

2003 DRAFTING REQUEST

Bill

Received: 11/08/2002

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Michael Ellis (608) 266-0718

By/Representing: Mike Boerger

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Elections - miscellaneous
Elections - campaign finance
Ethics
Lobbying

Extra Copies: RPN - 1

Submit via email: YES

Requester's email: Sen.Ellis@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ethics and Elections Accountability and Control Board

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 12/06/2002	kgilfoy 12/06/2002		_____			State
/1			pgreensl 12/06/2002	_____	sbasford 12/06/2002		State

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/4	jkuesel 01/21/2003	rschlue 01/21/2003	rschlue 01/21/2003	_____	sbasford 01/21/2003	sbasford 01/21/2003	

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→ Per Mike Boenger
in Ellis's office

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mbarman
12/10/2002

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re-submitted
via e-mail

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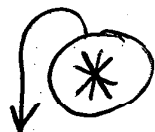
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Subject: **Elections - miscellaneous
Elections - campaign finance
Ethics
Lobbying**

Extra Copies: **RPN - 1**

Submit via email: **YES**



Requester's email: **Sen.Ells@legis.state.wi.us**

Carbon copy (CC:) to:

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1	<i>jkuesel 12/6</i>	<i>11-12/6 kmq</i>	<i>1/6 PS</i>	<i>12/6 <END> self</i>			

THE WISCONSIN ETHICS AND ELECTIONS ACCOUNTABILITY AND CONTROL BOARD



A PROPOSAL FOR CHANGE

By Senator Michael 'G. Ellis
and Senator Robert L. Cowles

Crisis in Confidence

Wisconsin is facing a crisis in confidence in government. Once, we enjoyed a national reputation as a leader in responsive, ethical government. Recent scandals involving public officials at all levels of government, however, have tarnished that reputation and Wisconsin is no longer seen as a model for other states to follow. The time has come to reinvigorate our watchdog and regulatory boards in order to reinstall the public's faith in our state and local government institutions.

Critics of the state's Ethics Board and Elections Board argue that neither agency is able to adequately act as a watchdog on political wrongdoing. The Elections Board is comprised of members designated by political parties, the Governor and partisan legislative leaders. Appointees of both boards are subject to approval by the state Senate. The Governor and the Legislature directly control both boards' budgets. Furthermore, neither agency is given the resources and authority needed to enforce our laws. Neither agency is able to fully investigate and independently prosecute violations of the law. Even when local district attorneys conduct prosecutions, we have seen allegations of partisanship leveled against the prosecutors.

Independent, Nonpartisan Agency Needed

Therefore, we are proposing to create a new independent Wisconsin Ethics and Elections Accountability and Control Board to oversee state and local public officials and to administer state election laws. This new board would incorporate into a single agency the current duties and functions of the State Elections Board and the State Ethics Board.

Our proposal would ensure the independence of this new agency by putting it under the oversight of the nonpartisan Wisconsin Supreme Court. Most importantly, we are proposing to arm this new agency with the authority to investigate allegations of misconduct in public office and with the authority to independently prosecute violations of state ethics and election laws.

Nonpartisan Supreme Court Provides Oversight, Independent Budgets

Under our proposal, the Wisconsin Ethics and Elections Accountability and Control Board would be organized and under the control of the state Supreme Court. The Board would be given a sum-sufficient budget subject to approval by the Supreme Court.

The Board would consist of nine members, eight of whom - one from each Congressional District - would be appointed by the Supreme Court. These members in turn would select the ninth member. None of the members would be subject to approval by either the Governor or the state Senate. Board members would also be responsible for hiring an Executive Director for the Board.

Board members would serve staggered, four-year terms. We are also proposing that members would be prohibited from having been members of a political party or from having run for a partisan political office for at least one year prior to serving on the Board. This is similar to the restrictions currently imposed on members of the state Ethics Board.

Three Divisions - Ethics, Elections, Enforcement

The Wisconsin Ethics and Elections Accountability and Control Board would be comprised of three divisions - Ethics, Elections and Enforcement.

The Ethics Division would assume the functions and duties of the current Wisconsin Ethics Board. It would administer the state ethics code and state lobbying laws and would advise state and local public officials, lobbyists and the public on these laws. The division would register lobbyists and would compile and disseminate information about the time and money spent by businesses and organizations in lobbying activities. It would file financial interest statements of state officials, candidates and nominees for public office.

The Elections Division would assume the functions and duties of the current Wisconsin Elections Board. It would administer state elections laws and campaign finance laws. It would have compliance review authority over local election officials' actions relating to ballot preparation, candidate nomination, voter qualifications and election administration. The division would administer the campaign finance registration and reporting system. It would administer the Wisconsin Election Campaign Fund, which provides public financing to eligible candidates for statewide and legislative offices.

Finally, a Division of Enforcement would be created that would include all investigation and enforcement authority currently authorized to the Elections and Ethics boards. This division, however, would be provided even greater investigative and prosecutorial authority than is granted either board under current law. The division would include a special prosecutor who can independently investigate allegations of misconduct and who will have independent authority to prosecute alleged violations, including criminal prosecutions, in court. This division will be authorized to act on complaints filed by either the Ethics Division or the Elections Division of the Board. It will also be able to respond to complaints brought to it by members of the public.

Nonpartisan Independence

Our proposal will be an important step in restoring integrity and the public's confidence in our public institutions. The Wisconsin Ethics and Elections Accountability and Control Board will be independent of partisan control in the appointment process and, just as importantly, in the development of its budget. By eliminating the current system of partisan appointments, subject to approval by the state Senate, and by insulating the Board's budget from direct intervention by the Governor or the Legislature, we will ensure that this new agency will be able to operate freely without the influence or threat of influence by outside interests. With an investigative staff and with prosecutorial authority the board will be provided the tools it needs to enforce our laws and to bring wrongdoers to justice.

DATE

2003 - 2004 LEGISLATURE

-0638/1

LRB-00734

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Wanted FR 12/6

2003 BILL

see ppr 17

Gen. Cat.

1 AN ACT *to repeal* 5.05 (5), 15.07 (1) (a) 2., 15.07 (5) (n), 15.62 (intro.) and (1), 15.62
2 (3), 19.47 (2), 19.47 (4), 20.510 (intro.) and (1) (title), 20.510 (1) (bm), 20.521
3 (intro.), 20.521 (1) (title), 20.521 (1) (a), 20.521 (1) (g), 20.521 (1) (i), 20.680 (5)
4 (c), 20.923 (4) (d) 3. and 230.08 (2) (wm); *to renumber* 20.510 (1) (q); *to*
5 *renumber and amend* 15.61 (title), 15.61, 15.62 (2), 20.510 (1) (a), 20.510 (1)
6 (c), 20.510 (1) (g), 20.510 (1) (h), 20.510 (1) (i), 20.510 (1) (j) and 20.521 (1) (h);
7 *to amend* 5.02 (1s), 5.05 (title), 5.05 (1) (intro.), 5.05 (1) (b), 5.40 (7), 5.62 (4) (b),
8 7.08 (title), 7.08 (7), 7.31 (5), 7.60 (4) (a), 7.60 (5), 7.70 (1), 7.70 (5) (b), 8.05 (1)
9 (j), 8.10 (5), 8.15 (4) (b), 8.18 (2), 8.20 (6), 8.50 (3) (a), 8.50 (3) (e), 9.01 (1) (a), 9.01
10 (1) (ag) 4., 9.01 (1) (ar) 2., 9.01 (10), 11.21 (title), 11.21 (7) (intro.), 13.123 (3) (b)
11 2., 13.23, 13.62 (4), 13.685 (title), 13.685 (7), 13.94 (1) (k), 14.58 (20), 15.07 (4),
12 15.07 (5) (k), 16.79 (2), 16.96 (3) (b), 17.17 (1), 17.17 (4), 19.42 (3), 19.42 (10) (a),
13 19.43 (4), 19.43 (5), 19.45 (6), 19.46 (2), 19.47 (5), 19.50 (2), 19.54 (2), 19.55 (1),
14 19.55 (2) (a) to (c), 19.59 (1) (g) 8., 19.85 (1) (h), 20.680 (intro.), 20.680 (5) (q),

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1 20.923 (4) (d) 4., 22.07 (6), 59.605 (3) (a) 3., 67.05 (3) (b), 67.05 (6), 71.10 (3) (b),
 2 73.0301 (1) (d) 13., 73.0301 (1) (e), 117.20 (2), 117.27 (2) (b) (intro.), 121.91 (3)
 3 (c), 125.05 (1) (b) 10., 165.25 (1), 198.08 (10), 200.09 (11) (am) 3., 227.03 (6),
 4 227.52 (6), 230.08 (2) (om), 234.02 (3m) (c), 560.04 (2m), 778.135 and 778.136;
 5 *to create* 5.05 (2m), 14.11 (2) (am), 15.07 (1) (a) 2m., 20.680 (5) (title) and 758.21
 6 (1m), (3) and (4) to (7) of the statutes; and *to affect* 2001 Wisconsin Act 16,
 7 section 9415 (2y), 2001 Wisconsin Act 109, section 9115 (2y) (b) and 2001
 8 Wisconsin Act 109, section 9415 (1zx); **relating to:** creation of an Ethics and
 9 Elections Accountability and Control Board, ~~various changes in the Code of~~
 10 ~~Ethics for State Public Officials and Employees,~~ and making appropriations.

Analysis by the Legislative Reference Bureau

This bill creates an Ethics and Elections Accountability Control Board.

Currently, the Elections Board consists of nine members. The governor appoints all of the members of the Elections Board, without confirmation by the senate, to serve for two-year terms as follows: one member is selected by the governor and one member each is designated by the chief justice of the Supreme Court, the speaker of the assembly, the senate majority leader, the minority leader in each house of the legislature, and the chief officer of each political party qualifying for a separate ballot at the September primary whose candidate for governor at the most recent gubernatorial election received at least 10% of the vote (currently, the Republican, Democratic, and Libertarian parties).

Currently, the Ethics Board consists of six members. Members of the board are nominated by the governor, and with the advice and consent of the senate, appointed to serve for staggered six-year terms. All members must be U.S. citizens and residents of this state, and no member may hold any other office or employment in the government of this state or any political subdivision thereof or in any state department. In addition, no member, for one year immediately prior to the date of appointment, may have been, and no member, while serving on the board, may become, a member of a political party, an officer or member of a committee in any partisan political club or organization, or a candidate for any partisan office. Except with respect to procedural matters, any action of the board requires the affirmative vote of at least four members.

This bill abolishes both boards and replaces them with an Ethics and Elections Accountability and Control Board. Under the bill, the board is composed of nine members serving for staggered four-year terms. The bill provides for the Supreme

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Court to appoint eight of the members, which must include one member residing in each congressional district in this state. These members then appoint the ninth member. Under the bill, none of the appointments is subject to senate confirmation. The bill applies to the board the same restriction on partisan memberships and candidacy that currently applies to members of the Ethics Board. No member, for one year immediately prior to the date of appointment, may have been, and no member while serving on the board may become, a member of a political party, an officer or member of a committee in any partisan political club or organization, or a candidate for any partisan office.

The bill creates three divisions within the Ethics and Elections Accountability Board: Elections Division, Ethics Division and Enforcement Division.

The Elections Division assumes the administrative responsibilities of the Elections Board, the Ethics Division assumes the administrative responsibilities of the Ethics Board, and the Enforcement Division is empowered to investigate violations and bring civil and criminal actions to enforce the elections, ethics, and lobbying regulation laws. Under current law, the Elections and Ethics boards share civil enforcement authority with district attorneys and in some cases with the attorney general; and the district attorneys, and in some cases the attorney general, exercise criminal enforcement authority.

The bill requires that the Enforcement Division include a full-time special prosecutor who has independent authority to investigate and prosecute violations of the elections, ethics, and lobbying regulation laws the without consent of the Ethics and Elections Accountability and Control Board.

Currently, the Elections and Ethics boards have sum certain appropriations derived from state general purpose revenue. In addition, both boards finance some of their operations with program revenue. This bill provides for the general purpose revenue portion of the budget of the Ethics and Elections Accountability and Control Board to be funded with a sum sufficient appropriation. Under the bill, the proposed budget of the board is subject to annual review and approval by the Supreme Court.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 5.02 (1s) of the statutes is amended to read:
2 5.02 (1s) "Board" means the ethics and elections accountability and control
3 board.
4 **SECTION 2.** 5.05 (title) of the statutes is amended to read:

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1 **5.05 (title) Elections board Ethics and elections accountability and**
2 **control board; powers and duties.**

3 **SECTION 3.** 5.05 (1) (intro.) of the statutes is amended to read:

4 **5.05 (1) GENERAL AUTHORITY.** (intro.) The ethics and elections accountability
5 and control board shall have the responsibility for the administration of chs. 5 to 12
6 and other laws relating to elections and election campaigns. Pursuant to such
7 responsibility, the board may:

8 **SECTION 4.** 5.05 (1) (b) of the statutes is amended to read:

9 **5.05 (1) (b)** In the discharge of its duties and upon notice to the party or parties
10 being investigated, subpoena and bring before it any person in the state and require
11 the production of any papers, books, or other records relevant to an investigation.
12 A circuit court may by order permit the inspection, and copying of the accounts and
13 the depositor's and loan records at any financial institution, as defined in s. 705.01
14 (3), doing business in the state to obtain evidence of any violation of ch. 11 upon
15 showing by the board of probable cause to believe there is a violation and that such
16 accounts and records may have a substantial relation to the violation. In the
17 discharge of its duties, the board may cause the deposition of witnesses to be taken
18 in the manner prescribed for taking depositions in civil actions in circuit court. The
19 board shall delegate to the special prosecutor under s. 758.21 (7) the power to issue
20 subpoenas and to obtain search warrants under this paragraph on behalf of the
21 board. The delegation is supplemental to the board's exercise of direct authority
22 under this paragraph.

23 **SECTION 5.** 5.05 (2m) of the statutes is created to read:

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1 **5.05 (2m) ENFORCEMENT DIVISION.** The enforcement division shall prosecute
2 civil actions brought by the board and shall assist the district attorneys and the
3 attorney general in prosecuting criminal actions referred to them by the board.

4 **SECTION 6.** 5.05 (5) of the statutes is repealed.

5 **SECTION 7.** 5.40 (7) of the statutes is amended to read:

6 **5.40 (7)** Whenever a municipality adopts and purchases voting machines or an
7 electronic voting system, or adopts and purchases a different type of voting machine
8 or electronic voting system from the type it was previously using, the municipal clerk
9 or executive director of the municipal board of election commissioners shall promptly
10 notify the county clerk or executive director of the county board of election
11 commissioners and the executive director of the ethics and elections accountability
12 and control board in writing.

13 **SECTION 8.** 5.62 (4) (b) of the statutes is amended to read:

14 **5.62 (4) (b)** The county board of election commissioners in counties having a
15 population of more than 500,000 shall prepare the official primary ballot. The
16 commissioners shall arrange the names of all candidates for each office whose
17 nomination papers are filed at the county level, using the same method as that used
18 by the ethics and elections accountability and control board under s. 5.60 (1) (b).

19 **SECTION 9.** 7.08 (title) of the statutes is amended to read:

20 **7.08 (title)** ~~Elections~~ Ethics and elections accountability and control
21 board.

22 **SECTION 10.** 7.08 (7) of the statutes is amended to read:

23 **7.08 (7) VOTING SYSTEM TRANSITIONAL ASSISTANCE.** From the appropriation under
24 s. ~~20.510 (1)~~ 20.680 (5) (c), provide assistance to municipalities that used punch card
25 electronic voting systems at the 2001 spring election to enable the municipalities to

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1 employ another type of electronic voting system, and provide training for election
2 officials in the use of replacement systems.

3 **SECTION 11.** 7.31 (5) of the statutes is amended to read:

4 **7.31 (5)** The board shall conduct regular training and administer examinations
5 to ensure that individuals who are certified by the board under this section are
6 knowledgeable concerning their authority and responsibilities. The board shall pay
7 all costs required to conduct the training and to administer the examinations from
8 the appropriation under s. ~~20.510 (1) (bm)~~ 20.680 (5) (a).

9 **SECTION 12.** 7.60 (4) (a) of the statutes is amended to read:

10 **7.60 (4) (a)** The board of canvassers shall make separate duplicate statements
11 showing the numbers of votes cast for the offices of president and vice president; state
12 officials; U.S. senators and representatives in congress; state legislators; justice;
13 court of appeals judge; circuit judges; district attorneys; and metropolitan sewerage
14 commissioners, if the commissioners are elected under s. 200.09 (11) (am). If a
15 municipal judge elected under s. 755.01 (4) serves a municipality that is located
16 partially within the county and candidates for that judgeship file nomination papers
17 in another county, the board of canvassers shall prepare a duplicate statement
18 showing the numbers of votes cast for that judgeship in that county for transmittal
19 to the other county. For partisan candidates, the statements shall include the
20 political party or principle designation, if any, next to the name of each candidate.
21 The board of canvassers shall also prepare a statement showing the results of any
22 county, technical college district, or statewide referendum. Each statement shall
23 state the total number of votes cast in the county for each office; the names of all
24 persons for whom the votes were cast, as returned; the number of votes cast for each
25 person; and the number of votes cast for and against any question submitted at a

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1 referendum. The board of canvassers shall use one copy of each duplicate statement
2 to report to the ethics and elections accountability and control board, technical
3 college district board, or board of canvassers of any other county and shall file the
4 other statement in the office of the county clerk or board of election commissioners.

5 **SECTION 13.** 7.60 (5) of the statutes, as affected by 2001 Wisconsin Act 107, is
6 amended to read:

7 7.60 (5) REPORTING. (a) Immediately following the canvass, the county clerk
8 shall deliver or send to the elections board, by 1st class mail, a certified copy of each
9 statement of the county board of canvassers for president and vice president, state
10 officials, senators and representatives in congress, state legislators, justice, court of
11 appeals judge, circuit judge, district attorney, and metropolitan sewerage
12 commissioners, if the commissioners are elected under s. 200.09 (11) (am). The
13 statement shall record the returns for each office or referendum by ward, unless
14 combined returns are authorized under s. 5.15 (6) (b) in which case the statement
15 shall record the returns for each group of combined wards. Following primaries the
16 county clerk shall enclose on forms prescribed by the ethics and elections
17 accountability and control board the names, party or principle designation, if any,
18 and number of votes received by each candidate recorded in the same manner. The
19 county clerk shall deliver or transmit the certified statement to the ethics and
20 elections accountability and control board no later than 7 days after each primary
21 and no later than 10 days after any other election. The board of canvassers shall
22 deliver or transmit a certified copy of each statement for any technical college district
23 referendum to the secretary of the technical college district board.

24 (b) If the board of canvassers becomes aware of a material mistake in the
25 canvass of an election for state or national office or a statewide or technical college

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1 district referendum prior to the close of business on the day the ethics and elections
2 accountability and control board receives returns from the last county board of
3 canvassers with respect to that canvass, the board of canvassers may petition the
4 ethics and elections accountability and control board to reopen and correct the
5 canvass. The ethics and elections accountability and control board shall direct the
6 canvass to be reopened and corrected if it determines that the public interest so
7 requires. If the ethics and elections accountability and control board directs the
8 canvass to be reopened, the board of canvassers shall reconvene and transmit a
9 certified corrected copy of the canvass statement to the ethics and elections
10 accountability and control board or secretary of the technical college district board.

11 SECTION 14. 7.70 (1) of the statutes is amended to read:

12 7.70 (1) RECORDING AND PRESERVING RETURNS. (a) Upon receipt of the certified
13 statements from the county clerks, the ethics and elections accountability and
14 control board shall record the election results by counties and file and carefully
15 preserve the statements.

16 (b) If any county clerk fails or neglects to forward any statements, the ethics
17 and elections accountability and control board may require the clerk to do so
18 immediately and if not received by the 8th day after a primary, or by the 11th day
19 after any other election, the ethics and elections accountability and control board
20 may dispatch a special messenger to obtain them. Whenever it appears upon the face
21 of any statement that an error has been made in reporting or computing, the ethics
22 and elections accountability and control board may return it to the county clerk for
23 correction.

24 SECTION 15. 7.70 (5) (b) of the statutes is amended to read:

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1 7.70 (5) (b) For presidential electors, the ethics and elections accountability
2 and control board shall prepare a certificate showing the determination of the results
3 of the canvass and the names of the persons elected, and the governor shall sign, affix
4 the great seal of the state, and transmit the certificate by registered mail to the U.S.
5 administrator of general services. The governor shall also prepare 6 duplicate
6 originals of such certificate and deliver them to one of the presidential electors on or
7 before the first Monday after the 2nd Wednesday in December.

8 **SECTION 16.** 8.05 (1) (j) of the statutes is amended to read:

9 8.05 (1) (j) The municipal clerk shall notify in writing each candidate whose
10 name is certified as a nominee under par. (h) of his or her nomination. If a municipal
11 judge is elected under s. 755.01 (4), the county clerk of the county having the largest
12 portion of the population in the jurisdiction served by the judge shall make the
13 notification. Upon receipt of the notice, each candidate shall file a declaration of
14 candidacy in the manner prescribed by s. 8.21 with the municipal clerk making the
15 notification no later than 5 p.m. on the 5th day after the notification is mailed or
16 personally delivered to the candidate by the municipal clerk, except as authorized
17 in this paragraph. If an incumbent whose name is certified as a nominee fails to file
18 a declaration of candidacy within the time prescribed by this paragraph, each
19 certified candidate for the office held by the incumbent, other than the incumbent,
20 may file a declaration of candidacy no later than 72 hours after the latest time
21 prescribed in this paragraph. If the candidate has not filed a registration statement
22 under s. 11.05 at the time of the notification, the candidate shall file the statement
23 with the declaration. A candidate for municipal judge shall also file a statement of
24 economic interests with the ethics and elections accountability and control board
25 under s. 19.43 (4) no later than 4:30 p.m. on the 5th day after notification of

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1 nomination is mailed or personally delivered to the candidate, or no later than
2 4:30 p.m. on the next business day after the last day for filing a declaration of
3 candidacy whenever that candidate is granted an extension of time for filing a
4 declaration of candidacy under this paragraph. Upon receipt of the declaration of
5 candidacy and registration statement of each qualified candidate, and upon filing of
6 a statement of economic interests by each candidate for municipal judge, the
7 municipal clerk, or the county clerk if the judge is elected under s. 755.01 (4), shall
8 place the name of the candidate on the ballot. No later than the end of the 3rd day
9 following qualification by all candidates, the municipal clerk, or the county clerk if
10 the judge is elected under s. 755.01 (4), shall draw lots to determine the arrangement
11 of candidates' names on the spring election ballot.

12 **SECTION 17.** 8.10 (5) of the statutes is amended to read:

13 8.10 (5) Nomination papers shall be accompanied by a declaration of candidacy
14 under s. 8.21. If a candidate has not filed a registration statement under s. 11.05 at
15 the time he or she files nomination papers, the candidate shall file the statement
16 with the papers. A candidate for state office or municipal judge shall also file a
17 statement of economic interests with the ethics and elections accountability and
18 control board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the
19 last day for filing nomination papers under sub. (2) (a), or no later than 4:30 p.m. on
20 the next business day after the last day whenever that candidate is granted an
21 extension of time for filing nomination papers under sub. (2) (a).

22 **SECTION 18.** 8.15 (4) (b) of the statutes is amended to read:

23 8.15 (4) (b) Nomination papers shall be accompanied by a declaration of
24 candidacy under s. 8.21. If a candidate for state or local office has not filed a
25 registration statement under s. 11.05 at the time he or she files nomination papers,

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1 the candidate shall file the statement with the papers. A candidate for state office
2 shall also file a statement of economic interests with the ethics and elections
3 accountability and control board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd
4 day following the last day for filing nomination papers under sub. (1), or no later than
5 4:30 p.m. on the next business day after the last day whenever that candidate is
6 granted an extension of time for filing nomination papers under sub. (1).

7 **SECTION 19.** 8.18 (2) of the statutes is amended to read:

8 8.18 (2) The purpose of the convention is to nominate one presidential elector
9 from each congressional district and 2 electors from the state at large. The names
10 of the nominees shall be certified immediately by the chairperson of the state
11 committee of each party to the chairperson of the ethics and elections accountability
12 and control board.

13 **SECTION 20.** 8.20 (6) of the statutes is amended to read:

14 8.20 (6) Nomination papers shall be accompanied by a declaration of candidacy
15 under s. 8.21. If a candidate for state or local office has not filed a registration
16 statement under s. 11.05 at the time he or she files nomination papers, the candidate
17 shall file the statement with the papers. A candidate for state office shall also file
18 a statement of economic interests with the ethics and elections accountability and
19 control board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the
20 last day for filing nomination papers under sub. (8) (a), or no later than 4:30 p.m. on
21 the next business day after the last day whenever that candidate is granted an
22 extension of time for filing nomination papers under sub. (8) (a).

23 **SECTION 21.** 8.50 (3) (a) of the statutes is amended to read:

24 8.50 (3) (a) Nomination papers may be circulated no sooner than the day the
25 order for the special election is filed and shall be filed not later than 5 p.m. 28 days

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1 before the day that the special primary will or would be held, if required, except when
2 a special election is held concurrently with the spring election or general election, the
3 deadline for filing nomination papers shall be specified in the order and the date shall
4 be no earlier than the date provided in s. 8.10 (2) (a) or 8.15 (1), respectively, and no
5 later than 35 days prior to the date of the spring or September primary. Nomination
6 papers may be filed in the manner specified in s. 8.10, 8.15, or 8.20. Each candidate
7 shall file a declaration of candidacy in the manner provided in s. 8.21 no later than
8 the latest time provided in the order for filing nomination papers. If a candidate for
9 state or local office has not filed a registration statement under s. 11.05 at the time
10 he or she files nomination papers, the candidate shall file the statement with the
11 papers. A candidate for state office shall also file a statement of economic interests
12 with the ethics and elections accountability and control board no later than the end
13 of the 3rd day following the last day for filing nomination papers specified in the
14 order.

15 **SECTION 22.** 8.50 (3) (e) of the statutes is amended to read:

16 8.50 (3) (e) In a special election for a state or national office, the county clerk
17 or board of election commissioners shall transmit the statement of the county board
18 of canvassers to the ethics and elections accountability and control board no later
19 than 7 days after the special primary and 13 days after the special election.

20 **SECTION 23.** 9.01 (1) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
21 is amended to read:

22 9.01 (1) (a) Any candidate voted for at any election or any elector who voted
23 upon any referendum question at any election may request a recount. The petitioner
24 shall file a verified petition or petitions with the proper clerk or body under par. (ar)
25 not earlier than the time of completion of the canvass and not later than 5 p.m. on

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1 the 3rd business day following the last meeting day of the municipal or county board
2 of canvassers determining the election for that office or on that referendum question
3 or, if more than one board of canvassers makes the determination not later than 5
4 p.m. on the 3rd business day following the last meeting day of the last board of
5 canvassers which makes a determination. If the chairperson of the board or
6 chairperson's designee makes the determination for the office or the referendum
7 question, the petitioner shall file the petition not earlier than the last meeting day
8 of the last county board of canvassers to make a statement in the election or
9 referendum and not later than 5 p.m. on the 3rd business day following the day on
10 which the ethics and elections accountability and control board receives the last
11 statement from a county board of canvassers for the election or referendum. Each
12 verified petition shall state that at the election the petitioner was a candidate for the
13 office in question or that he or she voted on the referendum question in issue; that
14 the petitioner is informed and believes that a mistake or fraud has been committed
15 in a specified ward or municipality in the counting and return of the votes cast for
16 the office or upon the question; or shall specify any other defect, irregularity, or
17 illegality in the conduct of the election. The petition shall specify each ward, or each
18 municipality where no wards exist, in which a recount is desired. If a recount is
19 requested for all wards within a jurisdiction, each ward need not be specified. The
20 petition may be amended to include information discovered as a result of the
21 investigation of the board of canvassers or the chairperson of the board or
22 chairperson's designee after the filing of the petition, if the petitioner moves to
23 amend the petition as soon as possible after the petitioner discovered or reasonably
24 should have discovered the information which is the subject of the amendment and
25 the petitioner was unable to include information in the original petition.

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1 **SECTION 24.** 9.01 (1) (ag) 4. of the statutes is amended to read:

2 9.01 (1) (ag) 4. The board shall deposit all moneys received by it into the account
3 under s. ~~20.510 (1)~~ 20.680 (5) (g), and shall pay the fees required for each recount to
4 the county clerks of the counties in which the recount is to be held. The county clerk
5 shall deposit fees received by him or her with the county treasurer. The municipal
6 clerk shall deposit fees received by him or her with the municipal treasurer.

7 **SECTION 25.** 9.01 (1) (ar) 2. of the statutes is amended to read:

8 9.01 (1) (ar) 2. In the event of a recount for a referendum, the petition shall be
9 filed with the clerk of the jurisdiction in which the referendum is called, and, in the
10 case of the state, with the ethics and elections accountability and control board.

11 **SECTION 26.** 9.01 (10) of the statutes is amended to read:

12 9.01 (10) **STANDARD FORMS AND METHODS.** The ethics and elections
13 accountability and control board shall prescribe standard forms and procedures for
14 the making of recounts under this section.

15 **SECTION 27.** 11.21 (title) of the statutes is amended to read:

16 **11.21 (title) Duties of the ethics and elections accountability and**
17 **control board.**

18 **SECTION 28.** 11.21 (7) (intro.) of the statutes is amended to read:

19 11.21 (7) (intro.) Include in its biennial report under s. ~~5.05 (5)~~ 758.19 (3)
20 compilations of any of the following in its discretion:

21 **SECTION 29.** 13.123 (3) (b) 2. of the statutes is amended to read:

22 13.123 (3) (b) 2. In making the determination under subd. 1., the chief clerk is
23 bound by the determination of the chairperson of the ethics and elections
24 accountability and control board or the chairperson's designee if such determination
25 has been issued.

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1 **SECTION 30.** 13.23 of the statutes is amended to read:

2 **13.23 Election contests; notice.** Any person wishing to contest the election
3 of any senator or member of the assembly shall, within 30 days after the decision of
4 the board of canvassers, serve a notice in writing on the person whose election the
5 contestant intends to contest, stating briefly that the election will be contested and
6 the cause of such contest, and shall file a copy thereof in the office of the ethics and
7 elections accountability and control board at least 10 days before the day fixed by law
8 for the meeting of the legislature. The ethics and elections accountability and control
9 board shall then send a copy of s. 13.24 to both contestants. If any contestant fails
10 to so file a copy of such notice, the contestant shall not be entitled to any mileage or
11 salary in case payment has been made therefor to the sitting member.

12 **SECTION 31.** 13.62 (4) of the statutes is amended to read:

13 **13.62 (4)** "Board" means the ethics and elections accountability and control
14 board.

15 **SECTION 32.** 13.685 (title) of the statutes is amended to read:

16 **13.685 (title) Duties of the ethics and elections accountability and**
17 **control board.**

18 **SECTION 33.** 13.685 (7) of the statutes is amended to read:

19 **13.685 (7)** Beginning with the 3rd Tuesday following the beginning of any
20 regular or special session of the legislature and on every Tuesday thereafter for the
21 duration of such session, the board shall, from its records, submit to the chief clerk
22 of each house of the legislature, for distribution to the legislature under s. 13.172 (2),
23 a report of the names of lobbyists licensed under s. 13.63 and the names of officers
24 and employees of agencies filed under s. 13.695 who were not previously reported,
25 the names of the principals or agencies whom they represent and the general areas

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1 of legislative and administrative action which are the object of their lobbying activity.
2 Such reports shall be incorporated into the journal of the senate and a copy filed in
3 the office of the chief clerk of the assembly. The board shall also notify the chief clerk
4 of each house that a copy of each statement which is required to be filed under ss.
5 13.68 and 13.695 is available upon request. Such copy shall be open to public
6 inspection but shall not be incorporated in the journal unless the chief clerk so
7 orders. The board shall include in its biennial report under s. ~~15.04 (1) (d)~~, 758.21
8 (3) a summary of the statements it has received under ss. 13.68 and 13.695.

9 **SECTION 34.** 13.94 (1) (k) of the statutes is amended to read:

10 13.94 (1) (k) Provide auditing services at the direction of the ethics and
11 elections accountability and control board under s. 5.05 (2).

12 **SECTION 35.** 14.11 (2) (am) of the statutes is created to read:

13 14.11 (2) (am) Upon request of the ethics and elections accountability and
14 control board, the governor shall employ special counsel recommended by the board
15 for the purpose of assisting the board in investigating or prosecuting an alleged
16 violation of subch. III of ch. 13, subch. III of ch. 19, or chs. 5 to 12.

17 **SECTION 36.** 14.58 (20) of the statutes is amended to read:

18 14.58 (20) ELECTION CAMPAIGN FUND. Make disbursements to each candidate
19 certified under s. 7.08 (2) (c) or (cm) by the ethics and elections accountability and
20 control board as eligible to receive moneys from the Wisconsin election campaign
21 fund.

22 **SECTION 37.** 15.07 (1) (a) 2. of the statutes is repealed.

23 **SECTION 38.** 15.07 (1) (a) 2m. of the statutes is created to read:

24 15.07 (1) (a) 2m. Members of the ethics and elections accountability and control
25 board shall be appointed as provided in s. 15.61.

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1 **SECTION 39.** 15.07 (4) of the statutes is amended to read:

2 15.07 (4) **QUORUM.** A majority of the membership of a board constitutes a
3 quorum to do business and, unless a more restrictive provision is adopted by the
4 board, a majority of a quorum may act in any matter within the jurisdiction of the
5 board. This subsection does not apply to actions of ~~the ethics board or the school~~
6 district boundary appeal board as provided in ~~ss. 19.47 (4) and s.~~ 117.05 (2) (a).

7 **SECTION 40.** 15.07 (5) (k) of the statutes is amended to read:

8 15.07 (5) (k) Members of the ethics and elections accountability and control
9 board, \$25 per day.

10 **SECTION 41.** 15.07 (5) (n) of the statutes is repealed.

11 **SECTION 42.** 15.61 (title) of the statutes is renumbered 758.21 (title) and
12 amended to read:

13 758.21 (title) ~~Elections~~ Ethics and elections accountability and control
14 board. ~~creation~~

15 **SECTION 43.** 15.61 of the statutes is renumbered 758.21 and amended to read:

16 758.21 (1) There is created an ethics and elections accountability and control
17 board consisting of 9 persons ~~who, 8 of whom~~ shall be appointed by the governor ~~for~~
18 2-year supreme court and one of whom shall be appointed by the other members.
19 Of the members who are appointed by the supreme court, one shall be a resident of
20 each congressional district in the state. Members shall serve for 4-year terms as
21 follows: one member selected by the governor; one member each designated by the
22 chief justice of the supreme court, the speaker of the assembly, the senate majority
23 leader, the minority leader in each house of the legislature, and the chief officer of
24 each political party qualifying for a separate ballot under s. 5.62 (1) (b) or (2) whose

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1 ~~candidate for governor received at least 10% of the vote in the most recent~~
2 ~~gubernatorial election.~~

3 **SECTION 44.** 15.62 (intro.) and (1) of the statutes are repealed.

4 **SECTION 45.** 15.62 (2) of the statutes is renumbered 758.21 (2) and amended
5 to read:

6 758.21 (2) No member, ~~when appointed,~~ for one year immediately prior to the
7 date of appointment ~~or while serving on the board,~~ may have been, or while serving
8 on the board may become, a member of a political party, an officer or member of a
9 committee in any partisan political club or organization, or a candidate for any
10 partisan elective public office. ~~No member may become a candidate for or hold any~~
11 ~~such office while serving on the board.~~

12 **SECTION 46.** 15.62 (3) of the statutes is repealed.

13 **SECTION 47.** 16.79 (2) of the statutes is amended to read:

14 16.79 (2) The department shall distribute in pamphlet form copies of the
15 constitution and such laws as may be required to meet the public demand, including
16 the election laws. The department shall distribute election manuals, forms, and
17 supplies specified by the ethics and elections accountability and control board. The
18 laws, manuals, forms, and supplies shall be sold by the department at cost, including
19 distribution cost as determined under s. 35.80. The elections board shall inform the
20 department in writing as to which election manuals, forms, and supplies shall be
21 offered for distribution under this subsection.

22 **SECTION 48.** 16.96 (3) (b) of the statutes is amended to read:

23 16.96 (3) (b) Maintain and keep current throughout the decade the maps of
24 congressional and legislative district boundaries received from the legislative

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1 reference bureau under s. 13.92 (1) (a) 6. and provide copies thereof to the ethics and
2 elections accountability and control board.

3 **SECTION 49.** 17.17 (1) of the statutes is amended to read:

4 17.17 (1) SENATORS AND MEMBERS OF CONGRESS. In the office of United States
5 senator or member of congress from this state, by the county clerk of the county
6 wherein such officer resided at the time of election, to the ethics and elections
7 accountability and control board.

8 **SECTION 50.** 17.17 (4) of the statutes is amended to read:

9 17.17 (4) JUSTICES AND JUDGES. In the office of justice of the supreme court, court
10 of appeals judge, or judge of a circuit court, by the director of state courts to the
11 governor and the and ethics elections accountability and control board.

12 **SECTION 51.** 19.42 (3) of the statutes is amended to read:

13 19.42 (3) "Board" means the ethics and elections accountability and control
14 board.

15 **SECTION 52.** 19.42 (10) (a) of the statutes is amended to read:

16 19.42 (10) (a) A member of the ethics and elections accountability and control
17 board.

18 **SECTION 53.** 19.43 (4) of the statutes is amended to read:

19 19.43 (4) A candidate for state public office shall file with the board a statement
20 of economic interests meeting each of the requirements of s. 19.44 (1) no later than
21 4:30 p.m. on the 3rd day following the last day for filing nomination papers for the
22 office which the candidate seeks, or no later than 4:30 p.m. on the next business day
23 after the last day whenever that candidate is granted an extension of time for filing
24 nomination papers or a declaration of candidacy under s. 8.05 (1) (j), 8.10 (2) (a), 8.15
25 (1), or 8.20 (8) (a), no later than 4:30 p.m. on the 5th day after notification of

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1 nomination is mailed or personally delivered to the candidate by the municipal clerk
2 in the case of a candidate who is nominated at a caucus, or no later than 4:30 p.m.
3 on the 3rd day after notification of nomination is mailed or personally delivered to
4 the candidate by the appropriate official or agency in the case of a write-in candidate
5 or candidate who is appointed to fill a vacancy in nomination under s. 8.35 (2) (a).
6 The information contained on the statement shall be current as of December 31 of
7 the year preceding the filing deadline. Before certifying the name of any candidate
8 for state public office under s. 7.08 (2) (a), the ethics and elections accountability and
9 control board, municipal clerk, or board of election commissioners shall ascertain
10 whether that candidate has complied with this subsection. If not, the ethics and
11 elections accountability and control board, municipal clerk, or board of election
12 commissioners may not certify the candidate's name for ballot placement.

13 **SECTION 54.** 19.43 (5) of the statutes is amended to read:

14 19.43 (5) Each member of the investment board and each employee of the
15 investment board who is a state public official shall complete and file with the ethics
16 and elections accountability and control board a quarterly report of economic
17 transactions no later than the last day of the month following the end of each
18 calendar quarter during any portion of which he or she was a member or employee
19 of the investment board. Such reports of economic transactions shall be in the form
20 prescribed by the ethics and elections accountability and control board and shall
21 identify the date and nature of any purchase, sale, put, call, option, lease, or creation,
22 dissolution, or modification of any economic interest made during the quarter for
23 which the report is filed and disclosure of which would be required by s. 19.44 if a
24 statement of economic interests were being filed.

25 **SECTION 55.** 19.45 (6) of the statutes is amended to read:

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1 19.45 (6) No state public official, member of a state public official's immediate
2 family, nor any organization with which the state public official or a member of the
3 official's immediate family owns or controls at least 10% of the outstanding equity,
4 voting rights, or outstanding indebtedness may enter into any contract or lease
5 involving a payment or payments of more than \$3,000 within a 12-month period, in
6 whole or in part derived from state funds unless the state public official has first
7 made written disclosure of the nature and extent of such relationship or interest to
8 the board and to the department acting for the state in regard to such contract or
9 lease. Any contract or lease entered into in violation of this subsection may be voided
10 by the state in an action commenced within 3 years of the date on which the ethics
11 and elections accountability and control board, or the department or officer acting
12 for the state in regard to the allocation of state funds from which such payment is
13 derived, knew or should have known that a violation of this subsection had occurred.
14 This subsection does not affect the application of s. 946.13.

15 **SECTION 56.** 19.46 (2) of the statutes is amended to read:

16 19.46 (2) Any individual, either personally or on behalf of an organization or
17 governmental body, may request of the board an advisory opinion regarding the
18 propriety of any matter to which the person is or may become a party; and any
19 appointing officer, with the consent of a prospective appointee, may request of the
20 board an advisory opinion regarding the propriety of any matter to which the
21 prospective appointee is or may become a party. The board shall review a request for
22 an advisory opinion and may advise the person making the request. Advisory
23 opinions issued under this subsection and requests therefor shall be in writing. The
24 board's deliberations and actions upon such requests shall be in meetings not open
25 to the public. It is prima facie evidence of intent to comply with this subchapter or

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1 subch. III of ch. 13 when a person refers a matter to the board and abides by the
2 board's advisory opinion, if the material facts are as stated in the opinion request.
3 The board may authorize the executive director to act in its stead in instances where
4 delay is of substantial inconvenience or detriment to the requesting party. No
5 member or employee of the board may make public the identity of the individual
6 requesting an advisory opinion under this subsection or of individuals or
7 organizations mentioned in the opinion.

8 **SECTION 57.** 19.47 (2) of the statutes is repealed.

9 **SECTION 58.** 19.47 (4) of the statutes is repealed.

10 **SECTION 59.** 19.47 (5) of the statutes is amended to read:

11 19.47 (5) ~~No later than September 1 of each year, the board shall submit a~~
12 ~~report concerning its actions in the preceding fiscal year to the governor and the chief~~
13 ~~clerk of each house of the legislature, for distribution to the legislature under s.~~
14 ~~13.172 (2). Such~~ On or before October 15 of each odd-numbered year, the ethics and
15 elections accountability and control board shall submit to the clerk of the supreme
16 court, the governor, and the chief clerk of each house of the legislature, for
17 distribution to the legislature under s. 13.172 (2), a report on the performance and
18 operations of the board during the preceding fiscal biennium, and projecting the
19 goals and objectives of the board as developed for the program budget report. The
20 supreme court may prescribe the format of the report and may require such other
21 information as is considered appropriate. The board shall provide a copy of its
22 biennial report to legislators upon request. The board may issue such additional
23 reports on its findings and recommendations as its operations require. The board
24 shall include in its biennial report ~~shall contain~~ the names and duties of all
25 individuals employed by the board and a summary of its determinations and

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1 advisory opinions. The board shall make sufficient alterations in the summaries to
2 prevent disclosing the identities of individuals or organizations involved in the
3 decisions or opinions. The board shall make such further reports on the matters
4 within its jurisdiction and such recommendations for further legislation as it deems
5 desirable.

6 **SECTION 60.** 19.50 (2) of the statutes is amended to read:

7 19.50 (2) To administer oaths and to require by subpoena issued by it the
8 attendance and testimony of witnesses and the production of any documentary
9 evidence relating to the investigation or hearing being conducted. ~~Notwithstanding~~
10 ~~s. 885.01 (4), the issuance of a subpoena requires action by the board in accordance~~
11 ~~with s. 19.47 (4).~~

12 **SECTION 61.** 19.54 (2) of the statutes is amended to read:

13 19.54 (2) An application for rehearing is governed by such general rules as the
14 board may establish. Only one rehearing may be granted by the board. No order of
15 the board pursuant to this subchapter or subch. III of ch. 13 becomes effective until
16 20 days after it is issued, or while an application for rehearing or a rehearing is
17 pending, or until 10 days after such application for rehearing is either denied,
18 expressly or by implication, or the board has announced its final determination on
19 rehearing.

20 **SECTION 62.** 19.55 (1) of the statutes is amended to read:

21 19.55 (1) Except as provided in sub. (2), all records under this subchapter or
22 subch. III of ch. 13 in the possession of the board are open to public inspection at all
23 reasonable times. The board shall require an individual wishing to examine a
24 statement of economic interests or the list of persons who inspect any statements
25 which are in the board's possession to provide his or her full name and address, and

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1 if the individual is representing another person, the full name and address of the
2 person which he or she represents. Such identification may be provided in writing
3 or in person. The board shall record and retain for at least 3 years information
4 obtained by it pursuant to this subsection. No individual may use a fictitious name
5 or address or fail to identify a principal in making any request for inspection.

6 **SECTION 63.** 19.55 (2) (a) to (c) of the statutes are amended to read:

7 19.55 (2) (a) Records obtained in connection with a request for an advisory
8 opinion issued under s. 19.46 (2) other than summaries of advisory opinions that do
9 not disclose the identity of individuals requesting such opinions or organizations on
10 whose behalf they are requested. The board may, however, make such records public
11 with the consent of the individual requesting the advisory opinion or the
12 organization or governmental body on whose behalf it is requested. A person who
13 makes or purports to make public the substance of or any portion of an advisory
14 opinion requested by or on behalf of the person is deemed to have waived the
15 confidentiality of the request for an advisory opinion and of any records obtained or
16 prepared by the board in connection with the request for an advisory opinion.

17 (b) Records obtained or prepared by the board in connection with an
18 investigation under this subchapter or subch. III of ch. 13, except that the board shall
19 permit inspection of records that are made public in the course of a hearing by the
20 board to determine if a violation of this subchapter or subch. III of ch. 13 has
21 occurred. Whenever the board refers such investigation and hearing records to a
22 district attorney or to the attorney general, they may be made public in the course
23 of a prosecution initiated under this subchapter. The board shall also provide
24 information from investigation and hearing records that pertains to the location of
25 individuals and assets of individuals as requested under s. 49.22 (2m) by the

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1 department of workforce development or by a county child support agency under s.
2 59.53 (5).

3 (c) Statements of economic interests and reports of economic transactions
4 which are filed with the ethics and elections accountability and control board by
5 members or employees of the investment board, except that the ethics board shall
6 refer statements and reports filed by such individuals to the legislative audit bureau
7 for its review, and except that a statement of economic interests filed by a member
8 or employee of the investment board who is also an official required to file shall be
9 open to public inspection.

10 **SECTION 64.** 19.59 (1) (g) 8. of the statutes is amended to read:

11 19.59 (1) (g) 8. No district board member, member of a district board member's
12 immediate family, nor any organization with which the district board member or a
13 member of the district board member's immediate family owns or controls at least
14 10% of the outstanding equity, voting rights, or outstanding indebtedness may enter
15 into any contract or lease involving a payment or payments of more than \$3,000
16 within a 12-month period, in whole or in part derived from district funds unless the
17 district board member has first made written disclosure of the nature and extent of
18 such relationship or interest to the ethics and elections accountability and control
19 board and to the district. Any contract or lease entered into in violation of this
20 subdivision may be voided by the district in an action commenced within 3 years of
21 the date on which the ethics board, or the district, knew or should have known that
22 a violation of this subdivision had occurred. This subdivision does not affect the
23 application of s. 946.13.

24 **SECTION 65.** 19.85 (1) (h) of the statutes is amended to read:

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1 19.85 (1) (h) Consideration of requests for confidential written advice from the
2 ethics and elections accountability and control board under s. 19.46 (2), or from any
3 county or municipal ethics board under s. 19.59 (5).

4 **SECTION 66.** 20.510 (intro.) and (1) (title) of the statutes are repealed.

5 **SECTION 67.** 20.510 (1) (a) of the statutes is renumbered 20.680 (5) (a) and
6 amended to read:

7 20.680 (5) (a) *General program operations; general purpose revenue.*
8 ~~Biennially, the amounts in the schedule A sum sufficient for the~~ general program
9 operations of the ethics and elections accountability and control board, including the
10 printing of forms, materials, manuals, and election laws under ss. 7.08 (1) (b), (3), and
11 (4) and 11.21 (3) and (14), and ~~including~~ the training of election officials under s. ss.
12 5.05 (7) and 7.31.

13 **SECTION 68.** 20.510 (1) (bm) of the statutes is repealed.

14 **SECTION 69.** 20.510 (1) (c) of the statutes is renumbered 20.680 (5) (c) and
15 amended to read:

16 20.680 (5) (c) *Voting system transitional assistance.* Biennially, the amounts
17 in the schedule for the ethics and elections accountability and control board to
18 provide assistance to counties and municipalities in eliminating punch card voting
19 systems under s. 7.08 (7).

20 **SECTION 70.** 20.510 (1) (g) of the statutes is renumbered 20.680 (5) (g) and
21 amended to read:

22 20.680 (5) (g) *Recount fees.* All moneys received by the ethics and elections
23 accountability and control board on account of recount petitions filed with it, to be
24 apportioned to the county clerks or county board of election commissioners as
25 prescribed in s. 9.01 (1) (ag).

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1 **SECTION 71.** 20.510 (1) (h) of the statutes is renumbered 20.680 (5) (h) and
2 amended to read:

3 20.680 (5) (h) *Materials and services.* The amounts in the schedule for the cost
4 costs of the ethics and elections accountability and control board in publishing
5 documents, locating and copying records, and conducting programs under s. 19.48
6 (9) and administrative meetings and conferences, for compiling, disseminating, and
7 making available information prepared by and filed with the board under s. 19.48
8 (10), and for supplies, postage, and shipping. All moneys received by the board from
9 collections for sales of publications, copies of records, and supplies, for postage, for
10 shipping and records location fees, from fees assessed under s. 19.48 (9) and (10), and
11 for charges assessed to participants in administrative meetings and conferences
12 shall be credited to this appropriation account.

13 **SECTION 72.** 20.510 (1) (i) of the statutes is renumbered 20.680 (5) (i) and
14 amended to read:

15 20.680 (5) (i) *General program operations; program revenue.* The amounts in
16 the schedule for general program operations of the ethics and elections
17 accountability and control board. All moneys received from fees imposed under s. ss.
18 11.055 (1) and 13.75 shall be credited to this appropriation account.

19 **SECTION 73.** 20.510 (1) (j) of the statutes is renumbered 20.680 (5) (j) and
20 amended to read:

21 20.680 (5) (j) *Electronic filing software.* All moneys received by the ethics and
22 elections accountability and control board from registrants who purchase software
23 to be utilized for electronic filing of campaign finance reports under s. 11.21 (16), for
24 the purpose of providing that software.

25 **SECTION 74.** 20.510 (1) (q) of the statutes is renumbered 20.680 (5) (q).

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1 SECTION 75. 20.521 (intro.) of the statutes is repealed.

2 SECTION 76. 20.521 (1) (title) of the statutes is repealed.

3 SECTION 77. 20.521 (1) (a) of the statutes is repealed.

4 SECTION 78. 20.521 (1) (g) of the statutes is repealed.

5 SECTION 79. 20.521 (1) (h) of the statutes is renumbered 20.680 (5) (jm) and
6 amended to read:

7 20.680 (5) (jm) *Gifts and grants.* All moneys received by the ethics and
8 elections accountability and control board from gifts, grants, and bequests and
9 devises to carry out the purposes, not inconsistent with subch. III of ch. 13 or subch.
10 III of ch. 19 the law, for which made or received.

11 SECTION 80. 20.521 (1) (i) of the statutes is repealed.

12 SECTION 81. 20.680 (intro.) of the statutes is amended to read:

13 **20.680 Supreme court.** (intro.) There is appropriated to the supreme court
14 from the general fund, except where otherwise indicated, for the following programs:

15 SECTION 82. 20.680 (5) (title) of the statutes is created to read:

16 20.680 (5) (title) ETHICS AND ELECTIONS ACCOUNTABILITY AND CONTROL BOARD.

17 SECTION 83. 20.680 (5) (c) of the statutes, as affected by 2003 Wisconsin Act
18 (this act), is repealed.

19 SECTION 84. 20.680 (5) (q) of the statutes, as affected by 2003 Wisconsin Act
20 (this act), is amended to read:

21 20.680 (5) (q) *Wisconsin election campaign fund.* As a continuing
22 appropriation, from the Wisconsin election campaign fund, the moneys determined
23 under s. 11.50 to provide for payments to eligible candidates whose names are
24 certified under s. 7.08 (2) (c) and (cm) and to provide for public information as
25 authorized under s. 11.20 (2m).

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1 **SECTION 85.** 20.923 (4) (d) 3. of the statutes is repealed.

2 **SECTION 86.** 20.923 (4) (d) 4. of the statutes is amended to read:

3 20.923 (4) (d) 4. Ethics and elections accountability and control board:
4 executive director.

5 **SECTION 87.** 22.07 (6) of the statutes, as affected by 2001 Wisconsin Act 16, is
6 amended to read:

7 22.07 (6) With the advice of the ethics and elections accountability and control
8 board, adopt and enforce standards of ethical conduct applicable to its paid
9 consultants which are similar to the standards prescribed in subch. III of ch. 19,
10 except that the department shall not require its paid consultants to file statements
11 of economic interests.

12 **SECTION 88.** 59.605 (3) (a) 3. of the statutes is amended to read:

13 59.605 (3) (a) 3. The referendum shall be held in accordance with chs. 5 to 12.
14 The governing body shall provide the election officials with all necessary election
15 supplies. The form of the ballot shall correspond substantially with the standard
16 form for referendum ballots prescribed by the ethics and elections accountability and
17 control board under ss. 5.64 (2) and 7.08 (1) (a). If the resolution under subd. 1.
18 specifies the operating levy rate, the question shall be submitted as follows: "Under
19 state law, the operating levy rate for the (name of county), for the tax to be imposed
20 for the year (year), is limited to \$.... per \$1,000 of equalized value. Shall the
21 (name of county) be allowed to exceed this rate limit for (a specified number of
22 years) (an indefinite period) by \$.... per \$1,000 of equalized value that results in an
23 operating levy rate of \$.... per \$1,000 of equalized value?" If the resolution under
24 subd. 1. specifies the operating levy, the question shall be submitted as follows:
25 "Under state law, the operating levy rate for the (name of county), for the tax to

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1 be imposed for the year (year), is limited to \$.... per \$1,000 of equalized value.
2 Notwithstanding the operating levy rate limit, shall the (name of county) be
3 allowed to levy an amount not to exceed \$.... (operating levy) for operating purposes
4 for the year (year), which may increase the operating levy rate for (a specified
5 number of years) (an indefinite period)? This would allow a% increase above the
6 levy of \$.... (preceding year operating levy) for the year (preceding year).”

7 **SECTION 89.** 67.05 (3) (b) of the statutes is amended to read:

8 67.05 (3) (b) The clerk of the jurisdiction in which the referendum is held shall
9 prepare or arrange for the preparation of the ballots. If the jurisdiction in which the
10 referendum is held is not a city, village, or town, and the clerk of the jurisdiction in
11 which the referendum is held prepares the ballots, the clerk shall deliver the ballots
12 to the municipal clerk of each city, village, or town which is wholly or partly contained
13 within the jurisdiction in which the referendum is held. The form of the ballot shall
14 correspond with the form prescribed by the ethics and elections accountability and
15 control board under ss. 5.64 (2) and 7.08 (1) (a).

16 **SECTION 90.** 67.05 (6) of the statutes is amended to read:

17 67.05 (6) REFERENDUM IN OTHER CASES. Whenever an initial resolution has been
18 adopted by the governing body of any municipality other than a county, a town, a city,
19 a village, a technical college district, a metropolitan sewerage district created under
20 ss. 200.01 to 200.15 or 200.21 to 200.65, a town sanitary district, a public inland lake
21 protection and rehabilitation district, or a board of park commissioners, the clerk of
22 such municipality shall immediately record the resolution and call a special meeting
23 for the purpose of submitting it to the electors of the municipality for ratification or
24 rejection. The calling and conduct of the meeting shall be governed by those statutes,
25 so far as applicable, which govern the calling and conduct of special meetings in

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1 general. The notice of the meeting, which shall be publicly read before the balloting
2 shall commence, and the ballot used, shall embody a copy of the resolution; the form
3 of the ballot shall correspond with the form prescribed by the ethics and elections
4 accountability and control board under ss. 5.64 (2) and 7.08 (1) (a); and the question
5 submitted shall be whether the resolution shall be approved.

6 **SECTION 91.** 71.10 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 109,
7 is amended to read:

8 71.10 (3) (b) The secretary of revenue shall ensure that space for the
9 designations under par. (am) is provided on the face of the individual income tax
10 return in a manner that is convenient to the individual filing the return. The
11 secretary of revenue shall provide next to the place on the return where designation
12 under par. (am) is made a statement that a designation will increase tax liability, that
13 the amount of a designation may be claimed as a credit under s. 71.07 (6s), and that
14 by making a designation the individual is also claiming the credit. The department
15 of revenue shall ensure that an individual may make the designation under par. (am)
16 and claim the credit under s. 71.07 (6s) by marking only one box, which shall be on
17 the face of the individual income tax return. The secretary of revenue shall also
18 provide and highlight a place in the instructions that accompany the return for
19 information submitted to the secretary by the ethics and elections accountability and
20 control board under s. 11.50 (2m) without cost to the board. Annually on August 15,
21 the secretary of revenue shall certify to the ethics and elections accountability and
22 control board, the department of administration, and the state treasurer the total
23 amount of designations made on returns processed by the department of revenue
24 during the preceding fiscal year and the amount of designations made during that
25 fiscal year for the general account and for the account of each eligible political party.

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1 If any individual designates an amount greater than the amount authorized under
2 par. (am) or attempts to place any condition or restriction upon a designation not
3 authorized under par. (am), that individual is deemed not to have made a designation
4 on his or her tax return.

5 **SECTION 92.** 73.0301 (1) (d) 13. of the statutes is amended to read:

6 73.0301 (1) (d) 13. A license issued by the ethics and elections accountability
7 and control board under s. 13.63 (1).

8 **SECTION 93.** 73.0301 (1) (e) of the statutes is amended to read:

9 73.0301 (1) (e) "Licensing department" means the department of
10 administration; the board of commissioners of public lands; the department of
11 commerce; the ethics and elections accountability and control board; the department
12 of financial institutions; the department of health and family services; the
13 department of natural resources; the department of public instruction; the
14 department of regulation and licensing; the department of workforce development;
15 the office of the commissioner of insurance; or the department of transportation.

16 **SECTION 94.** 117.20 (2) of the statutes is amended to read:

17 117.20 (2) The clerk of each affected school district shall publish notice, as
18 required under s. 8.55, in the territory of that school district. The procedures for
19 school board elections under s. 120.06 (5), (9), (11), (13), and (14) apply to a
20 referendum held under this section. The school board and school district clerk of each
21 affected school district shall each perform, for that school district, the functions
22 assigned to the school board and the school district clerk, respectively, under those
23 subsections. The form of the ballot shall correspond to the form prescribed by the
24 ethics and elections accountability and control board under ss. 5.64 (2) and 7.08 (1)
25 (a). The clerk of each affected school district shall file with the secretary of the board

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1 a certified statement prepared by the school district board of canvassers of the results
2 of the referendum in that school district.

3 **SECTION 95.** 117.27 (2) (b) (intro.) of the statutes is amended to read:

4 117.27 (2) (b) (intro.) The school district clerk shall include in the notice of the
5 spring election a statement that the election ballot will include a question on the
6 change requested by the petition. The form of the ballot shall correspond to the form
7 prescribed by the ethics and elections accountability and control board under ss. 5.64
8 (2) and 7.08 (1) (a) and the question on the ballot shall be:

9 **SECTION 96.** 121.91 (3) (c) of the statutes is amended to read:

10 121.91 (3) (c) The referendum shall be held in accordance with chs. 5 to 12. The
11 school district clerk shall provide the election officials with all necessary election
12 supplies. The form of the ballot shall correspond substantially with the standard
13 form for referendum ballots prescribed by the ethics and elections accountability and
14 control board under ss. 5.64 (2) and 7.08 (1) (a). The question submitted shall be
15 whether the limit under sub. (2m) may be exceeded by a specified amount. If the
16 resolution provides that any of the excess revenue will be used for a nonrecurring
17 purpose, the ballot in the election shall so state and shall specify the amount that will
18 be used for a nonrecurring purpose. The limit otherwise applicable to the school
19 district under sub. (2m) is increased by the amount approved by a majority of those
20 voting on the question.

21 **SECTION 97.** 125.05 (1) (b) 10. of the statutes is amended to read:

22 125.05 (1) (b) 10. Each question submitted to the electors shall conform to the
23 form prescribed by the ethics and elections accountability and control board under
24 ss. 5.64 (2) and 7.08 (1) (a).

25 **SECTION 98.** 165.25 (1) of the statutes is amended to read:

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1 165.25 (1) REPRESENT STATE. Except as provided in ~~s.~~ ss. 758.21 (7) and 978.05
2 (5), appear for the state and prosecute or defend all actions and proceedings, civil or
3 criminal, in the court of appeals and the supreme court, in which the state is
4 interested or a party, and attend to and prosecute or defend all civil cases sent or
5 remanded to any circuit court in which the state is a party; and, if requested by the
6 governor or either house of the legislature, appear for and represent the state, any
7 state department, agency, official, employee, or agent, whether required to appear
8 as a party or witness in any civil or criminal matter, and prosecute or defend in any
9 court or before any officer, any cause or matter, civil or criminal, in which the state
10 or the people of this state may be interested. The public service commission may
11 request under s. 196.497 (7) that the attorney general intervene in federal
12 proceedings. All expenses of the proceedings shall be paid from the appropriation
13 under s. 20.455 (1) (d).

14 **SECTION 99.** 198.08 (10) of the statutes is amended to read:

15 198.08 (10) ELECTION STATISTICS. The clerk of the district shall seasonably
16 obtain, compile, and file in his or her office, for the information of the public, a
17 statement showing the total number of votes cast for the office of governor in the last
18 preceding general election in each subdistrict of the district. The clerk of every
19 municipality and the ethics and elections accountability and control board shall
20 furnish such information so far as obtainable from their records, duly certified, to the
21 clerk of the district upon request therefor by the clerk of the district. If the total
22 number of votes cast in any subdistrict for the office of governor in the last preceding
23 election cannot, because of an intervening change of boundaries of election wards or
24 for any reason, be ascertained from any official record the clerk of the district shall

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1 fairly estimate such number for the purposes of such statement to be filed in his or
2 her office.

3 **SECTION 100.** 200.09 (11) (am) 3. of the statutes is amended to read:

4 200.09 (11) (am) 3. If the governing bodies of each city, town, and village
5 comprising the district pass a resolution to discontinue election of commissioners,
6 each commissioner may hold office until a successor is appointed and qualified. The
7 commission shall immediately notify the ethics and elections accountability and
8 control board under s. 5.05 upon passage of a resolution under this subdivision.

9 **SECTION 101.** 227.03 (6) of the statutes is amended to read:

10 227.03 (6) Orders of the ethics and elections accountability and control board
11 under s. 5.06 (6) are not subject to this chapter.

12 **SECTION 102.** 227.52 (6) of the statutes is amended to read:

13 227.52 (6) Decisions of the chairperson of the ethics and elections
14 accountability and control board or the chairperson's designee.

15 **SECTION 103.** 230.08 (2) (om) of the statutes is amended to read:

16 230.08 (2) (om) The executive director of the ethics and elections and
17 accountability and control board.

18 **SECTION 104.** 230.08 (2) (wm) of the statutes is repealed.

19 **SECTION 105.** 234.02 (3m) (c) of the statutes is amended to read:

20 234.02 (3m) (c) The authority shall, with the advice of the ethics and elections
21 accountability and control board, adopt and enforce ethics guidelines applicable to
22 its paid consultants which are similar to subch. III of ch. 19, except that the authority
23 may not require its paid consultants to file financial disclosure statements.

24 **SECTION 106.** 560.04 (2m) of the statutes, as affected by 2001 Wisconsin Act
25 103, is amended to read:

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1 560.04 (2m) DUTIES. The department may assign one or more full-time
2 equivalent positions to the functions of coordinating the development and scheduling
3 of training programs for local government officials by the University of
4 Wisconsin-Extension, technical college system, department of revenue, ethics and
5 elections accountability and control board, and other state agencies in order to
6 assure the effective delivery of training programs and to prevent duplication of effort
7 and of coordinating requests for management or personnel consultative services
8 from government units other than the state and directing those requests to the
9 appropriate division of the department of administration.

10 **SECTION 107.** 758.21 (1m), (3) and (4) to (7) of the statutes are created to read:

11 758.21 (1m) Prior to May 1 in each year in which the term of the member of
12 the ethics and elections accountability and control board who is appointed by the
13 other board members expires, the board shall appoint a qualified person to serve for
14 the ensuing term of office.

15 (3) Sections 15.04 (1) (a) to (c) and (e) to (m) and 15.07 apply to the ethics and
16 elections accountability and control board. For such purposes, "independent agency"
17 includes the board.

18 (4) No later than March 31 annually, the ethics and elections accountability
19 and control board shall transmit to the clerk of the supreme court a proposed budget
20 for all sum sufficient and sum certain appropriations to the board for the ensuing
21 fiscal year. The court may approve, disapprove, or modify the proposed budget. If
22 the court disapproves the budget, the board shall transmit to the court a revised
23 proposed budget for the court's approval. Upon approval of the proposed budget by
24 the court, the clerk shall transmit written notification of the court's approval to the
25 secretary of administration and the executive director of the board. The board shall

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1 not expend any moneys from any appropriation that is included in the proposed
2 budget for any fiscal year unless the budget for that appropriation for that fiscal year
3 has been approved by the court.

4 (5) There are created the following divisions within the board:

5 (a) An elections division shall carry out the board's responsibilities with respect
6 to the administration of chs. 5 to 12 and other laws relating to elections or election
7 campaigns.

8 (b) An ethics division shall carry out the board's responsibilities with respect
9 to administration of subch. III of ch. 13 and subch. III of ch. 19.

10 (c) An enforcement division shall investigate and prosecute alleged violations
11 of laws administered by the board pursuant to all statutes granting or assigning that
12 authority or responsibility to the board.

13 (6) The administrator of the elections division or the elections division may
14 refer any matter to the enforcement division for investigation. Any person may file
15 a verified complaint with the enforcement division alleging a violation of chs. 5 to 12,
16 subch. III of ch. 13, or subch. III of ch. 19.

17 (7) The board shall employ a full-time special prosecutor within the
18 enforcement division. The prosecutor may, with or without approval of the board,
19 investigate or prosecute any civil or criminal violation of chs. 5 to 12, subch. III of ch.
20 13, subch. III of ch. 19, or s. 946.12 in the name of the board. The jurisdiction of the
21 special prosecutor is concurrent with the jurisdiction of the board, the district
22 attorneys, and the attorney general to conduct investigations and enforce these laws.

23 **SECTION 108.** 778.135 of the statutes is amended to read:

24 **778.135 Campaign finance forfeitures; how recovered.** Notwithstanding
25 s. 778.13, whenever any action or proposed action by the ethics and elections

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1 accountability and control board under s. 5.05 (1) (c) is settled as a result of
2 agreement between the parties without approval of the court, the moneys accruing
3 to the state on account of such settlement shall be paid to the board and deposited
4 with the state treasurer. Whenever any proposed action by a county board of election
5 commissioners under s. 7.21 (2m) (a) is settled as a result of agreement between the
6 parties, the moneys accruing to the county on account of such settlement shall be
7 paid to the board of election commissioners and deposited with the county treasurer
8 in the same manner as provided for forfeitures under s. 778.13.

9 **SECTION 109.** 778.136 of the statutes is amended to read:

10 **778.136 Ethics and lobbying forfeitures; how recovered.**

11 Notwithstanding s. 778.13, whenever any moneys are received by the ethics and
12 elections accountability and control board or attorney general in settlement of a civil
13 action or other civil matter for violation of the lobbying law or code of ethics for state
14 public officials and employees under s. 19.545, the moneys shall accrue to the state
15 and be deposited with the state treasurer.

16 **SECTION 110.** 2001 Wisconsin Act 16, section 9415 (2y) is repealed.

17 **SECTION 111.** 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read:

18 [2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section
19 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections
20 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the
21 renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes,
22 the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6),
23 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9), 19.49 (5), 19.59 (7), and
24 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c),
25 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05

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1 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2),
2 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m)
3 (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3),
4 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b),
5 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2),
6 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.),
7 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10),
8 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31
9 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a),
10 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2)
11 (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60
12 (4), 11.61 (1) (a) (by SECTION 2d), 19.53 (6), 19.59 (8) (c), ~~20.510 (1) (g)~~, 25.42, 71.08
13 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05
14 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m),
15 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m),
16 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6)
17 (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.24
18 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m),
19 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m), 11.26
20 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.),
21 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j),
22 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), 19.42 (3m), (4g)
23 and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59
24 (8) (cm) and (cn), 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and 806.04
25 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v), 9244

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1 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the treatment
2 of those provisions by this act is void.

3 **SECTION 112.** 2001 Wisconsin Act 109, section 9415 (1zx) is amended to read:

4 [2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED
5 CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50
6 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50
7 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05
8 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), and 11.50
9 (9), 19.49 (5), and 19.59 (7) of the statutes, the amendment of sections 5.02 (13), 5.05
10 (2), 7.08 (2) (c), 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05
11 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e),
12 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),
13 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5),
14 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a)
15 and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12),
16 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26
17 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9)
18 (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)
19 (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)
20 (b), 11.50 (2) (a), 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50
21 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m),
22 11.50 (11) (e), 11.60 (4), 11.61 (1) (a) (by SECTION 2d), 19.53 (6), 19.59 (8) (c), ~~20.510~~
23 ~~(1) (g)~~, and 25.42 of the statutes, the repeal and recreation of sections 11.05 (9) (title)
24 and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m), 11.01
25 (12w), (13) and (14), 11.01 (16) (a) 3., 11.01 (17g) and (17r), 11.05 (1) (b), 11.05 (2) (b),

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1 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm),
2 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8)
3 (am), 11.21 (17), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as)
4 and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9)
5 (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9),
6 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm),
7 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14),
8 11.60 (3r), 19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59
9 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn), and 806.04 (11m) of the statutes and
10 SECTIONS 9115 (2v) and (2w) and 9315 (2v) and (2w) of this act take effect on July 1,
11 2003.

SECTION 113. Nonstatutory provisions.**(1) TRANSFER OF ELECTIONS BOARD.**

12
13 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
14 liabilities of the elections board shall become the assets and liabilities of the ethics
15 and elections accountability and control board.

(b) *Positions and employees.*

16
17
18 1. On the effective date of this subdivision, all full-time equivalent positions
19 in the elections board are transferred to the ethics and elections accountability and
20 control board.

21 2. All incumbent employees holding positions in the elections board are
22 transferred on the effective date of this subdivision to the ethics and elections
23 accountability and control board.

24 3. Employees transferred under subdivision 2. have all the rights and the same
25 status under subchapter V of chapter 111 and chapter 230 of the statutes in the ethics

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1 and elections accountability and control board that they enjoyed in the elections
2 board immediately before the transfer. Notwithstanding section 230.28 (4) of the
3 statutes, no employee so transferred who has attained permanent status in class is
4 required to serve a probationary period.

5 (c) *Tangible personal property.* On the effective date of this paragraph, all
6 tangible personal property, including records, of the elections board is transferred to
7 the ethics and elections accountability and control board.

8 (d) *Contracts.* All contracts entered into by the elections board in effect on the
9 effective date of this paragraph remain in effect and are transferred to the ethics and
10 elections accountability and control board. The ethics and elections accountability
11 and control board shall carry out any contractual obligations under such a contract
12 until the contract is modified or rescinded by the ethics and elections accountability
13 and control board to the extent allowed under the contract.

14 (e) *Rules and orders.* All rules promulgated by the elections board that are in
15 effect on the effective date of this paragraph remain in effect until their specified
16 expiration dates or until amended or repealed by the ethics and elections
17 accountability and control board. All orders issued by the elections board that are
18 in effect on the effective date of this paragraph remain in effect until their specified
19 expiration dates or until modified or rescinded by the ethics and elections
20 accountability and control board.

21 (f) *Pending matters.* Any matter pending with the elections board on the
22 effective date of this paragraph is transferred to the ethics and elections
23 accountability and control board, and all materials submitted to or actions taken by
24 the elections board with respect to the pending matter are considered as having been
25 submitted to or taken by the ethics and elections accountability and control board.

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1 (2) TRANSFER OF ETHICS BOARD.

2 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
3 liabilities of the ethics board shall become the assets and liabilities of the ethics and
4 elections accountability and control board.

5 (b) *Positions and employees.*

6 1. On the effective date of this subdivision, all full-time equivalent positions
7 in the ethics board are transferred to the ethics and elections accountability and
8 control board.

9 2. All incumbent employees holding positions in the ethics board are
10 transferred on the effective date of this subdivision to the ethics and elections
11 accountability and control board.

12 3. Employees transferred under subdivision 2. have all the rights and the same
13 status under subchapter V of chapter 111 and chapter 230 of the statutes in the ethics
14 and elections accountability and control board that they enjoyed in the ethics board
15 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
16 no employee so transferred who has attained permanent status in class is required
17 to serve a probationary period.

18 (c) *Tangible personal property.* On the effective date of this paragraph, all
19 tangible personal property, including records, of the ethics board is transferred to the
20 ethics and elections accountability and control board.

21 (d) *Contracts.* All contracts entered into by the ethics board remain in effect
22 and are transferred to the ethics and elections accountability and control board. The
23 ethics and elections accountability and control board shall carry out any contractual
24 obligations under such a contract until the contract is modified or rescinded by the

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1 ethics and elections accountability and control board to the extent allowed under the
2 contract.

3 (e) *Rules and orders.* All rules promulgated by the ethics board that are in effect
4 on the effective date of this paragraph remain in effect until their specified expiration
5 dates or until amended or repealed by the ethics and elections accountability and
6 control board. All orders issued by the ethics board that are in effect on the effective
7 date of this paragraph remain in effect until their specified expiration dates or until
8 modified or rescinded by the ethics and elections accountability and control board.

9 (f) *Pending matters.* Any matter pending with the ethics board on the effective
10 date of this paragraph is transferred to the ethics and elections accountability and
11 control board, and all materials submitted to or actions taken by the ethics board
12 with respect to the pending matter are considered as having been submitted to or
13 taken by the ethics and elections accountability and control board.

14 (3) TRANSITION; INITIAL TERMS.

15 (a) No later than the first day of the 3rd month beginning after the effective date
16 of this paragraph, the supreme court shall appoint 8 persons to membership on the
17 ethics and elections accountability and control board under section 758.21 of the
18 statutes, as created by this act.

19 (b) Notwithstanding section 15.61, 2001 stats., section 15.62, 2001 stats., and
20 section 15.07 (1) (c) of the statutes, all members of the elections board and all
21 members of the ethics board holding office at the time at which 8 members of the
22 elections and ethics accountability and control board are appointed as provided in
23 paragraph (a) and qualified to take office shall cease to hold office at that time.

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1 (c) All members of the ethics and elections accountability and control board who
2 are appointed as provided in paragraph (a) and qualified to take office shall take
3 office immediately upon expiration of the terms of office under paragraph (b).

4 (c) At its first meeting, the ethics and elections accountability and control board
5 shall appoint a 9th member of the board.

6 (d) Notwithstanding section 758.21 of the statutes, as created by this act, and
7 section 15.07 (1) (c) of the statutes:

8 1. Of the members who are initially appointed by the supreme court, the court
9 shall designate 4 appointees to serve for terms of office expiring on May 1, 2007, and
10 4 appointees to serve for a term of office expiring on May 1, 2005.

11 2. The member who is initially appointed by the other members shall serve for
12 a term of office expiring on May 1, 2007.

13 (4) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if
14 a court finds that section 20.680 (5) (q) of the statutes, as affected by this act, or any
15 part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2y) (b) is
16 unconstitutional, the amendment of section 20.680 (5) (q) of the statutes by this act
17 is void.

SECTION 114. Appropriation changes.

18 (1) The unencumbered balance of the appropriation to the elections board
19 under section 20.510 (1) (h) of the statutes is transferred to the appropriation account
20 under section 20.680 (5) (h) of the statutes, as affected by this act, and the amount
21 in the schedule for section 20.680 (5) (h) of the statutes in fiscal year 2002-03 is
22 increased by the amount transferred.
23

24 (2) The unencumbered balance of the appropriation to the elections board
25 under section 20.510 (1) (i) of the statutes is transferred to the appropriation account

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1 under section 20.680 (5) (i) of the statutes, as affected by this act, and the amount
2 in the schedule for section 20.680 (5) (i) of the statutes in fiscal year 2002-03 is
3 increased by the amount transferred.

4 (3) The unencumbered balance in the appropriation account under section
5 20.521 (1) (g) of the statutes is transferred to the appropriation account under section
6 20.680 (5) (i) of the statutes, as affected by this act, and the amount in the schedule
7 for section 20.680 (5) (i) of the statutes in fiscal year 2002-03 is increased by the
8 amount transferred.

9 (4) The unencumbered balance in the appropriation account under section
10 20.680 (5) (i) of the statutes is transferred to the appropriation account under section
11 20.680 (5) (h) of the statutes, as affected by this act, and the amount in the schedule
12 for section 20.680 (5) (h) of the statutes in fiscal year 2002-03 is increased by the
13 amount transferred.

14 **SECTION 115. Effective dates.** This act takes effect on the day after
15 publication, except as follows:

- 16 (1) The repeal of section 20.680 (5) (c) of the statutes takes effect on July 1, 2008.
17 (2) The amendment of section 20.680 (5) (q) of the statutes takes effect on July
18 1, 2003, or on the day after publication, whichever is later.

19 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

-0638/1dn
LRB-0973/TUN
JTK:kmg:pg
↑

December 7, 2002
6

Senator Ellis:

1. The appropriation treatment in this draft assumes enactment by July 1, 2003. If enactment does not occur by that date, please contact me and I will prepare a technical amendment to update this treatment.
2. This draft grants independent authority to the ethics and elections accountability and control board's special prosecutor to prosecute violations of the ethics, elections, and lobbying regulation laws and the criminal code provision relating to misconduct in public office, and directs the board to allow the prosecutor to exercise the board's power to issue subpoenas and to obtain search warrants. See proposed s. 758.21 (7) and the treatment of s. 5.05 (1) (b), stats. The draft does not affect the current authority of the board to enforce the law. Please let me know if this is not in accord with your intent.
3. The draft does not specify whether the special prosecutor must bring an enforcement action upon direction of the board if the special prosecutor does not want to bring that action. You may wish to clarify that point.
4. If you would like to authorize the division administrators of the newly created divisions of the Ethics and Elections Accountability and Control Board to be appointed outside the classified service, we will need to include a provision in the draft. Also, the current executive directors of the Ethics Board and the Elections Board serve outside the classified service. If you wish to require conversion of their positions into division administrator positions inside or outside the classified service, we will need to include a provision in the draft. In addition, if you would like to designate the incumbent executive directors as the initial appointees to the administrator positions until removed by the board, we will need to include a provision in the draft. Under the draft, all incumbent employees of the existing boards become employees of the new board, with civil service protection retained. However, the executive directors have no protection currently. Their salaries are set by their respective boards within statutory ranges. Therefore, if no provision is included in the draft, the current executive directors will become classified employees of the new board without specific position titles. Their salaries will be set under the classified pay structure. If you wish, the draft could include a provision guaranteeing the incumbent executive directors initial employment with the new board without a decrease in salary.
5. The instructions provide for the new board to have at least one full-time prosecutor position to investigate and prosecute violations of the law. See proposed s. 758.21 (7)

of the draft. Under the draft, the special prosecutor is a full-time classified employee who must be hired under merit-based recruitment procedures and is removable only for cause. Currently, the Elections Board is specifically authorized to employ legal counsel under s. 5.05 (1) (a), stats., and the board does so. The Ethics Board is not specifically so authorized, but the board in fact employs legal counsel. Neither board has a full-time investigator position, although 2001 Wisconsin Act 109, section 9215 (3v) authorized one investigator position for the Elections Board. This provision is potentially affected by the nonseverability clause in that act [SECTION 9115 (2y) (b)]. Each board currently has an executive director. The draft provides for the new board to have one executive director. However, the draft does not authorize any additional FTE positions for the new board. If any are contemplated, provision for them will need to be included in the draft. Otherwise, the new board will need to reallocate existing staff as necessary to meet the staffing requirements of the draft. If you want to include additional position authorizations in the draft, I will need to know the proposed funding source for the positions.

6. Proposed s. 758.21, which places the administrative and enforcement functions of the current elections and ethics boards in the judicial branch and augments these functions with an independent prosecutorial function, may raise an issue under the separation-of-powers provisions of the Wisconsin Constitution [art. VI and art. VII, sec. 2] because the draft places administrative and enforcement functions within the judicial branch. While a provision of this type would not be permitted under the constitutions of some states, the Wisconsin Supreme Court has indicated that in this state the separation-of-powers principle will not be applied inflexibly. The test is whether there is an actual and substantial encroachment, rather than a theoretical bridging of the division of power. *J.F. Ahern v. Bldg. Comm.*, 114 Wis.2d 69, 104 (Ct. App., 1983), as quoted in *Martinez v. DILHR*, 165 Wis.2d. 687, 697 (1992). Additionally, in this case, the proposed Ethics and Elections Accountability and Control Board will exercise some authority over all three branches. Under the separation of powers doctrine, a statute may not materially impair or practically defeat the proper function of a particular branch of government and the exercise of powers delegated it. *In Matter of E.B.*, 111 Wis. 2d 175, 184 (1983). With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989). Whether proposed s. 758.21 will be viewed as a substantial encroachment by one branch of government upon the proper function of another branch cannot be determined with certainty.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0638/1dn
JTK:kmg:pg

December 6, 2002

Senator Ellis:

1. The appropriation treatment in this draft assumes enactment by July 1, 2003. If enactment does not occur by that date, please contact me and I will prepare a technical amendment to update this treatment.
2. This draft grants independent authority to the ethics and elections accountability and control board's special prosecutor to prosecute violations of the ethics, elections, and lobbying regulation laws and the criminal code provision relating to misconduct in public office, and directs the board to allow the prosecutor to exercise the board's power to issue subpoenas and to obtain search warrants. See proposed s. 758.21 (7) and the treatment of s. 5.05 (1) (b), stats. The draft does not affect the current authority of the board to enforce the law. Please let me know if this is not in accord with your intent.
3. The draft does not specify whether the special prosecutor must bring an enforcement action upon direction of the board if the special prosecutor does not want to bring that action. You may wish to clarify that point.
4. If you would like to authorize the division administrators of the newly created divisions of the Ethics and Elections Accountability and Control Board to be appointed outside the classified service, we will need to include a provision in the draft. Also, the current executive directors of the Ethics Board and the Elections Board serve outside the classified service. If you wish to require conversion of their positions into division administrator positions inside or outside the classified service, we will need to include a provision in the draft. In addition, if you would like to designate the incumbent executive directors as the initial appointees to the administrator positions until removed by the board, we will need to include a provision in the draft. Under the draft, all incumbent employees of the existing boards become employees of the new board, with civil service protection retained. However, the executive directors have no protection currently. Their salaries are set by their respective boards within statutory ranges. Therefore, if no provision is included in the draft, the current executive directors will become classified employees of the new board without specific position titles. Their salaries will be set under the classified pay structure. If you wish, the draft could include a provision guaranteeing the incumbent executive directors initial employment with the new board without a decrease in salary.
5. The instructions provide for the new board to have at least one full-time prosecutor position to investigate and prosecute violations of the law. See proposed s. 758.21 (7)

of the draft. Under the draft, the special prosecutor is a full-time classified employee who must be hired under merit-based recruitment procedures and is removable only for cause. Currently, the Elections Board is specifically authorized to employ legal counsel under s. 5.05 (1) (a), stats., and the board does so. The Ethics Board is not specifically so authorized, but the board in fact employs legal counsel. Neither board has a full-time investigator position, although 2001 Wisconsin Act 109, section 9215 (3v) authorized one investigator position for the Elections Board. This provision is potentially affected by the nonseverability clause in that act [SECTION 9115 (2y) (b)]. Each board currently has an executive director. The draft provides for the new board to have one executive director. However, the draft does not authorize any additional FTE positions for the new board. If any are contemplated, provision for them will need to be included in the draft. Otherwise, the new board will need to reallocate existing staff as necessary to meet the staffing requirements of the draft. If you want to include additional position authorizations in the draft, I will need to know the proposed funding source for the positions.

6. Proposed s. 758.21, which places the administrative and enforcement functions of the current elections and ethics boards in the judicial branch and augments these functions with an independent prosecutorial function, may raise an issue under the separation-of-powers provisions of the Wisconsin Constitution [art. VI and art. VII, sec. 2] because the draft places administrative and enforcement functions within the judicial branch. While a provision of this type would not be permitted under the constitutions of some states, the Wisconsin Supreme Court has indicated that in this state the separation-of-powers principle will not be applied inflexibly. The test is whether there is an actual and substantial encroachment, rather than a theoretical bridging of the division of power. *J.F. Ahern v. Bldg. Comm.*, 114 Wis.2d 69, 104 (Ct. App., 1983), as quoted in *Martinez v. DILHR*, 165 Wis.2d. 687, 697 (1992). Additionally, in this case, the proposed Ethics and Elections Accountability and Control Board will exercise some authority over all three branches. Under the separation of powers doctrine, a statute may not materially impair or practically defeat the proper function of a particular branch of government and the exercise of powers delegated it. *In Matter of E.B.*, 111 Wis. 2d 175, 184 (1983). With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989). Whether proposed s. 758.21 will be viewed as a substantial encroachment by one branch of government upon the proper function of another branch cannot be determined with certainty.

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