

Clearinghouse Rule 08-081

NOTICE OF PROPOSED RULE

GOVERNMENT ACCOUNTABILITY BOARD

NOTICE IS HEREBY GIVEN that pursuant to ss.5.05(1)(f), 5.93, and 227.11(2)(a), Stats., and interpreting Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1, and according to the procedure set forth in s.227.16(2)(e), Stats., the State of Wisconsin Government Accountability Board will adopt the following rule as proposed in this notice without public hearing unless within 30 days after publication of this notice, the Government Accountability Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statutory authority: ss.5.05(1)(f), s.5.93, and 227.11(2)(a)
2. Statutes interpreted: Subchapter I of Chapter 5 of the Wisconsin Statutes
3. Explanation of agency authority: This rule repeals rules sections GAB 21.01 and 21.04, and amends section GAB 20.01¹, which would have interpreted Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1. Those rules prescribe procedures related to processing complaints with the former State Ethics Board and with the former State Elections Board. Under 2007 Wisconsin Act 1, those agencies have merged to become the Government Accountability Board. The complaint procedure under ss.GAB 21.01 and 21.04 no longer applies to complaints filed with the Government Accountability Board under 2007 Wisconsin Act 1 and the complaint procedure under GAB ch.20 no longer applies to campaign finance complaints. The previous complaint procedure of the former Ethics Board, and the previous campaign finance complaint procedure of the Elections Board is inconsistent with the new Government Accountability Board complaint procedure, which is now provided by statute rather than administrative rule. Therefore, those rules need to be repealed.

¹ 1. Sections GAB 21.01, 21.04 and 20.01 were renumbered by the LRB under s. 13.92 (4) (b) 1., and were formerly Eth 3.01 and 3.04 and ElBd 10.01.

4. Related statute or rule: ss.11.60, 13.69, and 19.535, Stats., relating to the enforcement of the campaign finance, lobbying and ethics laws.

5. Plain language analysis: This rule repeals rules sections GAB 21.01 and 21.04, and amends section GAB 20.01, (which would have interpreted Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1), in anticipation of a future rule governing campaign finance, ethics and lobbying complaints under the new law enacted in 2007 Wisconsin Act 1.

6. Summary of, and comparison with, existing or proposed federal regulations: Considering that this rule repeals two existing former Ethics Board rules and effectively repeals a portion of a rule of the former Elections Board, comparison with existing federal regulations is inapposite. Federal law does enforce violations of campaign finance, lobbying and ethics laws at the federal level only.

7. Comparison with rules in adjacent states: The States of Illinois, Iowa, Michigan and Minnesota have not enacted legislation comparable to 2007 Wisconsin Act 1 and have not sought the repeal of enforcement provisions comparable to those included in this rule. Given the purpose and tenor of this rule, repealing administrative provisions, comparison with existing provisions of other states, as with a comparison to federal law, is inapposite.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on eliminating provisions of the former Ethics Board's and Elections Board's rules that were inconsistent with the provisions or intent of the new law merging those agencies into the new Government Accountability Board.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Preparation of an economic impact report is not required. The Government Accountability Board does not anticipate that the repeal of the described provisions will have an economic impact.

10. Effect on small business: The creation of this rule does not affect business.

11. Agency contact person (including e-mail and telephone): George A. Dunst
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Madison, Wisconsin 53701-2973; Phone 266-0136; (george.dunst@wi.gov)

12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 17 West Main Street, P.O. Box 2973, Madison, WI 53701-2973; (elections.state.wi.us)

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss.5.05(1)(f) and 227.(11)(2)(a), Stats., the Government Accountability Board hereby repeals Rules ss.GAB 21.01 and 21.04 and amends GAB s.20.01, as follows:

SECTION 1. GAB 21.01 and 21.04 are repealed.²

SECTION 2. GAB 20.01 is amended to read:

GAB 20.01 Applicability. This chapter applies to complaints filed with the ~~state elections~~ government accountability board pursuant to ss.~~5.05(3)~~, 5.06, ~~11.60(5)~~ and ~~11.66~~ 5.061, Stats., requesting the ~~elections~~ board to enforce the election ~~and campaign finance~~ laws and compliance with the Help America Vote Act. This chapter does not apply to complaints to challenge nomination papers or petitions which are filed under s.2.05 or 2.11.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

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 August 12, 2008

KEVIN J. KENNEDY
Director and General Counsel

2. Sections GAB 21.01, 21.04 and 20.01 were renumbered by the LRB under s. 13.92 (4) (b) 1., and were formerly Eth 3.01 and 3.04 and ElBd 10.01.

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