

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on
Campaigns &
Elections
(AC-CE)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

03hr_CRule_03-100_AC-CE_pt01

➤ Hearing Records ... HR (bills and resolutions)

➤ **

➤ Miscellaneous ... Misc

➤ **

DATE: December 19, 2003

TO: Terri Griffiths

Committee on Campaigns and Elections

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 03-100

AN ORDER to amend EIBD 2.05 (14) and 2.07 (5), relating to circulator residency requirements.

Submitted by **Elections Board**.

Report received from Agency on **December 12, 2003**.

To committee on **Campaigns and Elections**.

Referred on **Friday, December 19, 2003**.

Last day for action - **Tuesday, January 20, 2004**.

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day after the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.


For assistance with the Clearinghouse Rule process, please consult Ken Stigler (6-2406) or your Legislative Council attorney. If you wish to learn more on this subject, read section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.

NOTICE

This notice is to inform you that the proposed rulemaking of the State Elections Board, appearing in Clearinghouse Rule 03-100, amending EIBd.2.05(14) and 2.07(5), is submitted to the presiding officer of each house of the legislature. This submission includes the proposed rule, the Legislative Council's staff's report and the Elections Board's report. In addition, the Elections Board is placing in the Wisconsin Administrative Register a notice that the proposed rules have been submitted to the presiding officer of each house.

Dated December 12, 2003

STATE ELECTIONS BOARD



George A. Dunst
Legal Counsel

REPORT
OF
STATE ELECTIONS BOARD

Clearinghouse Rule 03-100
Rules Chapter ElBd. 2.05 - 2.07
Wisconsin Administrative Code

Sections El.Bd. 2.05(14) and 2.07(5)

1. Findings of fact:

The rule interprets ss.8.02, 8.04, 8.05(3) and (4), 8.07, 8.10, 8.11, 8.15, 8.20, 8.30, 8.40, 8.50(3)(a) and 9.10, Stats. Those statutes govern the filing of nomination papers for elective office and the filing of petitions for recall or referendum elections. Sections ElBd 2.05 and 2.07 of the Wisconsin Administrative Code set forth the Elections Board's rules for determining the sufficiency of nomination papers and for determining the validity of challenges to nomination papers. Those sections are also incorporated by reference into ss. ElBd 2.09 and 2.11, governing the filing and sufficiency of petitions.

The rules prescribe the standards for filing officers to determine whether nomination papers and petitions comply with the requirements of ch. 8 of the Wisconsin Statutes and provide guidance to candidates and other circulators to enable them to so comply. The old rule, requiring that the circulator reside in the district in which a nomination paper or petition was being circulated, was no longer consistent with the decision of Judge Barbara Crabb in *Frami et al. v. Ponto et al.*, United States District Court for the Western District of Wisconsin, Case No. 02-C-515-C. Pursuant to that decision, the Elections Board is enjoined from enforcing a residency requirement with respect to the circulators of nomination papers. Legislation is being enacted to amend current law to conform with the proposed rule changes and the court's decision.

2. Conclusion and recommended action:

The State Elections Board unanimously concludes that ss.ElBd. 2.05 and 2.07 should be amended as described. The amendment to these rules is necessary to conform the rules to proposed statutory changes and to existing federal court decisions. The Board recommends promulgation of this rule.

The creation of this rule will take effect on the first day of the month following its publication in the Wisconsin Administrative Register pursuant to s.227.22(2), Stats.

Dated December 12, 2003,


for KEVIN J. KENNEDY
Executive Director

G/gdunst/rules 2003/amnd eibd 2.05 nom pprs/step II documents/final draft of rule dec 12

WISCONSIN ADMINISTRATIVE CODE

STATE ELECTIONS BOARD

SECTION 1. ElBd 2.05(14) is amended to read:

ELBD 2.05 TREATMENT AND SUFFICIENCY OF NOMINATION PAPERS

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the certificate of circulator and does so after, not before, the paper is circulated. ~~No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.~~

SECTION 2. ElBd 2.07(5) is amended to read:

ELBD 2.07 CHALLENGES TO NOMINATION PAPERS.

(5) Where it is alleged that the signer ~~or circulator~~ of a nomination paper does not reside in the district in which the candidate being nominated seeks office, the challenger may attempt to establish the geographical location of an address indicated on a nomination paper, by providing district maps, or by providing a statement from a postmaster or other public official.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

CONTACT PERSON:

George A. Dunst
Legal Counsel, State Elections Board
132 E. Wilson Street, P.O. Box 2973
Madison, Wisconsin 53701-2973; Phone 266-0136

3. Explanations of modifications to the proposed rule:

The State Elections Board makes no substantive modifications to this rule.

4. List of persons appearing at the public hearing:

No public hearing was held. The rule was submitted pursuant to the 30-day notice procedure of s.227.16(2)(e), Stats. No person who will be affected by the rule filed a petition for a public hearing within the 30-day period provided by that statute.

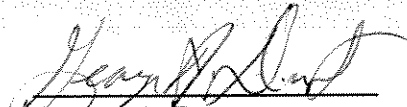
5. Response to Legislative Council staff report:

The State Elections Board adopts the Legislative Council's staff's comments and has incorporated the suggested changes in the rule.

Respectfully submitted,

December 12, 2003

STATE ELECTIONS BOARD


George A. Dunst
Legal Counsel