schedule of removing the term “violator”. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

J. Staff Report

Staff Counsel Buerger presented the memo starting on page 61 of the meeting materials.

K. Consideration of Future Agenda Items

Staff Counsel Buerger will continue to look at the other guidelines that were not presented today and add those to future meeting agendas.

Commissioner Halbrooks requested that election of new officers be added to the June 19, 2018 meeting agenda.

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 Wendelberger, seconded by Commissioner McCallum. Motion carried unanimously.

1. Complaints and Investigations
2. Requests for Advice
3. Personnel Matters
4. Litigation Update

Return to Agenda Item E, Appointment of Interim Administrator

MOTION: To hire a replacement for Brian Bell and utilizing the support of DOA to post, collect resumes, and set up interviews. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

MOTION: To appoint Colette Reinke as temporary Administrator of the Commission for the next 90 days or until a permanent replacement is hired. Moved by Commissioner Van Akkeren, seconded by Commissioner Davis.

Discussion of the motion.

Roll call vote:

Commissioner Van Akkeren:	Aye	Commissioner Strachota:	No
Commissioner Wendelberger:	Aye	Commissioner McCallum:	No
Commissioner Davis:	Aye	Commissioner Halbrooks:	Aye

M. Adjourn

MOTION: To adjourn. Moved by Commissioner Strachota, seconded by Commissioner Wendelberger. Motion carried unanimously.

Meeting adjourned at 2:30 p.m.

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February 27, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist April 24, 2018

February 27, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair April 24, 2018



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Wisconsin Ethics Commission

212 E. Washington Avenue
Large Conference Room (Teleconference)
Madison, Wisconsin
April 6, 2018
2:00 p.m.

Open Session Minutes

Present: David Halbrooks, Katie McCallum, Pat Strachota, and Jeralyn Wendelberger

Staff Present: Colette Reinke, and Julie Nischik

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 2:10 p.m.

B. Report of Appropriate Meeting Notice

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

C. Closed Session

MOTION: The Commission went into closed session pursuant to WIS. STAT. §§ 19.85(1), (c). Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

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April 6, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

April 24, 2018

April 6, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

April 24, 2018

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke



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DATE: For the April 24, 2018 Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Colette C. Reinke, Interim Administrator

SUBJECT: Review of Lobbying-Related Opinions of Previous Boards,
Registration and Reporting

FOR COMMISSION ACTION

1. The Commission may decide to
 - a. Withdraw, modify, and reaffirm opinions as recommended by staff,
 - b. Withdraw, modify, and reaffirm opinions as amended by today's discussion,
or
 - c. Direct staff to continue review of the opinions.

Background

There are thirteen opinions related to lobbyist and principal registration and reporting. Staff has recommended that seven opinions be withdrawn, three be revised, and three opinions be reaffirmed.

The attached spreadsheet provides a link to each opinion, a summary, whether the opinion is consistent or inconsistent, and some additional notes related to why opinions have been recommended for withdrawal. Registration and reporting opinions are lines 20-33. Several of the opinions originally recommended for withdrawal are now being recommended for revision based on the Commission's decision to revise opinions that require minor revisions.

Opinions that are consistent with current law and Commission interpretation, advice, and guidelines are recommended to be reaffirmed. Some opinions that are recommended to be reaffirmed will require minor revisions to correct citations. Staff recommended withdrawal of opinions for two reasons, either they are inconsistent with current statutes or with the current Commission's interpretation, advice, and guidelines, or the opinions are vague, provide no substantive analysis, or are written in such a way that could result in misinterpretation. Several of the registration and reporting opinions are difficult to understand and do not provide clear advice for the question presented. Staff has recommended these for withdrawal to avoid any misunderstanding of the advice being provided by the opinion.

Relevant Statutes and Amending Acts

WIS. STAT. §§ [13.62\(10\)](#), [\(10g\)](#), [\(10r\)](#), [13.621\(1\)](#), [13.64](#), [13.67](#), and [13.68](#) provide general requirements and exceptions for reporting and registration. There were two major changes to these statutes that affect the consistency of previous opinions. Several other changes occurred but were relating to changes in the Commission's name and adding budget bill subjects to reporting, but these are not relevant to revising any past opinions. The following are the changes to the statute:

[1997 Wisconsin Act 186](#) – Amended [WIS. STAT. § 13.68](#) provisions regarding reporting requirements for non-lobbyist lobbying activity. The amendment changed the statute to require reporting of time and expenditures for non-lobbyist employees who are not clerical and devote more than 10 hours to any lobbying activity. It also added a requirement that time spent on research and preparation be reported.

[2005 Wisconsin Act 463](#) – Created [WIS. STAT. § 13.62\(14\)](#) and amended [WIS. STAT. § 13.621\(3\)](#) to exempt tribal officials from certain portions of the lobbying law, including licensing, registering, and reporting.

Opinions Recommended for Withdrawal

The opinions that are being recommended for withdrawal are opinions based on statutory language prior to the amendments listed above or lack beneficial analysis. These opinions would require more than just minor revisions to modify them to be consistent with the current statutes.

1. [Eth. Bd. Op. 91-07](#) – Analysis and substance of the opinion relates entirely to the version of [WIS. STAT. § 13.68](#) before it was amended by [1997 Wisconsin Act 186](#).
2. [Eth. Bd. Op. 92-02](#) – The opinion is contradictory, difficult to understand, and does not provide clear advice for the question presented. It would be written differently by the current Commission.
3. [Eth. Bd. Op. 92-11](#) – The opinion lacks substantive analysis and does not provide clear advice for the question presented. It would be written differently by the current Commission.
4. [Eth. Bd. Op. 97-05](#) – The opinion does not correctly categorize the activity described as grassroots lobbying, which is not regulated and subject to reporting requirements.
5. [Eth. Bd. Op. 99-02](#) – The opinion is difficult to understand and does not provide clear advice for the question presented. It would be written differently by the current Commission.
6. [Eth. Bd. Op. 03-14](#) – Analysis and substance of the opinion are entirely based on the law before [2005 Wisconsin Act 463](#), and requires tribal officials to register and report lobbying activity.

7. [Eth. Bd. Op. 06-09](#) – The opinion is difficult to understand and does not provide clear advice for the question presented. It would be written differently by the current Commission.

Opinions recommended for modification

The following opinions have good analysis and answers, but require minor revisions.

1. [Eth. Bd. Op. 93-10](#) – Only requires revision in paragraph 3 to update the language of [WIS. STAT. § 13.68\(1\)\(c\)](#), does not affect the substantive analysis or advice provided related to [WIS. STAT. § 13.621\(e\)](#) because there was no amendment affecting this section.
2. [Eth. Bd. Op. 97-10](#) - Only requires revision in paragraph 3 to update the language of [WIS. STAT. § 13.68\(1\)\(c\)](#), does not affect the substantive analysis or advice provided.
3. [Eth. Bd. Op. 92-16](#) – Only requires revision in paragraph 3 to update the citation to and discussion of [WIS. STAT. § 13.68\(1\)\(c\)](#), does not affect the substantive analysis or advice provided.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Campaign Contributions, Campaign Activity, Solicitations					
Campaign Contributions	Eth. Bd. Op. 97-09	While serving as a member of Wisconsin's legislature, a candidate for Congress may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting the legislator's candidacy for election to Congress only during the year of the Congressional election between June 1 and the date of the general election and only if the Wisconsin Legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (1)(c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the	
Campaign Contributions, Campaign Activity	Eth. Bd. Op. 93-06	The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law. OEB 93-6	Inconsistent	13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the	Yes
Campaign Contributions	Eth. Bd. Op. 92-29	The Ethics Board advises that the lobbying law's restrictions on the timing of campaign contributions applies to a lobbying principal whether the principal is a corporation or an unincorporated association. A principal is subject to the lobbying law's restrictions on campaign contributions whether it makes a contribution directly or through its alter ego or agent, such as a PAC. Corporate lobbying principals that have created and registered PACs under §11.38, Wisconsin Statutes, may utilize those PACs to make campaign contributions to the full extent permitted under campaign finance laws and within the time periods permitted under Wisconsin's lobbying statute. Businesses, organizations, and individuals that are not lobbying principals are free to make campaign contributions through their PACs without restraint from laws administered by the Ethics Board. OEB 92-29 November 18, 1992	Inconsistent	Inconsistent with current statutes regarding campaign contributions under Wis. Stat. §13.625	
Campaign Contributions	Eth. Bd. Op. 91-08	The lobbying law prohibits a lobbyist from making a campaign contribution during a prohibited time period if it is from a personal campaign committee account over which the lobbyist exerts control or which acts at the direction or as an agent of the lobbyist. Eth. Bd. 682	Inconsistent	2013 Act 153- Wis. Stat. Sec. 13.625 (1m) Provides new time periods during which a lobbyist can make a personal contribution	
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 06-02	A lobbying principal may, consistent with the lobbying law, urge its members to contribute to a candidate, as long as the organization is not acting in concert with the candidate. A lobbying principal may not bundle and furnish contributions from its members to legislators except between June 1 and the general election in the year of the member's election and, then, only if the Legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee. 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 97-18	The Ethics Board advises: (1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and (2) that a lobbyist may sign a conduit check and transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only between June 1 and the date of the general election in the year of a candidate's election and to a legislative candidate during that period only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee.	
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 97-08	The Ethics Board advises that, consistent with the lobbying law: (1) a legislator may direct a letter to a lobbyist asking the lobbyist to ask others to endorse the legislator's candidacy or to provide volunteer personal services to the legislator's campaign such as erecting yard signs, delivering campaign literature, and stuffing envelopes (but not business or professional services); and (2) a legislator not direct a letter to a lobbyist asking the lobbyist to ask others to make a campaign contribution to the legislator's campaign, except between June 1 and the day of the general election in the year of the election and then, if the legislator is running for reelection to the legislature, only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.	
Registration and Reporting	Eth. Bd. Op. 96-17	An association is a lobbying principal subject to Wisconsin's lobbying law if (1) it reimburses a member for lost wages in connection with lobbying on the association's behalf and (2) the member communicates with state officials other than the legislators from the member's own district, on more than 4 days in a 6-month reporting period. A lobbying principal may not, consistent with the lobbying law, reimburse its members' campaign contributions that are furnished at a time not permitted to the principal.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.	
Campaign Contributions, Campaign Activity	Eth. Bd. Op. 96-05	1. A lobbyist may, without restriction from the lobbying law, advise a lobbying organization's members, or their employees, about making campaign contributions as long as the lobbyist is acting independent of any candidate or candidate's campaign committee. 2. Campaign contributions collected from members of a lobbying organization, a circumstance popularly known as "bundling", are best delivered by one of the contributors on behalf of the contributors without reference to the organization. Neither a lobbyist (nor anyone acting at a lobbyist's behest) nor anyone representing himself or herself as acting on behalf of the lobbying organization should physically convey campaign contributions to partisan elected state officials, or candidates for partisan state elective office, except during the statutorily authorized period. OEB 96-5	Inconsistent	Question 1: Consistent. Question 2: Inconsistent. Wis. Stat. 13.625 (1) (b) was amended by WI 2015 Act 117 and "furnish" was replaced by "give." The time period had been amended by 2013 Act 153 (see comments for 93-06). Lobbyists may give personal contributions during the time period provided for in the statutes. Issue raised in the questions was limited to what it means to furnish a contribution.	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Lobbyist Campaign Activity, PACs	Eth. Bd. Op. 97-21	The Ethics Board advises that Wisconsin's lobbying law does not prohibit the appearance of a lobbyist's name as the treasurer of a political action committee on letterhead transmitting a campaign contribution to a member of the legislature.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee. 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.	
Solicitation, State Public Official Conduct	Eth. Bd. Op. 03-06	The Ethics Board advises: An employee of the Legislature should not solicit lobbyists or lobbying organizations for contributions to a community organization on whose board the employee sits. Nor should the employee use the status or prestige of office to solicit contributions to the organization.	Consistent	Withdraw for lack of substantive analysis	
Solicitation, State Public Official Conduct	Eth. Bd. Op. 91-06	You may solicit contributions for a foundation if: (1) you do not invoke the title or prestige of your office to solicit; (2) you do not rely upon the state's time, facilities, supplies or services not generally available to all Wisconsin citizens; (3) any response to your solicitations could not reasonably be expected to influence your official judgement or be considered a reward for past actions; and (4) you do not solicit any lobbyist or lobbyist's employer. Eth. Bd. 640.	Consistent		
Receipt of Items/Services by State Public Official, State Public Official Conduct, Campaign Activity	Eth. Bd. Op. 93-04	A legislator may not accept anything of pecuniary value from a lobbying principal. To the extent that a referendum committee is an intermediary, agent, or alter ego for a lobbying principal, a legislator should treat the referendum committee as if it were a lobbying principal and be guided by the advice given in 1992 Wis Eth Bd 26. A legislator should not bid or negotiate for, nor should anyone offer him or her, work on behalf of a referendum committee if it involves a matter on which the legislator is authorized to take any discretionary action unless the Legislature has completed its final action on that matter. Because referenda are part of the work of the Legislature, we recommend that a legislator not take pay to work on a referendum unless the legislator is confident that he or she can demonstrate that the employment is unrelated to being a member of the Legislature and is unlikely to influence the judgment the legislator exercises as a state official. OEB 93-4	Consistent	Requires minor modification to correct citations	Yes
Solicitation, State Agency Conduct	Eth. Bd. Op. 96-14	A state agency may solicit donations for the agency's gifts and grants account as long as the agency solicits donations only from individuals, businesses, and organizations that do not do business with the agency, are not regulated by the agency, and are neither lobbyists nor lobbying principals. The agency should not use solicited funds for rewarding state public officials. Consistent with statutes administered by the Ethics Board, the agency may use solicited funds to reward other employees for exceptional accomplishment or outstanding performance as long as the use of such funds does not conflict with applicable collective bargaining agreements or with statutes or rules administered by the Department of Employment Relations. OEB 96-14	Consistent		

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Solicitation, State Agency Conduct	Eth. Bd. Op. 98-02	The Ethics Board advises, consistent with laws it administers, that: (1) a division of a state Department may use state resources in connection with its sponsorship of the annual conference of an association of state regulatory agencies; (2) the Department's employees may not solicit contributions to help host the conference from a lobbyist or a lobbying principal or from individuals or entities that are likely to be materially affected by laws or rules which the Department is called upon to interpret or apply or that do business with the Department; (3) the Department's employees may solicit attendance at the conference by any person other than a lobbyist or a lobbying principal; and (4) the Department's employees may prepare and send written notices of the conference to lobbyists and lobbying principals.	Consistent	Requires minor modification to correct citations	Yes
Solicitation, State Agency Conduct	Eth. Bd. Op. 98-05	The Ethics Board advises, consistent with laws it administers, that: (1) a state agency may use state resources in connection with its hosting of a convention of a national organization in Wisconsin; and (2) state public officials associated with the agency, and the agency's employees may not, either orally or in writing, personally solicit contributions from a lobbyist, an employee of a lobbying organization, or an employee of a business or organization that is regulated by or does business with the agency.	Consistent		
Solicitation, State Public Official Conduct	Eth. Bd. Op. 98-06	The Ethics Board advises that a legislator should not authorize an organization to draw on the title and prestige of the legislator's state government office to solicit financial contributions if the organization [1] is a lobbying principal that tries to influence legislation and spends money in support of or in opposition to candidates for election to state offices, or [2] is an organization with which the legislator is associated.	Consistent	Requires minor modification to correct citations	Yes
Registration and Reporting					
Registration and Reporting	Eth. Bd. Op. 91-07	Non-lobbyists need not maintain an individual daily log of activities. A principal need only maintain a log for the time of its employees and individuals engaged in lobbying activities under the supervision or control of the organization. Costs incurred by a principal for research must be reported only if the cost would not have been incurred but for lobbying. Eth. Bd. 641	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.	
Registration and Reporting	Eth. Bd. Op. 93-10	A. Regardless of whether a lobbyist is acting on behalf of the organization that employs the lobbyist or independent of it, the lobbyist need not account to the Ethics Board: 1. For time the lobbyist spends participating as a member in the deliberations either of a rule-making advisory committee established by a state agency under §227.13 or of a committee of the Legislature or 2. For time the lobbyist spends providing information to a state agency official in response to the official's request. B. Otherwise the lobbyist should account for all the time he or she is engaged in attempting to influence state legislation ¹ or an administrative rule ² on his or her employer's behalf, even if the information the lobbyist provides was requested by a legislator. C. A lobbyist is not obliged to account to the Ethics Board for activities: 1. That are unrelated to influencing state legislation or administrative rules or 2. That the lobbyist undertakes independent of his or her employer's interests and not as its representative. OEB 93-10	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.	
Reporting	Eth. Bd. Op. 97-10	The Ethics Board advises that a lobbying principal include in its semiannual report to the Ethics Board the time an individual, who is not a lobbyist, spends on the principal's behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes.	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.	
Registration and Reporting	Eth. Bd. Op. 03-14	The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin's Native American tribes from its registration and reporting requirements.	Inconsistent	2005 Act 463 created 13.62 (14) and extends the same exemptions, relating to obtaining a lobbyist's license, provided to public offices to tribal officials.	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Registration and Reporting	Eth. Bd. Op. 92-16	The time and expenses related to the lobbying activities of individuals employed by companies that are members of a trade association that is a principal should be recorded as follows: (1) If the individuals are lobbying on the trade association's behalf, and under its supervision or control, the trade association should account for their time and the lobbying expenses that the association incurs; (2) If the individuals are lobbying on their employer's behalf, then if the employer otherwise meets the definition of "principal," the employer should account for the employees' time and the lobbying expenses that the employer incurs; and (3) If the individuals are lobbying on behalf of both the trade association and the employer, then both the trade association and the employer should undertake the accounting described in (1) and (2). The exemption for participating in the deliberations of an agency's advisory committee on rulemaking established under §227.13 or of a legislative committee of which the individual is a member extends to preparation and communication with committee members and staff, outside a meeting, that is directly related to committee deliberations. OEB 92-16	Inconsistent	Except those devoting less than 10 hours, clerical EEs, and unpaid volunteers.	
Registration and Reporting	Eth. Bd. Op. 99-02	The Ethics Board advises that each chapter that contributes payments for your lobbying effort and which makes expenditures or incurs obligations exceeding \$500 in a calendar year must separately register as a lobbying principal if you make lobbying communications on each of at least five days in a six-month reporting period unless the network (1) has articles or other written agreement of association; and (2) has officers, directors, or others who jointly direct the association's activities; and (3) you do not take direction from any one chapter or combination of chapters other than the association.	Inconsistent	Inconsistent with the Commission's interpretation of the definition of principal	
Registration and Reporting	Eth. Bd. Op. 92-11	Two organizations jointly lobbying under a different name should continue to report separately the time and resources expended in lobbying by each organization. OEB 92-11	Inconsistent	Inconsistent with the definition of a principal	
Registration and Reporting	Eth. Bd. Op. 06-09	The Ethics Board advises that consistent with the statutes that the Ethics Board administers: 1. As long as a business that employs a lobbyist accords the privilege of serving clients on its premises and using its facilities to all members of a legislator's profession living in the area of the business, and the legislator remains a member of that profession, the business may continue to extend that privilege to the legislator. 2. For a lobbying principal's sibling corporation, the members of whose board of directors are identical to the principal's board of directors, to furnish salary, compensation, or payment to a legislator, these two conditions must be present: a. Any salary, compensation, or payment that a sibling corporation provides or arranges for the legislator is independent of any services he provides for, at the behest of, or for the benefit of the lobbying principal. b. The principal's sibling corporation must arrive at its decisions about whether to employ the legislator, and to determine his salary and compensation, and the nature, scope and hours of his employment, independent of the principal. As long as both organizations are under the direction and control of boards of directors comprising the same people, the Ethics Board thinks it likely that as a matter of law, the sibling corporation cannot meet this condition.	Inconsistent	This is opinion is poorly written and may lead readers to a false conclusion regarding restrictions on legislator employment	
Registration and Reporting	Eth. Bd. Op. 97-05	A lobbying principal should not report in its Statement of Lobbying Activities and Expenditures the time and money it has spent on developing and airing television commercials that do not urge members of the general public to try to influence legislation or administrative rulemaking.	Inconsistent	This opinion incorrectly categorizes activity as not being grassroots lobbying	
Registration and Reporting	Eth. Bd. Op. 92-02	Both organizations may be principals when one organization contracts with another for the latter's employee to lobby on the former's behalf. OEB 92-2	Inconsistent	This opinion is poorly written, contradicts itself and current law	
Registration and Reporting	Eth. Bd. Op. 97-19	The Ethics Board advises: (1) If an individual contracts for or receives economic consideration (including stock or an option to acquire stock) from a company, attempts to influence legislation or rules on its behalf, and communicates with state officials, either orally or in writing, on five or more days in a reporting period in attempting to influence those officials, then Wisconsin's lobbying law will require the company to register as a lobbying principal and to authorize the individual to lobby on its behalf; and (2) An individual should not agree to lobby on behalf of a company if the individual's compensation is stock or a stock option, unless the individual is prepared to clearly and convincingly demonstrate that the value of the stock or the stock option is not in any manner dependent on the success or failure of legislative or administrative action.	Consistent		

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Registration and Reporting	Eth. Bd. Op. 99-04	The Ethics Board advises that an organization that employs a lobbyist may (1) neither directly pay reimbursement of expenses to a member of its board of directors who is an agency official under the lobbying law (2) nor arrange for another organization to pay expenses arising from the official's activities as a member of the organization's board.	Consistent		
Registration and Reporting	Eth. Bd. Op. 99-07	The Ethics Board advises that: (1) Wisconsin law requires an officer or member of a union who makes a lobbying communication on the union's behalf on more than four days in a reporting period to be licensed and authorized as a lobbyist if the union reimburses the member's employer for the individual's wages for the time spent in lobbying activities; and (2) the union should include, in its semi-annual report of lobbying expenditures, the union's salary reimbursement for an individual's time spent in lobbying activities, whether or not the individual is a lobbyist.	Consistent		
Receipt of Item/Services by State Officials, Reimbursement of Expenses					
Gifts, Receipt of Items/Services by State Public Official, Events Open to the General Public	Eth. Bd. Op. 97-12	The Ethics Board advises: A lobbying organization may, consistent with the Ethics Code and lobbying law, furnish food and drink to state officials at a reception if: (1) the organization can demonstrate its genuine attempt to attract the general public to the reception; (2) the reception is open to the public on the same terms it is available to state officials without the purpose or effect of the manner of invitation conferring an advantage on a state official greater than that available to the general public; and (3) either: (a) the organization sets and collects from each state official the greater of: [i] the established charge or ticket price, if any, charged others for the same or comparable benefit, [ii] the organization's cost of acquiring the goods or services the organization provides, or [iii] the market price of the recipient's independently acquiring like benefits; or (b) the reception is unrelated to state officials' discussion of state government processes or issues initiated by or affecting state government.	Inconsistent	Allowing officials to receive things of value if unrelated to the state official's discussion of state government processes or issues initiated by or affecting state government is inconsistent with Wis. Stat. §13.625	
Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 97-16	The Ethics Board advises that: (1) Both state and local officials may participate in a round-trip train excursion that celebrates a lobbying organization's 10th anniversary; (2) The lobbying organization should not furnish refreshments to elected state officials or to state agency officials whose responsibilities relate to rulemaking; and (3) Local public officials and non-elected state officials whose responsibilities do not involve state rule-making may pay for and partake of the food and drink that is offered in connection with the proposed event. The official should pay the greater of [i] the established charge to others for the refreshments, [ii] the organization's cost of providing the refreshments, or [iii] the fair market value of the recipient's independently acquiring like items at a comparable event.	Inconsistent	Officials would receive preferential notice of the event and exclusive access, which in itself can be something of value	
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 05-07	The Ethics Board advises that a legislative employee not rent an apartment or a house with a lobbyist unless (1) the lobbyist is the employee's relative or (2) the employee and the lobbyist are part of the same domestic unit.	Inconsistent	This opinion conflicts with the exception provided for members of the same household	
Receipt of Items/Services by State Public Official, Reporting	Eth. Bd. Op. 03-10	The Ethics Board advises that neither a state public official's acceptance of cards for distribution to the public that provide health care information nor the company's furnishing them to the state of Wisconsin will violate Wisconsin's Ethics Code for state officials. This transaction will not subject the company to Wisconsin's lobbying law or otherwise be considered a lobbying expense.	Consistent	Withdraw for lack of substantive analysis	
Gifts/Honorarium, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 06-06	Wisconsin law [§19.56 (1), Wisconsin Statutes] encourages you to address groups about legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch and to accept reasonable compensation from the sponsor when you do. The bookends offered are well within the ambit of reasonable compensation. If your address can be appropriately characterized as meeting the subject matter criterion, you may surely retain them	Consistent	Withdraw for lack of substantive analysis	
Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 07-08	The Ethics Board advises that a state official may accept food, drink, and entertainment from anyone as long as the person extending the invitation is not a lobbyist or a lobbying principal and the official can demonstrate that the person made the offer for a reason unrelated to the official's holding or having held a government position	Consistent	Withdraw for lack of substantive analysis	

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Receipt of Items/Services by State Public Official, Reimbursement of Expenses	Eth Bd. Op. 01-02	The Ethics Board advises: For state and local government officials Neither a state public official nor a local public official should accept or purchase a ticket or admission to an event or access to a loge, skybox, or other premium area unless the official can clearly and convincingly demonstrate that at least one of these conditions obtains: • The ticket, admission, or access is offered for a reason unrelated to the official’s holding or having held a public office; • The ticket, admission, or access is available to the general public on the same terms and conditions as available to the official; or • The ticket, admission, or access is without pecuniary value. In addition, for state officials and organizations that employ lobbyists A lobbying principal should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbying principal a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. In addition, for state officials and lobbyists A lobbyist should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbyist a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. Limited exception To the extent that an official's participation in an event is in furtherance of substantive or ceremonial governmental responsibilities appropriate to the official's government office so as to be clearly and convincingly for the benefit primarily of the state or a local government and any private benefit is merely incidental, then an individual or organization may provide admission to or accommodation at the event and a state or local public official may attend the event without payment or on terms not available to the general public.	Consistent		
Reimbursement and Expenses	Eth. Bd. Op. 02-03	The Ethics Board advises that §13.625, Wisconsin Statutes, prohibits a lobbying principal to reimburse expenses of a member of its board of directors who is an agency official.	Consistent		
Receipt of Items/Services by State Public Official, Conflicts	Eth. Bd. Op. 04-04	The Ethics Board advises that: Neither the lobbying law nor Ethics Code will be an obstacle to state officials taking advantage of the terms of the State of Wisconsin’s agreement with Microsoft that provides state employees with discounts on the purchase of computer products for home and personal use.	Consistent		
State Agency Conduct, Expenses and Reimbursement	Eth. Bd. Op. 04-07	The Ethics Board advises that an agency official should pay a lobbying organization on whose board of directors the official serves for any food, lodging, or transportation the organization furnishes the official in connection with serving on its board of directors. Because the official’s state agency encourages its employees to participate in the organization’s activities, routinely permits employees to participate in those activities without the need to take leave time, and reimburses employees’ expenses for those activities when it can, it appears appropriate for the agency to reimburse the official for those costs. The lobbying law is not an obstacle to the organization’s reimbursing the state agency for those expenses.	Consistent		
Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 08-05	The Government Accountability Board advises that a judge may not accept, for participating in a program, an award that is a glass plate on an inscribed base, valued at \$400, which is furnished by an organization that is a lobbying principal. An appropriate disposition of the award would be donating it to the court system, through the director of state courts.	Consistent		

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Receipt of Items/Services by State Public Official	Eth. Bd. Op. 08-07	The Government Accountability Board advises that the company may not provide a discount to state or local government officials covered by the Ethics Code or lobbying law, even if the discount is made available to employees of the company's other customers, but may provide a discount if the state or a local government has negotiated discounts for its employees as part of a contract with the company.	Consistent		
Receipt of Items/Services by State Public Official, Conferences/Conventions	Eth. Bd. Op. 06-04	The Ethics Board advises that: 1. A state public official attending a conference or convention may accept educational or informational material or other item for the purpose of conveying it to the State of Wisconsin for the use or benefit of a state office or agency. 2. Except as just noted, a state public official should not accept from a lobbying principal or lobbyist anything of pecuniary value or from anyone else any item of more than token value. This is so, regardless of whether the official was to retain it or furnish it to another for other than governmental use. 3. A state official should not accept, without full payment, a meal or drink offered at a conference or convention unless it is provided, arranged, or sanctioned by the event's sponsor.	Consistent		
State Public Official Conduct, Investments	Eth. Bd. Op. 91-03	An elected state official may not accept a lobbyist's offer to buy stock in a non-publicly held corporation in which the lobbyist is a major investor. Eth. Bd. 626	Consistent		
Gifts/Honorarium, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 91-04	A judge may not accept an honorarium from a principal for presenting a talk but may accept reimbursement of expenses. Eth. Bd. 635	Consistent		
State Public Official Conduct, Investments	Eth. Bd. Op. 92-05	The lobbying law prohibits a legislator from selling shares of stocks of a closely-held corporation to an organization that employs a lobbyist but not to a corporation owned by an individual who owns other corporations that employ lobbyists. OEB 92-5	Consistent		
Conflicts, State Public Officials Other Employment/Business	Eth. Bd. Op. 96-01	With respect to a legislator whose company has already entered into a contract with a lobbying organization: (1) The better course would have been that the company not have entered into the contract; (2) In the future, the legislator should not simultaneously serve in the Legislature and enter into a financial relationship with a business or organization that pays lobbyists to try to influence state government; and (3) Although public policy normally favors a legislator's voting on all matters properly addressed by the Legislature, for the remainder of the legislative session the legislator should not participate in discussions or votes on proposals that would specifically affect the lobbying organization. OEB 96-1	Consistent		
State Public Officials Other Employment/Business, Conflicts	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. This means that the organization should be able to demonstrate clearly and convincingly that its purchase of services is the result of an orderly, established competitive bidding process open to a substantial number of similar businesses, not unduly limited geographically, that gives no special advantage to a business owned by a state official. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent		
State Public Officials Other Employment/Business,	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent		

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Receipt of Items/Services of Value by State Public Official	Eth. Bd. Op. 96-08	A lobbying principal may not furnish a legislator transportation to visit a facility in another state. A principal may make transportation available to the state under either of the following circumstances: (1) the State pays the full cost of the transportation; or (2) the State procures the transportation, at any or no cost, for a governmental purpose neither at the behest of a specific governmental official-beneficiary nor with the intention of a specific governmental official's benefiting from the procurement. OEB 96-8	Consistent		
Receipt of Items/Services of Value by State Public Official	Eth. Bd. Op. 97-13	The Ethics Board advises: A legislator should not accept a lobbying principal's offer of a commercial quantity of informational brochures.	Consistent		
Receipt of Items/Services by State Public Official	Eth. Bd. Op. 97-20	The Ethics Board advises that a legislator not accept from a local government that is a lobbying principal reimbursement of expenses the legislator incurred in traveling to Washington, D.C. on the local government's behalf to meet with the state's Congressional representatives to lobby for federal money for a local project.	Consistent		
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 98-07	The Ethics Board advises that a lobbying principal not give or sell its sports stadium luxury box tickets to an elective state official, candidate for elective state office, state agency official, or legislative employee.	Consistent		
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 98-10	The Ethics Board advises: [1] A state public official may accept for the official and for the official's spouse transportation, lodging, meals, food, and beverages, or reimbursement of actual and reasonable costs, from a national association of which the official's state agency is a member, for attendance at the association's meetings to the extent that the official can clearly and convincingly demonstrate that the association's payments are received on behalf of, and primarily for the benefit of, the state and not primarily for private benefit. [2] In the normal course of business and in the absence of evidence to the contrary, the Ethics Board will defer to a state agency's determination of whether the provision of travel costs for an official or an official's spouse by a national association of which the state agency is a member is primarily of benefit to and on behalf of the state.	Consistent		
Employment and Compensation					
Employment and Compensation	Eth. Bd. Op. 92-03	A candidate for elective state office may not receive a salary from an organization that employs a lobbyist but may continue to receive a pension and may participate in a group health plan if the candidate pays the premiums. OEB 92-3	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment and related benefits from a principal.	
Employment and Compensation	Eth. Bd. Op. 91-01	A candidate for elective state office may not accept salaried employment from a principal. Eth. Bd. 621	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment from a principal.	
Public Official Conduct, Employment and Compensation	Eth. Bd. Op. 02-08	The Ethics Board advises: Neither the Ethics Code nor lobbying law appears to restrict a legislator's working as a consultant to a company that is a broker-dealer that assists institutional money managers in identifying investment opportunities	Consistent	Withdraw for lack of substantive analysis	
Public Official Conduct, Reimbursement, Compensation	Eth. Bd. Op. 03-05	The Ethics Board advises that a state public official may serve as the honorary chair of a charitable event sponsored by a lobbying principal for which the official will receive no compensation and will pay the cost of dinner and golf.	Consistent	Withdraw for lack of substantive analysis	
Employment and Compensation	Eth. Bd. Op. 03-15	The Ethics Board advises that in general, neither the Ethics Code nor lobbying law restricts your employment in the circumstances you have described. The only restrictions are (1) that you not receive any payment from a lobbyist or from an organization that employs a lobbyist (including the local governmental unit if it is a lobbying principal) (§13.625, Wisconsin Statutes); (2) that you be able to demonstrate that you have not used the prestige or resources of your office to obtain or to perform consulting work (§19.45 (2), Wisconsin Statutes,); and (3) that you not represent the local government or consultant before a state agency unless it is a ministerial matter or a contested case which involves a party other than the state (§19.45 (7), Wisconsin Statutes).	Consistent	Withdraw for lack of substantive analysis	

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Employment and Compensation	Eth. Bd. Op. 03-02	The Ethics Board advises: A legislator should not accept compensation from an organization that employs a lobbyist even for services the legislator has provided to the organization; and In the case of two affiliated organizations, one employing a lobbyist and the other not, a legislator may accept compensation for services from the latter only if the organization can demonstrate that it acts independently of its affiliate.	Consistent		
Employment and Compensation, Conflicts	Eth. Bd. Op. 04-08	A member of a state board should not participate in the consideration of issues on which the member lobbies on his or her employer's behalf or on matters, which affect those issues. If conflicts arise only occasionally, they may be satisfactorily addressed by abstaining, but when a conflict is regularly occurring and substantial, the conflict's cure can come only from the board member divesting himself or herself of public position or of the private interest that conflicts with public responsibilities. ¹ We also advise that a member of a state board not, on behalf of his or her employer, lobby state government on issues before, or affecting the state board.	Consistent		
Employment and Compensation	Eth. Bd. Op. 05-08	The Ethics Board advises that a candidate for the Legislature may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the candidate's employer while a candidate for election to the Legislature; (2) engage in campaign activities while on paid vacation time, holidays, and compensatory time in accordance, and consistent with, the employer's treatment of other employees' use of leave time; and (3) continue, while a candidate and prior to taking office, to receive benefits paid in part by the employer consistent with the organization's policy for other employees. The Ethics Board also advises that upon assuming office, a legislator may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the legislator, as a former employee, may be contractually entitled to continue to receive benefits from an employment or union contract that predates the candidacy.	Consistent		
Employment and Compensation	Eth. Bd. Op. 06-07	The Ethics Board advises: 1) An elected state official may accept compensation from a joint venture if the official is providing professional services to the joint venture for its use; and 2) An elected state official may not accept compensation for professional services the official provides directly to a lobbying principal regardless of whether the lobbying principal pays the official directly or the joint venture pays the official.	Consistent		
Employment and Compensation	Eth. Bd. Op. 06-08	The Ethics Board advises: 1) That the lobbying law does not prohibit an elected state official's acceptance of a salary as president of a union paid to the official by a business on the union's behalf, even if the business employs a lobbyist; 2) That the lobbying law does not prohibit the business to pay an official's salary related to the official's union duties; and 3) That the business may not pay the official, and the official may not accept, a salary for work performed for the business while the business employs a lobbyist in Wisconsin.	Consistent		
Employment and Compensation	Eth. Bd. Op. 07-11	The Ethics Board advises that an individual employed by an organization that lobbies in Wisconsin may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the organization while the individual is a candidate for election to the Legislature; (2) engage in campaign activities for others that are consistent with the lobbying law while the individual is a lobbyist for the organization and a candidate for elective state office. The Ethics Board also advises that upon assuming office in January 2009, the individual may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the individual may be contractually entitled to continue to receive benefits from an employment contract that predates your candidacy.	Consistent		

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Employment and Compensation	Eth. Bd. Op. 92-26	The lobbying law is not an impediment to a business' continuing to pay an elected official a regular salary or wage even if the employer derives a portion of its income from the provision of professional services to a principal, as long as the business can clearly and convincingly demonstrate that (1) the official's level of compensation is unrelated to the employer's having one or more principals as clients; (2) the principal's purchase of services is unrelated to the official's hiring or continued employment; and (3) in the case of the official's provision of professional or technical services of a type customarily charged on an hourly or project basis, the official does not perform any work or services specifically for a principal. OEB 92-26	Consistent		
Employment and Compensation	Eth. Bd. Op. 10-01	Based upon the facts as you presented them, you may be employed as an attorney, while also serving as a Representative to the Wisconsin Assembly, provided you comply with applicable laws and adhere to the advice set forth herein. You may also request an opinion from the Attorney General regarding issues of concern with respect to the Open Records Law. As an attorney licensed to practice law in Wisconsin, you may also seek an opinion from the Office of Lawyer Regulation regarding other legal-based ethical considerations.	Consistent		
Receipt of Items/Services of Value, Compensation, State Public Official Conduct	Eth. Bd. Op. 94-09	An elected state official may accept compensation for participating as a commentator on state government issues on a weekly television program as long as the company that owns the television station operates independent of its corporate parent, which is a lobbying principal. Unless an official has evidence to the contrary, he or she may rely on the television stations's representation that in asking the official to appear on the television program it has not acted in consultation or cooperation with, or at the request or suggestion of, the parent company that is a principal. (OEB94-9) October 24, 1994	Consistent		
Employment and Compensation	Eth. Bd. Op. 98-11	The Ethics Board advises that an agency official not, while the individual continues to serve, enter into an agreement for employment with a lobbyist or with an organization that employs a lobbyist. An official may, however, short of receiving or accepting a promise of future employment, explore possibilities for and circumstances of future employment or business relationships.	Consistent		
Employment and Compensation, Receipt of Items or Services by State Public Official	Eth. Bd. Op. 99-06	The Ethics Board advises that an agency official may not accept compensation, or any other thing of pecuniary value, for serving on the board of directors of a business corporation that is a wholly-owned subsidiary of another corporation that is a lobbying principal if the corporate parent controls the official's selection to the subsidiary's board.	Consistent		
State Official Conduct, State Agency Conduct, and Conflicts					
State Public Official Conduct	Eth. Bd. Op. 07-07	An organization that employs a lobbyist in Wisconsin may furnish an elected state official the opportunity to narrate a public service announcement and purchase airtime for its dissemination, when the dissemination is not proximate to an election at which the official is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.	
State Public Official Conduct	Eth. Bd. Op. 07-14	A legislator may appear in a lobbying principal's video for employees and directors of the organization's members on the importance of talking about how the member institutions serve members and communities but the lobbying organization should not disseminate the video proximate to an election in which the legislator is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.	

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Conflicts, Legal Services	Eth. Bd. Op. 93-01	An individual is a lobbyist if he or she engages in activities that constitute lobbying under the lobbying law, even if the activities are merely an outgrowth of legal representation. Lobbying includes attempting to influence or affect legislation or administrative rules, but does not include attempting to influence other kinds of agency decisions. Discussions with state agencies concerning the use of conventional construction bidding as opposed to privatization for prisons, attempts to get a state agency to make payments due your client, a conversation with a state agency regarding the effect of a highway project on your client, contacts regarding a client's proposal to design buildings for the State of Wisconsin, and discussions with a state agency concerning possible investment in a client do not appear to constitute lobbying and an individual's pursuit of these activities would not require the individual to obtain a lobbying license or require the individual's client to register as a lobbying principal with the Ethics Board. OEB 93-1	Inconsistent	While the activities described in this opinion do not represent ongoing legislative or administrative action, they do fit the definition of a lobbying topic	
Local Officials, Ethics	Eth. Bd. Op. 92-12	Members of local landfill negotiating committees or other local officials, whose financial interests are likely to be affected by negotiations concerning a landfill expansion, should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations. OEB 92-12	Inconsistent	Wis. Stat. Sec. 144.445 does not exist now.	
State Agency Conduct, Grants	Eth. Bd. Op. 04-02	The Ethics Board advises that a state agency may accept a grant from a company that employs a lobbyist for an agency program initiative.	Inconsistent	Withdraw for lack of substantive analysis	
Non-profit Status, Lobbying Principal	Eth. Bd. Op. 05-01	This is in response to your letter in which you have asked a number of general questions concerning application of laws administered by the Ethics Board to a 501 (c) (3) or 501 (c) (4) organization. The answers pertain equally to a 501 (c) (3) or 501 (c) (4) organization.	Consistent	Withdraw for lack of substantive analysis	
State Public Official Conduct Union Activity, Contract	Eth. Bd. Op. 00-03	The Ethics Board advises that: (1) Consistent with statutes that the Ethics Board administers, a company that employs a lobbyist in Wisconsin and its employee may honor a union contract pre-dating the employee's candidacy for election to state government office, that provides for the company to credit an employee for up to two years of seniority during an unpaid leave of absence permitted under the contract. (2) The company should not credit the employee with and the employee should not accept credit for more than two years of seniority in connection with a leave of absence granted or taken in connection with the employee's service as a state government official.	Consistent		
State Public Official Conduct, Conflicts, Legal Services	Eth. Bd. Op. 02-06	The Ethics Board advises: A legislator is free to commence a lawsuit to challenge the constitutionality of a law and to seek and retain legal counsel to represent himself or herself. If a legislator wants to join an existing lawsuit, the Ethics Board recommends that the legislator direct a letter to the Court asking that he or she be permitted to join the plaintiffs as a party or as amicus curiae, representing himself or herself. The Board further advises that a legislator not permit a lobbying organization to pay or arrange for legal services for the legislator.	Consistent		
State Agency Conduct	Eth. Bd. Op. 08-04	The Government Accountability Board advises that a state agency may not knowingly permit the use of confidential information by University of Wisconsin student interns for the benefit of the students' program, when the programs assets are held by a private entity for the program's benefit.	Consistent		
Conflicts, Receipt of Items or Services by State Public Official	Eth. Bd. Op. 91-09	The lobbying law does not prohibit a lobbying principal from awarding a scholarship to the child of an elected state official as long as the scholarship is available to the general public. The scholarship should be reported as a gift on the official's Statement of Economic Interests. Eth. Bd. 684	Consistent		
Lobbying, Union Activity	Eth. Bd. Op. 92-01	An employee does not violate the so-called "gag" law if he or she communicates with the legislature in his or her capacity as a union officer. OEB 92-1	Consistent		
State Agency Conduct	Eth. Bd. Op. 92-06	The exemption in § 13.621(1)(c) applies only to service on ad hoc advisory committees established by state agencies to advise with respect to rule making. Moreover, service on a state board or committee may not be lobbying if the individual exercises independent judgement and is not a representative of his or her employer. OEB 92-6	Consistent		

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
Conflicts	Eth. Bd. Op. 92-21	Wisconsin's lobbying law poses no restriction on a lobbyist representing clients in negotiating a purchase of land to a state agency on a contingency fee basis unless the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal. OEB 92-21	Consistent		
Conflicts	Eth. Bd. Op. 94-03	The Ethics Board advises that the lobbying law does not pose an obstacle to an official's spouse's employment as a lobbyist. However, an official should avoid placing himself or herself in a position in which a conflict of interest may arise. In instances of occasional and infrequent conflicts, an official can avoid a violation of the Ethics Code by refraining from any official discussions or votes on matters on which the spouse's employer lobbies or has a demonstrated interest before the official's agency. An official should also refrain from extending any special access or assistance to his or her spouse or spouse's employer in agency matters. If conflicts are frequent and continuing, public policy may best be served by divesting either the private interest or the public responsibilities. OEB94-3	Consistent		
Conflicts	Eth. Bd. Op. 96-06	1. The lobbying law does not proscribe an agency official's membership on a lobbying organization's Board of Directors, or the official's participation in its affairs; and 2. The lobbying law forbids an agency official elected to a lobbying organization's board of directors to accept reimbursement from the organization for expenses incurred in attending meetings of the organization's directors because the organization does not reimburse the general public for those expenses. OEB 96-6	Consistent		
State Public Official Conduct	Eth. Bd. Op. 97-04	A legislator may use a library service offered to legislators by several public libraries only in connection with his or her legislative duties and responsibilities.	Consistent		
State Public Official Conduct	Eth. Bd. Op. 99-09	The Ethics Board advises that legislative employees and agency officials not form an investment club with a lobbyist. State official's request.	Consistent		
State Public Official Conduct	Eth. Bd. Op. 99-10	The Ethics Board advises that a lobbyist not form an investment club with legislative employees or agency officials. Lobbyist's request.	Consistent		



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the April 24, 2018 Commission Meeting
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rule Update and Hearing

FOR COMMISSION ACTION

1. For ETH 1, does the Commission direct staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council's Rules Clearinghouse?
2. Does the Commission wish to direct staff to prepare a scope statement to begin rulemaking regarding any of the items identified regarding attribution requirements?
3. For ETH 16, following the hearing and consideration of any public comments, does the Commission approve the draft rule and direct staff to submit the rule to the Governor for approval?

I. Chapter ETH 1 (Campaign Finance)

The Commission initially approved the attached scope statement for this rule on February 27. Staff submitted the scope statement to the Department of Administration and received approval from the Governor to continue with rulemaking on March 13. Staff submitted the scope statement to the Legislative Reference Bureau for publication in the Administrative Register on March 14. The scope statement was published in Register No. 747A3 on March 19. If the Commission approves, staff will begin drafting the proposed rule and associated documents for delivery to the Legislative Council's Rules Clearinghouse.

See Attachment A for the materials associated with ETH 1.

II. Attribution Requirements

The Commission directed at its last meeting that staff revise the attribution guideline (see Agenda Item G) and present options for consideration regarding rulemaking to further support the guideline.

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke

Items that may benefit from further rulemaking:

1. Providing further examples of what “other communications containing express advocacy” may include, such as robo-calls, emails, or websites.
2. Specifying the distance at which an attribution must be readable.
3. Clarifying the exception of [Wis. STAT. § 11.1303\(2\)\(f\)](#).
4. Specifying other small items which do not require an attribution, such as campaign buttons.

III. Chapter ETH 16 (Lobbying)

This draft rule would amend ETH 16 and create new provisions within the rule to promote consistency in lobbying reporting, streamline the reporting process, and improve the Commission’s ability to audit for prohibited lobbyist contributions.

At the Ethics Commission’s August 22, 2017 meeting it approved the scope statement for this rule. Staff submitted the scope statement to the Governor’s office on August 23, 2017. The Governor approved the scope statement on September 18, 2017. The scope statement was submitted to the Legislative Reference Bureau for publication in the Administrative Register on September 18, 2017. The scope statement was published in Register No. 741B on September 25. On December 5, 2017, the Commission formally approved the scope statement and directed staff to begin drafting the proposed rule. On February 27, 2018, the Commission approved the draft rulemaking documents and directed staff to submit them to the Legislative Council’s Rules Clearinghouse. Staff submitted the draft rulemaking order on March 1, 2018 and submitted a Notice of Hearing to hold a public hearing on this draft rule today, April 24, 2018. The hearing notice was published in Administrative Register No. 747A1 on March 5, 2018.

On March 29, the Commission received the Legislative Council’s report on the draft rule and proposed two changes related to format. Staff has incorporated those changes in the draft rule attached to this memorandum. After all public comments have been considered and the rule is in its final draft form, it may be submitted to the Governor’s office for approval.

See Attachment B for the materials associated with ETH 16.

IV. Hearing Procedure

With certain exceptions, Wisconsin law requires agencies to hold public hearings on their proposed administrative rules to allow members of the public to provide testimony as to the proposed rule. At the hearing the Commission is required to explain the purpose of the hearing and describe how testimony will be received, present a summary of the factual information on which the proposed rule is based, afford each interested person the opportunity to present facts, opinions, or arguments in writing, and keep a record of the hearing. [Wis. STAT. § 227.18\(1\)](#).

The Commission may choose to limit oral presentations if the hearing would be unduly lengthened by repetitious testimony, question or allow others present to question the person testifying, administer an oath or affirmation to any person appearing, or continue or postpone the hearing to a specified date, time, and place. [WIS. STAT. § 227.18\(2\)](#).

V. Attachments

A. ETH 1

1. Scope Statement
2. Permanent Scope Approval

B. ETH 16

1. Proposed Rulemaking Order
2. Notice of Submittal to Legislative Council Rules Clearinghouse
3. Notice of Hearing
4. Fiscal Estimate and Economic Impact Analysis
5. Legislative Council Report

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

Rule No.: ETH Ch. 1

Relating to: Campaign Finance

Rule Type: Permanent

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

The Commission proposes a rule to repeal the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

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

The Commission proposes no new policy in the proposed rule.

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 Chapter 11.

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.

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

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

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

Candidates, candidate committees, political parties, legislative campaign committees, political action committees, independent expenditure committees, conduits, referendum committees, recall committees, 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



David Buerger
Staff Counsel
Wisconsin Ethics Commission

March 1, 2018

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 13, 2018

Colette Reinke
Interim Administrator
Wisconsin Ethics Commission
212 East Washington Ave, Third Floor
Madison, WI 53703

RE: Scope Statement for ETH Ch. 1 relating to campaign finance

Dear Ms. Reinke,

I hereby approve the statement of scope submitted on March 1, 2018 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter ETH Ch. 1 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes an order to repeal ETH 16.03(3) and 16.04(2); to consolidate 16.04 (intro) and (1), renumber as 16.04 and amend; to amend 16.03(1); and to create 16.03(4) and 16.05, relating to reporting of lobbying activity.

RULE SUMMARY

A. **Statutes interpreted:** ss. 13.67, 13.68 (1) (bn), Stats.

B. **Statutory authority:**

s. 13.685(4), Stats.:

13.685 Duties of the ethics commission.

(4) The commission shall, by rule, define what constitutes a “topic” for purposes of ss. 13.67 and 13.68 (1) (bn).

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.

C. **Explanation of agency authority:** The Ethics Commission administers the reporting of lobbying activity required by Subchapter III of Chapter 13.

Section 13.67, Stats. requires lobbying principals to report within 15 days of a lobbying communication, the topic of the communication. Section 13.685 (4), Stats., provides that the commission shall, by rule, define what constitutes a “topic”.

Section 13.67, Stats. also requires lobbying principals to report within 15 days of a lobbying communication, the proposed administrative rule number in connection with which the principal has made a lobbying communication.

Section 13.68 (1) (bn), Stats. requires lobbying principals to report for each legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for 10 percent or more of the principal's time spent in lobbying during the reporting period, the principal's reasonable estimate of the proportion of its time spent in lobbying associated with that legislative proposal, proposed administrative rule, budget bill subject or other topic.

Section 19.48, Stats. provides general authority for the commission to promulgate rules to carry out Subchapter III of Chapter 13.

D. **Related statute(s) or rule(s):** s. 13.625, Stats.

E. **Plain language analysis:** The current ETH 16 requires a lobbying principal to provide all of the following information: (1) A succinct written statement sufficient to put the reader on notice of the communication's subject matter. (2) Whether the communication is an attempt to influence legislative or administrative action, or both. (3) With respect to an attempt to influence administrative action, if the lobbying communication relates to the subject of a scope statement published in the Wisconsin Administrative Register, the scope statement summary, together with the date of the register, and page number on which the scope statement occurs. Alternatively, if the proposed administrative rule has been assigned a clearinghouse rule number, the principal may provide that number.

The proposed rule seeks to promote consistency in reporting by requiring a lobbying principal to provide the specific subject matter of their communication and choose a general category for its lobbying communication from a list prescribed by the Commission. This would allow members of the public to easily identify lobbying principals operating within a general subject area without relying on all lobbying principals using the same keywords in their brief description of the lobbying communication.

The proposed rule will also reduce the amount of information required to be provided by lobbying principals by removing the requirement to provide the scope statement summary, the date of the register, and the page number on which the scope statement occurs. Current technology allows the Commission to sufficiently identify a proposed administrative rule with only the agency name and a scope statement number.

Finally, s. 13.625, Stats. prohibits a lobbyist from making a personal campaign contribution except after the legislature is no longer in session. In order to audit for such prohibited contributions, the Commission reviews the list of contributors provided by each candidate committee and attempts to match those names against a list of licensed lobbyists. Matching by name alone does not always result in a strong match as many individuals have the same or similar names. Allowing the Commission to request a lobbyist voluntarily provide their home address to facilitate this matching process would reduce the number of false positives identified in the audit.

F. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the Lobbying Disclosure Act (LDA) requires that quarterly reports of lobbyists and registrants (lobbying organizations) must contain: to the maximum extent practicable, a list of specific issues, bill numbers and executive branch actions on which the registrant (lobbying firm) had lobbying activity. 2 U.S.C § 1604(b). The federal regulation is more extensive than the proposed changes to 16.03(1) and (4) due to the “maximum extent practicable” requirement. There is no existing or proposed federal regulation which discusses disclosure of the home address of a lobbyist.

G. Comparison with similar rules in adjacent states:

Illinois: The Illinois Lobbying Registration Act requires lobbyists and lobbying organizations to choose from a list of categories that indicate the nature of the client’s business upon registration and must report any changes to that information when filing regular expenditure reports. 25 ILL. COMP. STAT. §§ 170/5 (c-6), 170/6 (b-1). The Act also requires that lobbyists provide a “permanent address” as a part of lobbyist registration but does not state what constitutes a “permanent address.” 25 ILL. COMP. STAT. § 170/5 (a).

Iowa: Lobbyists must file a registration statement with the Iowa General Assembly. Statute does not state if address is required, but the Iowa Lobbyist Database shows lobbyist addresses which seem to be both business and personal. IOWA CODE § 68B.36.

Michigan: The Michigan Department of State Bureau of Elections requires that lobbyists provide a residential address on the registration form if the lobbyist is an individual. MICH. COMP. LAWS § 4.417 (2b).

Minnesota: The Campaign Finance and Public Disclosure Board requires lobbyists to submit yearly a general description of the topics lobbied on, and have a published list of suggested lobbying subjects. MINN. STAT. § 10A.04 Subd. 4(e). Lobbyists are also required to include an address, but does not specify residential or business. MINN. STAT. § 10A.03 Subd. 2(1).

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

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

J. Effect on small business: N/A

K. Agency contact person:

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

L. 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 April 23, 2018. 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 16.03 (1) is amended to read:

ETH 16.03 (1) A succinct written statement sufficient to put the reader on notice of the communication's specific subject matter.

SECTION 2. ETH 16.03 (3) is repealed.

SECTION 3. ETH 16.03 (4) is created to read:

(4) A single category designation, chosen from the following list:

- (a) Administrative Law.
- (am) Agriculture and Forestry.
- (b) Alcohol Beverage Regulation.
- (bm) Buildings and Safety.
- (c) Campaign Finance.
- (cg) Children.
- (cr) Claims.
- (d) Collective Bargaining.
- (dm) Commerce and Consumer Protection.
- (e) Constitutional Amendments.
- (em) Correctional System.
- (f) Courts.
- (fg) Criminal Law.
- (fr) DCF Public Assistance.
- (g) Discrimination.
- (gm) Domestic Relations.
- (h) Drunk Driving.
- (hm) Economic Development.
- (i) Education K-12.
- (ig) Elderly and Aging.
- (ir) Election Law.
- (j) Eminent Domain.
- (jm) Energy and Utilities.

(k) Environment and Natural Resources.
(km) Ethics and Lobby Law.
(L) Family Law.
(Lg) Federal/State Relations.
(Lr) Financial Institutions and Business Associations.
(m) Gambling.
(mm) Health.
(n) Education (Higher Ed and Technical Colleges).
(nm) Housing.
(o) Indian Affairs.
(og) Individual Income Taxation.
(or) Investment Board.
(p) Insurance.
(pm) Judiciary.
(q) Juvenile Justice and Children's Code.
(qm) Labor and Employment.
(r) Land Use Use and Zoning.
(rg) Legislative Procedure.
(rr) Local Government.
(s) Medical Assistance and DHA Public Assistance.
(sm) Mental Health.
(t) Natural Resources.
(tm) Occupational Regulation.
(u) Privacy.
(ug) Probate.
(ur) Public Records and Open Meetings.
(v) Public Sector Employment and Benefits.
(vm) Public Utilities.
(w) Real Estate and Housing.
(wm) Retirement.
(x) Shared Revenue.
(xg) State Government and Finance.
(xr) Taxation.
(y) Trade Regulation.
(ym) Transportation.
(z) Unemployment Insurance.
(zm) Veterans and Military Affairs.

SECTION 4. ETH 16.04 (intro.) and (1) are consolidated, renumbered ETH 16.04 and amended to read:

ETH 16.04 Proposed administrative rule number. A person reports a proposed administrative rule number as provided by s. 13.67, Stats., if the person provides the board any of the following: ~~(1) The related scope statement summary published in the Wisconsin Administrative Register, together with the date of the register and page number on which the scope statement appears~~ commission the state agency name and scope statement number.

SECTION 5. ETH 16.04 (2) is repealed.

SECTION 6. ETH 16.05 is created to read:

ETH 16.05 Voluntary lobbyist home address disclosure. The Commission may request a lobbyist to voluntarily provide his or her home address to the commission upon application for licensure. An address provided under this section may be retained and utilized by the commission only for the purpose of auditing for contributions prohibited by s. 13.625, Stats.

SECTION 7. EFFECTIVE DATE: This rule shall take effect on the first day of the first lobbying reporting period following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**Notice of Submittal of Proposed Rule to
Legislative Council Rules Clearinghouse**

On February 27, 2018, the Ethics Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Stats.

Analysis

The proposed rule affects Chapter ETH 16, relating to reporting of lobbying activity.

Statement of Scope

The scope statement for this rule, SS 103-17 was approved by the Governor on September 18, 2017, published in Register No. 741B, on September 25, 2017, and approved by the Ethics Commission on December 5, 2017.

Agency Procedure for Promulgation

A public hearing is required and will be held on a April 24, 2018.

Agency Organizational Unit Primarily Responsible for Promulgating Rule

Ethics Commission

Agency Contact Person

David P. Buerger
P.O. Box 7984
Madison, WI 53707-7984
David.Buerger@wisconsin.gov
(608) 267-0951

Notice of Hearing

The Wisconsin Ethics Commission announces that it will hold a public hearing on a permanent rule to repeal ETH 16.03(3) and 16.04(2); to consolidate 16.04 (intro) and (1), renumber as 16.04 and amend; to amend 16.03(1); and to create 16.03(4) and 16.05, relating to reporting of lobbying activity, at the time and place shown below.

Hearing Information

Date: April 24, 2018

Time: 9:00 A.M.

Location: 212 East Washington Avenue, 3rd Floor, Madison, WI 53703

Appearances at the Hearing and Submittal of Written Comments

The proposed rule may be reviewed and comments made at <http://docs.legis.wisconsin.gov/code> and <https://ethics.wi.gov/Pages/Resources/StatutesAndRules.aspx>.

Written comments may be submitted to David Buerger, Staff Counsel, Wisconsin Ethics Commission, P.O. Box 7984, Madison, WI 53707-7984, or by email to eth.rulecomments@wi.gov. Written comments must be received no later than April 23, 2018 to be included in the record of rulemaking proceedings.

Individuals who wish to provide their comments in person at the hearing are encouraged to also submit a written copy of their testimony for inclusion in the record.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date January 26, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ETH 16 - Lobbying	
4. Subject Reporting of lobbying activity	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The current ETH 16 requires a lobbying principal to provide all of the following information: (1) A succinct written statement sufficient to put the reader on notice of the communication's subject matter. (2) Whether the communication is an attempt to influence legislative or administrative action, or both. (3) With respect to an attempt to influence administrative action, if the lobbying communication relates to the subject of a scope statement published in the Wisconsin Administrative Register, the scope statement summary, together with the date of the register, and page number on which the scope statement occurs. Alternatively, if the proposed administrative rule has been assigned a clearinghouse rule number, the principal may provide that number. s. 13.625, Stats. prohibits a lobbyist from making a personal campaign contribution except after the legislature is no longer in session. In order to audit for such prohibited contributions, the Commission reviews the list of contributors provided by each candidate committee and attempts to match those names against a list of licensed lobbyists. Matching by name alone does not always result in a strong match as many individuals have the same or similar names.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The Commission finds that the proposed rule will have no economic impact on small businesses.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The proposed rule seeks to promote consistency in reporting by requiring a lobbying principal to provide the specific subject matter of their communication and choose a general category for its lobbying communication from a list prescribed by the Commission. This would allow members of the public to easily identify lobbying principals operating within a general subject area without relying on all lobbying principals using the same keywords in their brief description of the lobbying communication. The alternative would be to continue to rely on lobbying principals to describe their communications and asking the public to continue to use a keyword search to identify lobbying principals communicating on a specific topic.

The proposed rule will also reduce the amount of information required to be provided by lobbying principals by removing the requirement to provide the scope statement summary, the date of the register, and the page number on which the scope statement occurs. Current technology allows the Commission to sufficiently identify a proposed administrative rule with only the agency name and a scope statement number. The alternative would be to continue to require lobbying principals to provide all of the currently required information.

Finally, allowing the Commission to request a lobbyist voluntarily provide their home address to facilitate the matching process would reduce the number of false positives identified in the audit.

16. Long Range Implications of Implementing the Rule

17. Compare With Approaches Being Used by Federal Government

At the federal level, the Lobbying Disclosure Act (LDA) requires that quarterly reports of lobbyists and registrants (lobbying organizations) must contain: to the maximum extent practicable, a list of specific issues, bill numbers and executive branch actions on which the registrant (lobbying firm) had lobbying activity. 2 U.S.C § 1604(b). The federal regulation is more extensive than the proposed changes to 16.03(1) and (4) due to the “maximum extent practicable” requirement. There is no existing or proposed federal regulation which discusses disclosure of the home address of a lobbyist.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: The Illinois Lobbying Registration Act requires lobbyists and lobbying organizations to choose from a list of categories that indicate the nature of the client’s business upon registration and must report any changes to that information when filing regular expenditure reports. 25 ILL. COMP. STAT. §§ 170/5 (c-6), 170/6 (b-1). The Act also requires that lobbyists provide a “permanent address” as a part of lobbyist registration but does not state what constitutes a “permanent address.” 25 ILL. COMP. STAT. § 170/5 (a).

Iowa: Lobbyists must file a registration statement with the Iowa General Assembly. Statute does not state if address is required, but the Iowa Lobbyist Database shows lobbyist addresses which seem to be both business and personal. IOWA CODE § 68B.36.

Michigan: The Michigan Department of State Bureau of Elections requires that lobbyists provide a residential address on the registration form if the lobbyist is an individual. MICH. COMP. LAWS § 4.417 (2b).

Minnesota: The Campaign Finance and Public Disclosure Board requires lobbyists to submit yearly a general description of the topics lobbied on, and have a published list of suggested lobbying subjects. MINN. STAT. § 10A.04 Subd. 4(e). Lobbyists are also required to include an address, but does not specify residential or business. MINN. STAT. § 10A.03 Subd. 2(1).

19. Contact Name

David P. Buerger

20. Contact Phone Number

(608) 267-0951

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE **18-017**

AN ORDER to repeal ETH 16.03 (3) and 16.04 (2); to consolidate, renumber, and amend ETH 16.04 (intro.) and (1); to amend ETH 16.03 (1); and to create ETH 16.03 (4) and 16.05, relating to reporting of lobbying activity.

Submitted by **ETHICS COMMISSION**

03-01-2018 RECEIVED BY LEGISLATIVE COUNCIL.

03-29-2018 REPORT SENT TO AGENCY.

SG:MQ

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-017

Comments

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

2. Form, Style and Placement in Administrative Code

- a. In SECTION 3 of the proposed rule, each paragraph should end with a period. [s. 1.03 (4), Manual.]
- b. In SECTION 4 of the proposed rule, all underscored material should follow the stricken text. [s. 1.06 (1) (a), Manual.]



Wisconsin Ethics Commission

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Attribution Statements

Wisconsin campaign finance laws require an attribution statement, also known as a disclaimer, on materials containing express advocacy that are paid for by any contribution or disbursement.¹ Materials or communications made for the purpose of influencing the recall or retention in office of a state or local elected official must also include an attribution statement.² Express advocacy paid for or reimbursed by a person, other than a committee, must also include an attribution statement if the cost of the communication exceeds \$2,500.³

Contents of an Attribution Statement

An attribution statement must include the words, “Paid for by” followed by the name of the committee making the payment or reimbursement, or assuming responsibility for the communication.⁴ The attribution statement may also include the name of the treasurer or other authorized agents of the committee (NOTE: name(s) of the treasurer or other officers of the committee is not required).⁵

Independent Express Advocacy

Political action committees (PACs), independent expenditure committees, or other persons who make independent expenditures (express advocacy communications not coordinated with a candidate, candidate committee, candidate’s agent, legislative campaign committee, or political party)⁶ must include the words “Paid for by” followed by the name of the committee and the words “Not authorized by any candidate or candidate’s agent or committee.”⁷

Readable, Legible, and Readily Accessible

The attribution must be readable, legible, and readily accessible.⁸

- “Readable” and “legible” are not defined by statute, but common dictionary definitions of these terms would indicate that the attribution should be clearly printed so it can be understood.⁹

¹ [WIS. STAT. § 11.1303\(2\)](#)

² [WIS. STAT. § 11.1303\(2\)\(em\)](#)

³ [WIS. STAT. § 11.1303\(2\)\(c\)](#)

⁴ [WIS. STAT. § 11.1303\(2\)\(b\)](#)

⁵ [WIS. STAT. § 11.1303\(2\)\(b\)](#)

⁶ [WIS. STAT. § 11.0101\(16\)](#)

⁷ [WIS. STAT. § 11.1303\(2\)\(d\)](#)

⁸ [WIS. STAT. § 11.1303\(2\)\(g\)](#)

⁹ <https://www.merriam-webster.com/dictionary/readable>

<https://www.merriam-webster.com/dictionary/legible>

- “Readily accessible” is not defined by statute, but a common dictionary definition would indicate that the attribution should be capable of being seen without much difficulty.¹⁰

Types of Communications and Materials Requiring an Attribution Statement¹¹

All communications containing express advocacy or made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office. The following are examples of communications where attributions would be required, and does not limit the requirement for attributions to only the items listed:

- Printed advertisements/direct mail
- Billboards
- Handbills
- Sample ballots
- Television or radio advertisements
- Other communications containing express advocacy (e.g., robo-calls, emails, or websites)

Types of Communications That Do Not Require Attribution Statements¹²

Communications printed on small items on which the information required cannot be conveniently printed. The following are examples of communications that are commonly limited in size where an attribution statement may not be required; however, if an attribution would fit, it should be included.

- Some text messages where an attribution would not fit
- Some social media communications where an attribution would not fit
- Certain small advertisements on mobile devices where an attribution would not fit

Additional Resources

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at 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.

¹⁰ <https://www.merriam-webster.com/dictionary/readily>
<https://www.merriam-webster.com/dictionary/accessible>

¹¹ [WIS. STAT. § 11.1303\(2\)\(a\)](#), (em).

¹² [WIS. STAT. § 11.1303\(2\)\(f\)](#)



February 9th, 2018

From: Phillip Anderson

Chair | Libertarian Party of Wisconsin | PO Box 20815 | Greenfield | WI | 53220

To: Commissioners and Staff of the Wisconsin Ethics Commission

Wisconsin Ethics Commission | PO Box 7125 | Madison | WI | 53707-7125

Dear Commissioners and Staff:

I am writing on behalf of the Libertarian Party of Wisconsin, and Libertarian candidates and campaigns in Wisconsin, to request an opinion, and formal public hearing, on the use of cryptocurrencies for campaign contributions and disbursements.

Cryptocurrencies, such as Bitcoin, Litecoin and Ethereum, are more and more widely accepted as currency and as stores of value. Total market capitalization of cryptocurrencies is around \$500 billion. The CBOE offers a futures market for Bitcoin, and other financial platforms, corporations and governments are weighing in on not 'whether' to address cryptocurrencies, but 'how'?

Our party and our campaigns are being offered donations in cryptocurrencies. Other states have issued guidance regarding campaign donations and expenditures in cryptocurrencies. Our particular questions are: how must we calculate cryptocurrency donations toward campaign limits, both/either at time of donation or expenditure? What registration of campaign cryptocurrency accounts is required? We understand that for certain donation levels, other information must be gathered, such as address and employer/profession of the donor. What else is required for accepting and disbursing campaign funds in these currencies?

My suggestion is that this commission choose to require campaigns to convert cryptocurrency donation value in dollars at the time of donation, or at the time of expenditure OR conversion to dollars and deposit in campaign accounts. The requirement to report other information would be on the individual campaigns to gather and report, as currently requirement.

Please address this issue as soon as possible. I am at your disposal for questions or further information.

Sincerely,

Phillip N. Anderson

Phillip Anderson

Chair, Libertarian Party of Wisconsin

chair@lpwi.org

608 361-8608



Wisconsin Ethics Commission

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

DATE: For the April 24, 2018 Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Colette C. Reinke, Interim Administrator

SUBJECT: Cryptocurrency Overview

Introduction

At the February 27, 2018 meeting, staff presented the Commission with a request for formal advice and a public hearing on the use of cryptocurrencies for campaign contributions and disbursements. The Commissioners scheduled a public hearing and requested that staff provide a general overview of how cryptocurrency works and other federal or state regulations to review prior to this hearing.

Background

Transactions

Cryptocurrencies are virtual currencies intended to function just as any other currencies, but they do not have the backing of a government or other body, do not have legal tender status, and are entirely digital.¹ Transfers of bitcoins are either user to user, user to merchant, or third-party exchanges, which exchange bitcoin back to standard government-issued currencies.² The type of transaction that would be taking place when for a campaign contribution would be a user to user transfer. To receive a contribution of cryptocurrency, a committee would need to set up a “wallet,” an encrypted computer file where cryptocurrency is stored. The user contributing would transfer cryptocurrency from their wallet into the wallet of the committee.

All transactions for Bitcoin and other cryptocurrencies are added to block chains, which are public ledgers of all the transactions ever made. However, this does not identify the individuals who participate in the transactions, it only tracks the address of the transaction.³ Addresses related to cryptocurrency transactions are merely identifying numbers that are used during those transactions. Users can have multiple addresses and different addresses can be used for each transaction.⁴ An address associated with a cryptocurrency transaction is not something that provides personal identifying information of an individual participating in a transaction. A cryptocurrency user’s real-life identity, IP address, or country of operation cannot be reliably traced to a single user.⁵

¹ [FEC Advisory Opinion 2014-02.](#)

² Id.

³ Id.

⁴ Id.

⁵ Id.

Exchanging or Liquidating to US Dollars

Cryptocurrency users can exchange or liquidate their cryptocurrency through numerous online exchanges which will exchange it for U.S. dollars. This process occurs like a sale. The owner of the cryptocurrency sells their cryptocurrency to a buyer for U.S. dollars. This can be done through a third-party exchange site or through a site that allows a more direct peer-to-peer trade. These sales or exchanges might not take place immediately and there could be fees associated with these exchanges. Since cryptocurrency value can fluctuate in short periods of time and exchanges might not be instantaneous, sellers may receive less than anticipated or realize some added value.⁶

Federal and State Agencies Treatment of Cryptocurrency

1. Federal Elections Commission (“FEC”) – Cryptocurrency is allowed, is treated as an in-kind contribution, and may be held or purchased as investments. Federal law defines a contribution to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁷ The FEC Advisory Opinion concluded that cryptocurrency is “money or anything of value” within the meaning of the [52 U.S.C. § 30101\(8\)\(A\)\(i\)](#).
2. California⁸ – There has been no formal action by the commission regarding cryptocurrency, but staff has made recommendations that committees not accept cryptocurrency. This is recommended as one of the main purposes of their campaign finance regulation is to allow the public and enforcement agencies to accurately identify the true source of contributions. Given the anonymous nature of cryptocurrency, staff has determined that there are significant issues in establishing the true source of contributions. They advise that donors may convert their cryptocurrency to U.S. dollars, and then contribute to the committee.
3. Washington, D.C. – Cryptocurrency, specifically Bitcoin, is allowed as an in-kind contribution pursuant to administrative rule, [3 DMCR § 3008.10\(a\)](#). Bitcoins must be reported as in-kind contributions and be assessed at the current local fair market value at the time of the contribution. The reported received date should be the date the contribution is liquidated, and any charge incurred or discount from the exchange website must be reported as those incurred with credit card transactions. If the liquidated amount exceeds contributions limits a refund must be issued to the contributor.
4. Montana⁹ – Prohibits candidates from maintaining bitcoin wallets for the accumulation of resources and to pay for services. They do allow acceptance of bitcoin as a contribution is defined as “anything of value.” Just as the FEC and Washington D.C. require, Montana requires that bitcoin must be converted to US dollars upon receipt. Bitcoins cannot be used to for any expenditures.

⁶ Digital Trends, *How to Sell Bitcoin*, <https://www.digitaltrends.com/computing/how-to-sell-bitcoin/>

⁷ [52 U.S.C. § 30101\(8\)\(A\)\(i\)](#); [11 C.F.R. § 100.52\(a\)](#); FEC Advisory Opinion 2014-02.

⁸ California Fair Political Practices Commission, Frequently Asked Questions: Campaign Activity, <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Documents/Campaign%20FAQs.pdf>

⁹ [Montana Commissioner of Political Practices Advisory Opinion, COPP-2014-AO-001](#).

5. Wisconsin Department of Revenue (“DOR”)¹⁰ – The DOR has stated that virtual currency does not have status as a legal tender, and it represents an intangible right. The statutory definition of contribution includes a “transfer of tangible personal property or services to a committee.”¹¹

¹⁰ [Wisconsin Department of Revenue, Sales and Use Tax Report, Issue 1-14, March 2014.](#)

¹¹ [Wis. STAT. § 11.0101\(8\)\(a\)2.](#)



Wisconsin Ethics Commission

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

DATE: For the April 24, 2018 Meeting

TO: Members, Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Attorney General Opinion Requests

Staff have not yet received any further update from the Department of Justice on the two pending requests for Attorney General Opinions. 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.

Commission Administration

IT Systems Update

- Campaign Finance – Staff continue to weigh options for replacing the CFIS system. Those options include customizing software provided by the State of Massachusetts, custom development, or utilizing off-the-shelf software to be customized to suit the business requirements of the system.
- Lobbying – We are moving forward with the Web and Mobile Solutions (WaMS) team through DoIT at the University of Wisconsin—Madison to modernize the Eye on Lobbying website. After meeting with WaMS on March 15, staff have finalized an initial discovery and research phase which will begin this week. Staff have also opted to include Board Members of the Association of Wisconsin Lobbyists (AWL) throughout this process. We met with AWL Board Members on April 5, and agreed to meet periodically to discuss changes and/or concerns. AWL Board members also agreed to give detailed input via interviews and testing to WaMS throughout this initial discovery and research phase.
- Statements of Economic Interests – Staff continue to fine tune the website in coordination with the developer to make necessary updates to the website, ensuring filers are able to complete their reports by the April 30 deadline.
- Customer Relationship Management (CRM) software – Staff is working with the Innovation Center within the Division of Enterprise Technology to determine the best-fit CRM platform for our business needs. Staff is working with DET to develop a simplified bid for purchasing the software.

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke

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Records Management and Records Disposition Authorizations (RDAs)

Staff completed an inventory of records in storage and submitted a request to archive appropriate records with the Wisconsin Historical Society. As of this meeting, approximately half of the inventory has been transferred. We will continue to work with WHS staff to move the remaining records. 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. Staff will also begin to scan documents to a shared drive for archiving.

Agency Office Move

The Commission's current office space lease runs through December of 2018. Staff is working with DOA to draft a floor plan for the proposed location and are close to finalizing the plans for the new space. DOA will cover the costs for 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. DOA has 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. Staff have also been meeting with Badger State Industries (BSI), the vendor on the mandatory contract for purchasing furniture. Staff have developed plans for furniture needs and received initial quotes for purchase. A final purchase order will need to be completed by September 2018 to ensure delivery of furniture by late November or early December 2018.

Campaign Finance

Spring Pre-Election Reports

All but one candidate required to file the report filed on time. The only late report was a no activity report, received one day late from a candidate that was unopposed on the April ballot.

Upcoming Special Election Reports

On March 29, 2018, the Governor issued an executive order calling special election in the 1st Senate and 42nd Assembly Districts. The Primary will be May 15, and the Election on June 12, 2018. This will require Pre-Primary and Pre-Election reports for the candidates running as well as committees supporting or opposing those candidates.

Filing Period	Last Day of Activity	Report Due Date
Special Pre-Primary 2018	April 30, 2018	May 7, 2018
Special Pre-Election 2018	May 28, 2018	June 4, 2018
July Continuing 2018	June 30, 2018	July 16, 2018

Lobbying

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

As of February 12, 2018, there were 784 lobbying principals registered, 634 lobbyists licensed, and 1,709 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 July-December 2017 SLAE reports were all submitted on time for the second consecutive reporting period. The next deadline is July 31, 2018 which will cover activity from January 1 – June 30, 2018. After principals and lobbyists file their reports, staff will conduct audits for late SLAEs, late 15-Day Reports, and Lobbying without Authorization.

Legislative Liaison Reporting

Statutes require each state agency to certify their agency legislative liaison report twice a year. All reports from January have been received. The next legislative liaison report is due July 31, 2018.

Code of Ethics and Financial Disclosure

Design of a new SEI system

As of 1/1/2018, the new SEI system has replaced the old database for everything but tracking SWIB Quarterly reports. Ethics staff is using the system to add new filers, and all state public officials have been sent notices with directions on how to file in the system. A few officials are still requesting paper SEIs, with staff entering SEIs from 2017 and 2018 paper filers. Basic filer tracking and reminder notices have been added, and the next phase will be to add the ability for candidates to file using the new 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. A few annual filers began filing their SEIs on 12/1/2017, and the SEIs must be filed by April 30, 2018. All SEI filers were a reminder notice by April 2nd. Including filers from the UW Board of Regents and the Court System, about 1480 SEIs had been filed by April 10th. About 1330 filers still have to file.

State of Wisconsin Investment Board Quarterly Reports

Quarterly reports are due by April 30th, covering January 1st through March 31st.

Legislative Updates

2017 Act 158 – relating to: the rule-making authority of certain agencies.

This act is a result of Assembly Bill 330 and 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 action in the future unless a subsequent law specifically authorizes it to do so. This act became effective on March 30, 2018.

2017 Act 207 – relating to: population standard for populous counties.

This act is a result of Assembly Bill 836 and changes the population threshold at which candidates for Court of Appeals Judge are allowed higher contribution limits. The act changes the threshold population for a county within the district from 500,000 to 750,000. This change will have the effect of keeping Court of Appeals – District 1, as the only district with higher contribution limits than the rest of the Court of Appeals districts.