

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room
Madison, Wisconsin
Tuesday, June 19, 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 April 24, 2018 Open Session Meeting Page 3
 - 2. Minutes of May 25, 2018 Open Session Meeting Page 7
- D. Personal Appearances
- E. Selection of New Chair and Vice Chair
- F. Administrative Rule Update Page 9
- G. Review of Lobbying-Related Opinions of Previous Boards Page 19
- H. Prohibition of Campaign Contributions by an Individual Performing Lobbying Activities on Behalf of a Limited Lobbying Principal Page 35
- I. Biennial Budget Review 2019-21 Page 37
- J. Staff Report Page 45
- K. Administrator Recruitment Supplemental
- L. Consideration of Future Agenda Items
- M. Closed Session
 - 1. Complaints and Investigations
 - 2. Requests for Advice
 - 3. Personnel Matters
 - 4. Litigation Update
- N. Adjourn

Future Ethics Commission Meetings Scheduled:

- 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

Campaign Finance | Lobbying | Ethics
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Wisconsin Ethics Commission

212 E. Washington Avenue
Board Room
Madison, Wisconsin
April 24, 2018
9:00 a.m.

Open Session Minutes

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

Staff present: Colette Reinke, David Buerger, and Julie Nischik

A. Call to Order

Commission Vice Chair Katie McCallum called the meeting to order at 9:05 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 February 27, 2018 Meeting**
- 2. Minutes of the April 6, 2018 Meeting**

MOTION: Approve the February 27, 2018 and April 6, 2018 minutes. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

D. Personal Appearances

There were no personal appearances by a member of the public.

E. Review of Lobbying-Related Opinions of Previous Boards

Administrator Colette Reinke presented the memo starting on page 11 of the meeting materials.

MOTION: To withdraw Eth. Bd. Op. 91-07. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: To withdraw Eth. Bd. Op. 92-02. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: To withdraw Eth. Bd. Op. 92-11. Moved by Commissioner Strachota, seconded by Commissioner Wendelberger. Motion carried unanimously.

MOTION: To withdraw Eth. Bd. Op. 97-05. Moved by Commissioner Van Akkeren, seconded by Commissioner Davis. Motion carried unanimously.

MOTION: To withdraw Eth. Bd. Op. 99-02, Eth. Bd. Op. 03-14, and Eth. Bd. Op. 06-09. Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

MOTION: To approve revisions to Eth. Bd. Op. 93-10, Eth. Bd. Op. 97-10, and Eth. Bd. Op. 92-16. Moved by Commissioner Strachota, seconded by Commissioner Davis. Motion carried unanimously.

F. Administrative Rule Update and Public Hearing on ETH 16

Staff Counsel Buerger presented the memo starting on page 29 of the meeting materials.

MOTION: For ETH 1, the Commission directs staff to begin drafting the proposed rule and associated documents for submission to the legislative council's rules clearinghouse. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: The Commission directs staff to draft a scope statement as identified in item II of the memo, to include items 1 through 4 within that section. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

MOTION: The Commission requests staff provide examples of "Specifying the distance at which an attribution must be readable" from other states. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

A public hearing was held regarding Chapter ETH 16 (Lobbying). No members of the public were present to provide public comments.

MOTION: For ETH 16, the Commission approves the draft rule and directs staff to submit the rule to the Governor for approval. Moved by Commissioner Strachota, seconded by Commissioner Wendelberger. Motion carried unanimously.

G. Attribution Statements Guideline

Staff Counsel Buerger presented the memo starting on page 55 of the meeting materials.

Discussion of the drafted guideline. Commission McCallum suggested removing the sentence under Contents of an Attribution Statement, “The attribution statement may also include the name of the treasurer or other authorized agents of the committee.”

MOTION: To approve the guideline with the changes as suggested by Commissioner McCallum, and post to the public website. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

H. Advisory Opinion Public Hearing – Use of Cryptocurrency for Campaign Contributions and Disbursements

Commission Administrator Colette Reinke presented the memo starting on page 59 of the meeting materials.

The Commission discussed the information presented in the memo.

A public hearing was held, with one member of the public who provided comments.

Phillip Anderson, chair of the Libertarian Party of Wisconsin, provided comments on the use of cryptocurrency for campaign contributions and disbursements. Mr. Anderson requested clarification of the Federal Elections Commission (FEC) definition and be allowed to accept cryptocurrency as an in-kind contribution, which would be immediately liquidated. Mr. Anderson argued the same requirements of cash donations would apply to donations of cryptocurrency. If the Commission were to adopt the FEC definition, it would enable people to express their political wishes through cryptocurrency.

I. Staff Report

Commission Administrator Colette Reinke presented the memo starting on page 63 of the meeting materials.

J. Consideration of Future Agenda Items

Commissioner McCallum discussed the length of the regularly scheduled meetings, suggesting an end time of either 4 or 5 pm. The Commissioners agreed regularly scheduled meetings should be noticed to start at 9:00 am, and end at 5:00 pm.

K. 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

L. Adjourn

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

Meeting adjourned at 4:26 p.m.

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April 24, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

June 19, 2018

April 24, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

June 19, 2018



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Wisconsin Ethics Commission

212 E. Washington Avenue
Large Conference Room (Teleconference)
Madison, Wisconsin
May 25, 2018
9:00 a.m.

Open Session Minutes

Present (phone): David Halbrooks, Katie McCallum, Pat Strachota, and Mac Davis

Staff Present: David Buerger, Julie Nischik, and Colette Reinke (phone)

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 9:08 a.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.

D. Extension of Interim Administrator Appointment

MOTION: Extend the appointment of Colette Reinke to Interim Administrator through August 31, 2018, or until a permanent replacement is hired. Moved by Commissioner Strachota, seconded by Commissioner Davis. Motion carried unanimously.

E. Adjournment

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

The meeting adjourned at 9:46 a.m.

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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May 25, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

June 19, 2018

May 25, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

June 19, 2018



Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125
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DATE: For the June 19, 2018 Commission Meeting
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rule Update

FOR COMMISSION ACTION

1. For ETH 1, does the Commission approve submission of the attached documents to the Rules Clearinghouse and direct staff to schedule a public hearing on this rule for the Commission's next meeting on August 21, 2018?

I. Chapter ETH 1 – Repeal of Provisions Inconsistent with 2015 Act 117

The Commission initially approved the attached scope statement for this rule on February 27, 2018. 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. On April 24, 2018, the Commission formally approved the scope statement and directed staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse.

This draft rule would repeal the parts of ETH 1 that have been deemed inconsistent with 2015 Act 117. Staff have since determined that there are further revisions that are necessary for ETH 1 to be brought completely up to date, but to do so staff would need to modify the scope of this rulemaking to include amendments to various provisions. If the Commission wishes to proceed with the portions to be repealed, see Attachment A for the materials associated with ETH 1 to be approved before submitting them to the Legislative Clearinghouse. If the Commission wishes to modify the scope to include amending the obsolete provisions, staff would need to draft a new statement of scope.

II. ETH 1 – Attribution Requirements

The Commission directed at its last meeting that staff draft a scope statement to begin the rulemaking process to clarify the attribution requirements of WIS. STAT. § 11.1303. Staff has not yet had the opportunity begin drafting this scope statement and if the Commission

Wisconsin Ethics Commissioners

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

chooses to amend the scope of the rulemaking already begun for ETH 1, it may be advantageous to consolidate this rulemaking into that scope as well.

The Commission also requested staff to provide examples of what other states have done with regulations on the distance at which an attribution must be readable. Staff had not yet had the opportunity to conduct this research, but plan to conduct this survey of neighboring states prior to presenting the proposed rule to the Commission.

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 incorporated those changes in the draft rule, which was approved by the Commission at its April 24, 2018 meeting. The final draft rule was submitted to the Governor’s office on May 3, 2018. As of the drafting of this memo, the Governor’s office has not yet granted its approval to continue.

IV. Attachments

- A. ETH 1 – Repeal of Provisions Inconsistent with 2015 Act 117
 - 1. Proposed Rulemaking Order
 - 2. Notice of Submittal to Legislative Council Rules Clearinghouse
 - 3. Notice of Hearing
 - 4. Fiscal Estimate and Economic Impact Analysis

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes an order 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.

RULE SUMMARY

- A. **Statutes interpreted:** Chapter 11, Stats.
- B. **Statutory authority:** The Wisconsin Ethics Commission is specifically directed to promulgate rules to administer Chapter 11 pursuant to s. 11.13.04(17), Stats.

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

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

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 is required to promulgate rules to administer Chapter 11, Stats. The Legislature's repeal and re-creation of Chapter 11 by 2015 Act 117 required the Government Accountability Board to conduct a full review of all administrative rules promulgated by the Government Accountability Board that were affected by the provisions of the Act and required that any administrative rule found inconsistent with the Act could not be enforced. The Government Accountability Board did not take steps to

repeal these inconsistent provisions before it was dissolved. The Ethics Commission now seeks to repeal these provisions.

- D. **Related statute(s) or rule(s):** Chapters ETH 6 and 26.
- E. **Plain language analysis:** The rule repeals 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.
- F. **Summary of, and comparison with, existing or proposed federal regulations:** N/A
- G. **Comparison with similar rules in adjacent states:** N/A
- 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 August 21, 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

See attached.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ETH 1 – Campaign Financing

3. Subject

Repeal of portions 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.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

N/A

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Significant portions of Chapter ETH 1 have been found unconstitutional or are no longer consistent with state law subsequent to the passage of 2015 Act 117. The changes proposed in the rule are simply to repeal these provisions. There is no new policy being proposed.

10. 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

11. Identify the local governmental units that participated in the development of this EIA.

N/A

12. 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.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Promulgating the rule would remove outdated portions of Chapter ETH 1 and reduce confusion of the regulated community. The alternative would be to not create such a rule, but instead continue to not enforce the outdated provisions. Such inaction could continue to promote confusion among the regulated community.

14. Long Range Implications of Implementing the Rule

Promulgating the rule would remove those portions of the law that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

15. Compare With Approaches Being Used by Federal Government

N/A

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

N/A

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name

David P. Buerger

18. 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

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
-

Notice of Hearing

The Wisconsin Ethics Commission announces that it will hold a public hearing on a permanent rule to repeal portions of ch. ETH 1 relating to campaign finance; at the time and place shown below.

Hearing Information

Date: August 21, 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 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 August 21, 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).

Notice of Submittal of Proposed Rule to Legislative Council Rules Clearinghouse

On June 19, 2018, the Ethics Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Wis. Stats.

Analysis

The proposed rule repeals 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.

Statement of Scope

The scope statement for this rule, SS 025-18, was approved by the Governor on March 13, 2018, published in Register No. 747A3, on March 19, 2018, and approved by the Ethics Commission on April 24, 2018.

Agency Procedure for Promulgation

A public hearing is required and will be held on August 21, 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

TEXT OF RULE

SECTION 1. ETH 1.02, 1.04, 1.05, 1.06, 1.10, 1.11, 1.15, 1.26 (3), 1.26 (4), 1.28, 1.30, 1.34, 1.36, 1.38, 1.42, 1.43, 1.44, 1.45, 1.46, 1.50, 1.56 (4), 1.65, 1.655, 1.75, 1.85 (1), 1.85 (2), 1.85 (4), 1.85 (5), 1.85 (6), 1.85 (7), 1.91 are repealed.

SECTION 2. EFFECTIVE DATE.

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



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DATE: For the June 19, 2018 Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Colette C. Reinke, Interim Administrator

SUBJECT: Review of Lobbying-Related Opinions of Previous Boards,
Receipt of Items or Services by State Officials, Reimbursement of Expenses

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 twenty-four opinions related to receipt of items or services or reimbursement of expenses by state officials from lobbyists or principals. Staff has recommended that five opinions be withdrawn and nineteen opinions be reaffirmed with minor citation revisions.

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 35-58.

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.

Relevant Statutes and Amending Acts

[WIS. STAT. § 13.625](#) provides prohibitions for lobbyists, as well as exceptions to these prohibitions. This section was amended in 2013 and 2015 by [2013 Wisconsin Act 153](#) and [2015 Wisconsin Act 117](#). Act 117 amended subsection (1)(b) "furnish" was changed to "give." Staff determined that this did not substantively change the statute and its prohibitions as the words are synonymous. Subsection 1(b) also relates to the prohibitions against lobbyist contributions,

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke

which was amended by these Acts. These opinions were addressed at an earlier meeting, but some minor revisions will be necessary in the opinions being reviewed at this meeting due to the language and citation changes related to lobbying contributions as they are part of the same statute section.

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. 97-16](#) – This opinion is inconsistent with the lobbying law provisions and the interpretation of the phrase “available to the public.” The officials in this opinion were exclusively invited to the event. This exclusivity and invite to the event are things of value that were not made available to the public.
2. [Eth. Bd. Op. 05-07](#) – This opinion is inconsistent with the exception for members of the same household, [WIS. STAT. § 13.625 \(6\)](#).
3. Eth. Bd. Ops. [03-10](#), [06-06](#), and [07-08](#) are being recommended for withdrawal as they lack substantive analysis and the issues have been more thoroughly analyzed in other opinions.

Opinions Recommended for Reaffirmation with Limited Revisions

The opinions marked as consistent should be reaffirmed, but will need very minor revisions to change the language, “furnish” to “give” and citations for WIS. STAT. 13.625(1).

Enclosure: Lobbying Opinions Spreadsheet June 19 Meeting

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 election.	
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 election.	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.	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
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.	
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.	

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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.	
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

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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		
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.	Yes

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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.	Yes
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.	
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.	Yes
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 opinion is poorly written and may lead readers to a false conclusion regarding restrictions on legislator employment	

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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		
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	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	

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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	
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. 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		

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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		
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		

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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		
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.	Consistent		
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		

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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	
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		

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
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		
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		

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
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.	
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.	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
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		
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		

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer	Approved for Revision
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

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DATE: For the June 19, 2018 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Caroline M. Russell, Ethics Specialist

SUBJECT: Prohibition of Campaign Contributions by an Individual Performing Lobbying Activities on Behalf of a Limited Lobbying Principal

FOR COMMISSION ACTION

1. Determine if individuals representing limited lobbying principals are lobbyists and therefore prohibited from making personal contributions to partisan candidates outside of the allowable window.

While conducting a routine audit of prohibited lobbyist contributions in 2017, staff identified a contribution from an individual representing a limited lobbying principal and began to discuss if an individual representing a limited lobbying principal is a lobbyist for the purposes of the prohibited practices of WIS. STAT. § 13.625(1m). Staff would like the Commission to provide guidance on this question before proceeding with the audit.

Principals which anticipate making expenditures or incurring obligations in aggregate not exceeding \$500 in a calendar year for the purpose of engaging in lobbying activities may indicate so on a verified statement filed with the Ethics Commission. WIS. STAT. § 13.621(5). For registration purposes through the Eye on Lobbying (<https://lobbying.wi.gov>) site, such principals are called “limited lobbying principals,” and they are subject to a reduced registration fee of \$10 per calendar year (\$20 for the full two-year session). WIS. STAT. § 13.75(1g)(c). Of the 789 principals registered for the current session, 22 are limited lobbying principals. During the 2015-16 legislative session 8 out of the 791 total principals were limited lobbying principals.

WIS. STAT. § 13.621(5) utilizes the term lobbyist when explaining what a principal must submit as a part of their verified statement. Limited lobbying principals must designate a lobbyist to represent them as a part of the registration process. However, a lobbyist acting on behalf of a limited lobbying principal, is not subject to the same licensing, registration, or reporting requirements as a lobbyist acting on behalf of a regular principal.

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Administrator
Colette C. Reinke

Statutes clearly describe prohibited practices on the part of lobbyists and principals. Exceptions to prohibitions of lobbyists and lobbying principals are also clearly described for things such as making personal contributions to candidates for partisan office, furnishing things of pecuniary value by a lobbyist to a relative of an individual or an individual living in the same household, and the furnishing of informational materials to public officials. WIS. STAT. § 13.625(1m), (6), (6t). Additionally, regarding state agency legislative liaisons that have lobbying responsibilities to the legislature, statutes are clear on which prohibitions in the lobbying law apply to them. State agency legislative liaisons are prohibited from the practices described in WIS. STAT. § 13.625(1)(a) or (d), but not (1m); providing personal campaign contributions.

It is the opinion of staff that the use of the word “lobbyist” in WIS. STAT. § 13.621(5) is sufficient evidence that the Legislature intended to treat individuals that represent limited lobbying principals as lobbyists for the purposes of WIS. STAT. § 13.625(1m). The Legislature provided several exceptions for licensing, registration, and reporting by limited lobbying principals and their lobbyists. WIS. STAT. § 13.621(5). If the Legislature intended for lobbyists of limited lobbying principals to also be exempted from the prohibitions of WIS. STAT. § 13.625, it could have done so.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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DATE: For the June 19, 2018 Meeting
TO: Members, Wisconsin Ethics Commission
FROM: Julie Nischik, Office Management Specialist
SUBJECT: Biennial Budget 2019-21

FOR COMMISSION ACTION

For the Commission's review:

1. Major Budget Policies
2. Decision Items
3. Drafted Budget Documents/Agency Information

Any changes suggested in today's discussion will be included in the final draft for Commission approval at the August 21, 2018 meeting.

Background

Commission staff are planning for the 2019-21 Biennial Budget submission, which is due on September 17, 2018. This memorandum provides information that must be included in the budget request and potential decision items to include in the budget submission, which will be drafted for final review by the Commission at the August 21 meeting.

The following items are directives from the Governor to include in the budget submission.

Major Budget Policies 2019-21

- Budget Targets

Agencies are directed by the Governor to prepare the 2019-21 biennial budget requests based on 100 percent of the fiscal year 2018-19 adjusted base. Agencies should assume zero growth in GPR appropriations in each fiscal year of the biennium. Funding requests for other types of appropriations (such as program revenue) should be limited to revenue availability.

- Base Budget Review Reports

The Ethics Commission is required to submit a base budget review report with the 2019-21 budget request, as well as on May 15 in even numbered years in every biennium thereafter. The report must include:

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- A description of each appropriation of the agency;
 - For each appropriation, an accounting of all expenditures in every quarter in each of the previous 3 fiscal years;
 - For each appropriation, an analysis of whether it contributes to the mission of the agency and whether the objectives of the appropriation justify the expenditures;
 - For each appropriation, a determination of the minimum level of funding needed to achieve its objectives not to exceed the prior fiscal year's adjusted base and an accounting of the appropriation's current funding; and
 - A description of the agency mission or guiding principles.
- Act 201 Requirements

The Ethics Commission is required to include proposals for a state operations budget for the agency under each of the following scenarios:

1. Meet a zero-growth target in each fiscal year of the 2019-21 biennium.
2. Reduce the agency's state operations budget by 5 percent from its fiscal year 2018-19 adjusted base in each fiscal year of the 2019-21 biennium.

- Performance Measurements in Budgeting

The Ethics Commission is required to report on the performance measures identified in previous biennial budgets. For the 2019-21 budget, the report must include actual outcome measures through fiscal year 2016-17 and fiscal year 2017-18. Planned outcome measures should be listed for fiscal year 2018-19, fiscal year 2019-20 and fiscal year 2020-21.

Other Required Information

Each agency is required to include with its budget submission several narrative documents:

- Agency description
- Mission statement
- Agency goals
- Performance measures
- Organizational chart

For Commission Review

Enclosed with this memo are drafts of each document for the Commissioners' review and feedback. Most of the information is based on the information pertaining to the Commission's responsibilities from the last budget submission and annual agency report.

The Commission must also provide summaries by fund source and expenditure type, by program, and by decision item, as well as revenue balance statements, decision item summaries with narratives and issue papers, and Act 201 proposals (zero growth or five-percent reduction). The administrative staff will

begin work on the base year reconciliation and calculating full salary and fringe funding under standard budget adjustments in July when further direction from the State Budget Office is provided.

The Commissioners may wish to provide staff with feedback and discuss any desired changes to the drafted documents, as well as provide guidance on how to draft the Act 201 proposals. The Commissioners may also wish to discuss statutory language changes to include with the budget request.

Agency Total by Fund Source

Annual Summary		
<i>Source of Funds</i>	<i>Adjusted Base (FY19)</i>	<i>FTE</i>
GPR	\$834,600	4.55
Program Revenue	\$494,600	3.45
Total	\$1,329,200	8.00

The Adjusted Base total in the table above will be the starting point for developing the budget. Agency staff will work through the budget worksheets to establish the funding for salary, fringe, and other operational expenses.

Decision Items to Consider

- Request to increase spending authority of program 1g (General program operations; program revenue – Filing Fees) to implement new campaign finance reporting system
- Act 201: Request to reduce Investigations appropriation (currently \$225,000 per fiscal year). Act 201 requires the agency to propose a 5% reduction in the operating budget. A 5% reduction of the base budget is \$66,460.
 - FY17 expenditures: \$165
 - FY18 expenditures (as of 6/6/2018): \$43,979

Agency description

The Commission is comprised of six members, who serve for 5-year terms. One member is appointed by the senate majority leader; one appointed by the senate minority leader; one appointed by the speaker of the assembly; one appointed by the assembly minority leader; and two are individuals who formerly served as judges for a court of record in this state, who were elected to the positions in which they served, and who are nominated by the governor with the advice and consent of a majority of the members of the senate confirmed. A detailed description of the appointment of Commissioners is provided in WIS. STAT. § 15.62. The transition plan from the Government Accountability Board to the Ethics Commission put forth by the Department of Administration established a rotational term schedule of the Commissioners. The Commission elects a chair and vice-chair from its members by a majority vote.

The administrator serves as the agency head and is responsible for the daily operations of the Commission. The Commission staff is non-partisan, including the administrator. The agency has a staff of 4.55 GPR and 3.45 PR full-time employees. The Commission administers and enforces Wisconsin law pertaining to campaign finance, lobbying, and the Code of Ethics (Wisconsin Chapters 11, campaign finance; Chapter 13 Subchapter III, lobbying; and, Chapter 19 Subchapter III, the code of ethics). The duties of the Ethics Commission are codified in WIS. STAT. §§ 11.1304, 13.685, and 19.48.

Additional information is available on the Ethics Commission's website at <https://ethics.wi.gov> about the Commission, its members and staff, meetings, and resources provided to the public.

Commission activities are arranged by five general functions:

1. General administration
2. Assistance to state public officials, candidates, lobbyists, principals, political committees and officeholders
3. Assistance to local governments
4. Education and training
5. Enforcement

Within these functional areas, the Commission develops policy, issues formal and informal opinions, promulgates administrative rules, prescribes procedures and forms, audits disclosure reports, carries out investigations, conducts hearings and reviews appeals, brings civil actions to assess forfeitures, and related activities.

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

Campaign Finance

Wisconsin campaign finance law requires candidates for state public office, political action committees, referenda committees, and independent expenditure committees to register with the Commission, disclose campaign receipts and disbursements, and abide by certain contribution limits and prohibitions. The Commission is responsible for auditing campaign finance reports and enforcing registration and reporting requirements along with limits on the source and amount of campaign funding. Information is

available to the public on the Commission website: <http://ethics.wi.gov/campaign-finance>, and through <https://cfis.wi.gov>.

Lobbying

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

Ethics

The Commission fosters ethical conduct of public officials by advising them about ethics laws and providing information about officials' financial interests to identify any potential conflicts of interest. State public officials file annual Statements of Economic Interests with the Commission online at <http://sei.wi.gov/>, and the trustees and staff of the State of Wisconsin Investment Board file quarterly reports. Information regarding the Commission's ethics-related activities is available to the public on the Commission website: <https://ethics.wi.gov/Pages/Ethics/Ethics.aspx>.

State Purchasing

The Contract Sunshine program is mandated by the Legislature to allow the public to view the process state agencies use to procure goods and services from vendors. Additional information about the program is available on the website: <https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx>.

Mission

The mission of the Ethics Commission is to promote and strengthen the faith and confidence of the people of Wisconsin in their government, support the operation of open and responsible government, preserve the integrity of the governmental decision-making process, and protect the rights of individuals through the administration of Wisconsin's campaign finance, lobbying, and ethics laws, and through readily available and understandable disclosure of information.

Programs, Goals, Objectives, and Activities

Program 1: Ethics, Campaign Finance, and Lobbying Regulation

- A. Goal: Facilitate compliance with the requirements of Wisconsin's campaign finance, lobbying, and ethics laws.

- A-1. Objective/Activity: Provide training, educational materials, and assistance to the regulated community and the public, focusing on applicable registration and reporting requirements.

- A-2. Objective/Activity: Conduct timely audits of registration and report information, consistent with statutory requirements.

A-3. Objective/Activity: Provide informal and formal advisory opinions, as well as informal guidance, in a timely manner whenever requested to do so.

B. Goal: Support the operation of open and responsible government, and preserve the integrity of governmental decision-making, and protect the rights of individuals.

B-1. Objective/Activity: Promptly make reported campaign finance, lobbying, and financial disclosure information publicly available.

B-2. Objective/Activity: Maintain the Wisconsin Campaign Finance Information System (CFIS), Eye On Lobbying website, and Statements of Economic Interests website in order to facilitate the registration and reporting requirements under applicable Wisconsin Statutes, as well as making the disclosure of reported information readily accessible and understandable.

B-3. Objective/Activity: Investigate complaints of possible violations of the ethics code, lobbying law, and campaign finance law and seek appropriate remedies as circumstances merit.

Performance Measures

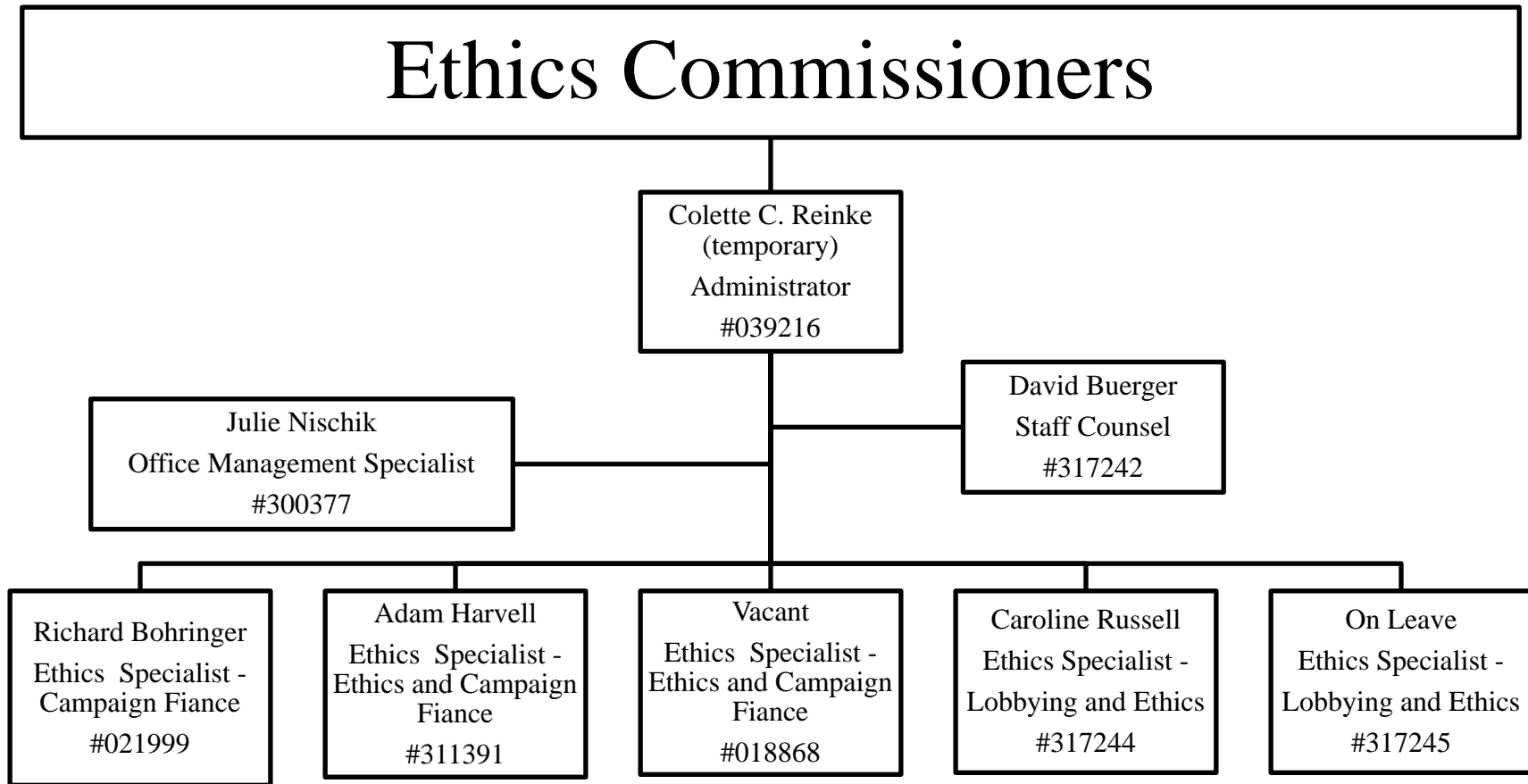
2017 – 2021 Goals, and Actual Performance for 2017-2018 (by fiscal year)

Actual measures from 2018 will be included after the fiscal year has concluded on June 30, 2018. Goals for 2019 through 2021 will be established based on 2018 actual performances.

Prog. No.	Performance Measure (by Fiscal Year)	Goal 2017	Actual 2017	Goal 2018	Actual 2018	Goal 2019	Goal 2020	Goal 2021
1	Fees received by electronic payment methods	50%	23.31%	50%				
1	Campaign finance registrations created/amended electronically	50%	70.27%	80%				
1	Campaign finance reports filed electronically	50%	74.05%	80%				
1	Campaign finance reports filed on/before the required date	99%	86.69%	90%				
1	Percentage of committees in compliance, based on audit findings	N/A	92.80%	90%				
1	Lobbyist time reports completed on/before the required date	99%	98.57%	99%				
1	Principals completing their Statements of Lobbying	99%	94.93%	95%				

	Activities and Expenditures on/before the required date							
1	Percentage of principals in compliance, based on audit findings	N/A	98.48%	99%				
1	Required SEIs filed on or before the required date	99%	95.25%	96%				

Organizational Chart





Wisconsin Ethics Commission

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DATE: For the June 19, 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 did not respond to a request for a status update prior to the drafting of this memo.

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. The current contract for maintenance and licensing of CFIS with PCC is being extended for a six-month term beginning on July 1, 2018.
- Lobbying – We are moving forward with the Web and Mobile Solutions (WaMS) team through DoIT at the University of Wisconsin—Madison (UW) to modernize the Eye on Lobbying website. The User Experience team at UW is currently conducting research interview with various users of the website. We will be meeting to go over results at the end of the month and begin a blueprint of phases with the WaMS team.
- Statements of Economic Interests – After the April 30th filing deadline, staff has switched focus to correcting minor issues identified by users to make filing more user-friendly, and on communications and other administrative functions. Candidate filing for the November 2018 Fall Election was conducted using PDF forms, rather than the new system.
- 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 and to develop a simplified bid for purchasing the software.

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

Wisconsin Ethics Commissioners

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

Administrator
Colette C. Reinke

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. DOA provided staff with complete preliminary plans for the new space. DOA has received an estimate, opened the project, and will begin renovations for the new space this month. They 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 a lease which will include start and end dates. November or 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 the move in date.

Campaign Finance

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 was on May 15, and the Election was on June 12, 2018. Pre-Primary and Pre-Election reports were required for the candidates running as well as committees supporting or opposing those candidates. All candidates registered for the Special Elections filed both Pre-Primary and Pre-Election reports timely.

July Continuing Reports

All registered committees, not claiming exemption from filing campaign finance reports, will be required to file a July Continuing 2018 report by July 16, 2018. This report covers January 1, 2018 through June 30, 2018, unless committees have filed Spring or Special Election Pre-Primary or Pre-Election reports, for which the period would be from the date of last report filed through June 30, 2018.

Lobbying

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

As of June 4, 2018, there were 789 lobbying principals registered, 642 lobbyists licensed, and 1,722 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

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. A few officials are still requesting paper SEIs, with staff entering SEIs from 2017 and 2018 paper filers. The April 30th deadline for SEI filings went well, and staff is working on minor fixes and administrative functions before moving on to candidate filings.

Statements of Economic Interests

The deadline for annual filing of SEIs was April 30, 2018. This year, all annual SEI filers received email notices, and a reminder by phone. SEIs were mailed only to those filers who requested a paper copy, and to those who had not filed by a week after the deadline.

Out of 2207 filers, 2091 filed on time. 96 filed between May 1 and May 15, within the 15 day grace period. Twelve filed between May 16 and June 5th. As of June 5, there are 7 individuals who have not filed, and 6 of those have left state service.

State of Wisconsin Investment Board Quarterly Reports

Quarterly reports were due by April 30th, covering January 1st through March 31st. All of the reports for the 1st quarter have been received and forwarded to the Legislative Audit Bureau for review.