

2003

LRB 50060 11

File With Statute **20.005 (3)** Schedule

JTH : \_\_\_\_\_ : \_\_\_\_\_

\$\$\$ SCHEDULE

In the component bar:

For the action phrase, execute: ..... create → action: → ch20

For the table layout, execute: ..... create → <Table> → \$sched

**SECTION #.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

2003-04      2004-05

20. \_\_\_\_\_

.....

( ) \_\_\_\_\_

.....

(h) Materials and services

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PR A - 0 - - 0 -  
.....

20. \_\_\_\_\_

.....

( ) \_\_\_\_\_

.....

(i) General program operations;

Program revenue

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PR A - 0 - - 0 -  
.....

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(title)

plain

plain

1

~~20.510 (1) (title)~~ ADMINISTRATION OF ELECTION, ETHICS AND ~~CAMPAIGN~~ LOBBYING

2

LAWS.

3

~~SECTION 73. 20.510 (1) (a) of the statutes is amended to read:~~

stays I

4

~~20.510 (1) (a)~~ (a) General program operations; general purpose revenue.

5

Biennially, the amounts in the schedule for general program operations of the board,

6

except the enforcement division, including the printing of forms, materials, manuals,

7

and election laws under ss. 7.08 (1) (b), (3), and (4) and 11.21 (3) and (14), and

8

~~including~~ the training of election officials under s. 5.05 (7).

9

~~SECTION 73. 20.510 (1) (h) of the statutes is amended to read:~~

10

~~20.510 (1) (h)~~ (h) Materials and services. The amounts in the schedule for the ~~cost~~

stays I

20.510 (1)

11

costs of publishing documents, locating and copying records, and conducting

12

programs under s. 19.48 (9) and administrative meetings and conferences, for

13

compiling, disseminating, and making available information prepared by and filed

14

with the board under s. 19.48 (10), and for supplies, postage, and shipping. All

15

moneys received by the board from collections for sales of publications, copies of

16

records, and supplies, for postage, for shipping and records location fees, ~~from fees~~

17

assessed under s. 19.48 (9) and (10), and for charges assessed to participants in

18

administrative meetings and conferences shall be credited to this appropriation

19

account.

20

~~SECTION 74. 20.510 (1) (i) of the statutes is amended to read:~~

21

~~20.510 (1) (i)~~ (i) General program operations; program revenue. The amounts in

stays I

22

the schedule for general program operations of the board, except the enforcement

23

division. All moneys received from fees imposed under ~~ss.~~ 11.055 (1) and 13.75

24

shall be credited to this appropriation account.

25

~~SECTION 75. 20.510 (2) of the statutes is created to read:~~

¶ SEC#. RP; 20.511 (1) (c), as affected by 2003 Wisconsin Act ... (this act)  
¶ SEC#. CR; 20.511 (1) (h) and (i)

all plain text

all plain text

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SEC# CR; 20.511 (2)

1 ~~20.510~~ (2) ENFORCEMENT DIVISION. (a) *General program operations*. Biennially,  
2 the amounts in the schedule for the general program operations of the enforcement  
3 division.

4 SECTION 76. 20.521 (intro.) of the statutes is repealed.

5 SECTION 77. 20.521 (1) (title) of the statutes is repealed.

6 SECTION 78. 20.521 (1) (a) of the statutes is repealed.

7 SECTION 79. 20.521 (1) (g) of the statutes is repealed.

8 SECTION 80. 20.521 (1) (h) of the statutes is renumbered ~~20.510~~ <sup>20.511</sup> (1) (jm) and  
9 amended to read:

10 ~~20.510~~ <sup>20.511</sup> (1) (jm) *Gifts and grants*. All moneys received by the board from gifts,  
11 grants, and bequests and devises to carry out the purposes, not inconsistent with  
12 subch. III of ch. 13 or subch. III of ch. 19 the law, for which made or received.

13 SECTION 81. 20.521 (1) (i) of the statutes is repealed.

14 SECTION 82. 20.923 (4) (d) 3. of the statutes is repealed.

15 SECTION 83. 20.923 (4) ~~(d) 4.~~ <sup>Created</sup> of the statutes is amended to read:

16 20.923 (4) ~~(d) 4. <sup>(f) 3j.</sup> <sup>(CF) 3j.</sup> ~~Government accountability and board~~~~ board:  
17 executive director.

18 SECTION 84. 22.07 (6) of the statutes is amended to read:

19 22.07 (6) With the advice of the ethics ~~and elections~~ <sup>Government</sup> accountability ~~and board~~  
20 board, adopt and enforce standards of ethical conduct applicable to its paid  
21 consultants which are similar to the standards prescribed in subch. III of ch. 19,  
22 except that the department shall not require its paid consultants to file statements  
23 of economic interests.

24 SECTION 85. 59.605 (3) (a) 3. of the statutes is amended to read:

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1           59.605 (3) (a) 3. The referendum shall be held in accordance with chs. 5 to 12.

2           The governing body shall provide the election officials with all necessary election

3           supplies. The form of the ballot shall correspond substantially with the standard

4           form for referendum ballots prescribed by the ~~election and elections accountability~~ <sup>government</sup>

5           ~~control~~ board under ss. 5.64 (2) and 7.08 (1) (a). If the resolution under subd. 1.

6           specifies the operating levy rate, the question shall be submitted as follows: “Under

7           state law, the operating levy rate for the .... (name of county), for the tax to be imposed

8           for the year .... (year), is limited to \$.... per \$1,000 of equalized value. Shall the ....

9           (name of county) be allowed to exceed this rate limit for .... (a specified number of

10          years) (an indefinite period) by \$.... per \$1,000 of equalized value that results in an

11          operating levy rate of \$.... per \$1,000 of equalized value?” If the resolution under

12          subd. 1. specifies the operating levy, the question shall be submitted as follows:

13          “Under state law, the operating levy rate for the .... (name of county), for the tax to

14          be imposed for the year .... (year), is limited to \$.... per \$1,000 of equalized value.

15          Notwithstanding the operating levy rate limit, shall the .... (name of county) be

16          allowed to levy an amount not to exceed \$.... (operating levy) for operating purposes

17          for the year .... (year), which may increase the operating levy rate for .... (a specified

18          number of years) (an indefinite period)? This would allow a ....% increase above the

19          levy of \$.... (preceding year operating levy) for the year .... (preceding year).”

20               **SECTION 86.** 67.05 (3) (b) of the statutes is amended to read:

21               67.05 (3) (b) The clerk of the jurisdiction in which the referendum is held shall

22               prepare or arrange for the preparation of the ballots. If the jurisdiction in which the

23               referendum is held is not a city, village, or town, and the clerk of the jurisdiction in

24               which the referendum is held prepares the ballots, the clerk shall deliver the ballots

25               to the municipal clerk of each city, village, or town which is wholly or partly contained

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1 within the jurisdiction in which the referendum is held. The form of the ballot shall  
2 correspond with the form prescribed by the ~~Illinois~~ <sup>Government</sup> elections ~~and~~  
3 ~~board~~ board under ss. 5.64 (2) and 7.08 (1) (a).

4 SECTION 87. 67.05 (6) of the statutes is amended to read:

5 67.05 (6) REFERENDUM IN OTHER CASES. Whenever an initial resolution has been  
6 adopted by the governing body of any municipality other than a county, a town, a city,  
7 a village, a technical college district, a metropolitan sewerage district created under  
8 ss. 200.01 to 200.15 or 200.21 to 200.65, a town sanitary district, a public inland lake  
9 protection and rehabilitation district, or a board of park commissioners, the clerk of  
10 such municipality shall immediately record the resolution and call a special meeting  
11 for the purpose of submitting it to the electors of the municipality for ratification or  
12 rejection. The calling and conduct of the meeting shall be governed by those statutes,  
13 so far as applicable, which govern the calling and conduct of special meetings in  
14 general. The notice of the meeting, which shall be publicly read before the balloting  
15 shall commence, and the ballot used, shall embody a copy of the resolution; the form  
16 of the ballot shall correspond with the form prescribed by the ~~Illinois~~ <sup>Government</sup> elections  
17 ~~and~~ <sup>Government</sup> ~~board~~ ~~board~~ board under ss. 5.64 (2) and 7.08 (1) (a); and the question  
18 submitted shall be whether the resolution shall be approved.

19 SECTION 88. 71.10 (3) (b) of the statutes is amended to read:

20 71.10 (3) (b) The secretary of revenue shall ensure that space for the  
21 designations under par. (am) is provided on the face of the individual income tax  
22 return in a manner that is convenient to the individual filing the return. The  
23 secretary of revenue shall provide next to the place on the return where designation  
24 under par. (am) is made a statement that a designation will increase tax liability, that  
25 the amount of a designation may be claimed as a credit under s. 71.07 (6s), and that

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1 by making a designation the individual is also claiming the credit. The department  
 2 of revenue shall ensure that an individual may make the designation under par. (am)  
 3 and claim the credit under s. 71.07 (6s) by marking only one box, which shall be on  
 4 the face of the individual income tax return. The secretary of revenue shall also  
 5 provide and highlight a place in the instructions that accompany the return for  
 6 information submitted to the secretary by the ~~ethics and elections, accountability and~~  
 7 ~~control~~ board under s. 11.50 (2m) without cost to the board. Annually on August 15,  
 8 the secretary of revenue shall certify to the ~~ethics and elections, accountability and~~  
 9 ~~control~~ board, the department of administration, and the state treasurer the total  
 10 amount of designations made on returns processed by the department of revenue  
 11 during the preceding fiscal year and the amount of designations made during that  
 12 fiscal year for the general account and for the account of each eligible political party.  
 13 If any individual designates an amount greater than the amount authorized under  
 14 par. (am) or attempts to place any condition or restriction upon a designation not  
 15 authorized under par. (am), that individual is deemed not to have made a designation  
 16 on his or her tax return.

17 **SECTION 89.** 73.0301 (1) (d) 13. of the statutes is amended to read:

18 73.0301 (1) (d) 13. A license issued by the ~~ethics and elections, accountability~~  
 19 ~~and control~~ board under s. 13.63 (1).

20 **SECTION 90.** 73.0301 (1) (e) of the statutes is amended to read:

21 73.0301 (1) (e) "Licensing department" means the department of  
 22 administration; the board of commissioners of public lands; the department of  
 23 commerce; the ~~ethics and elections, accountability and control~~ board; the department  
 24 of financial institutions; the department of health and family services; the  
 25 department of natural resources; the department of public instruction; the

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1 department of regulation and licensing; the department of workforce development;  
2 the office of the commissioner of insurance; or the department of transportation.

3 **SECTION 91.** 117.20 (2) of the statutes is amended to read:

4 117.20 (2) The clerk of each affected school district shall publish notice, as  
5 required under s. 8.55, in the territory of that school district. The procedures for  
6 school board elections under s. 120.06 (5), (9), (11), (13), and (14) apply to a  
7 referendum held under this section. The school board and school district clerk of each  
8 affected school district shall each perform, for that school district, the functions  
9 assigned to the school board and the school district clerk, respectively, under those  
10 subsections. The form of the ballot shall correspond to the form prescribed by the

11 ~~ethics and elections~~ <sup>government</sup> ~~accountability and control~~ board under ss. 5.64 (2) and 7.08 (1)

12 (a). The clerk of each affected school district shall file with the secretary of the board  
13 a certified statement prepared by the school district board of canvassers of the results  
14 of the referendum in that school district.

15 **SECTION 92.** 117.27 (2) (b) (intro.) of the statutes is amended to read:

16 117.27 (2) (b) (intro.) The school district clerk shall include in the notice of the  
17 spring election a statement that the election ballot will include a question on the  
18 change requested by the petition. The form of the ballot shall correspond to the form

19 prescribed by the ~~ethics and elections~~ <sup>government</sup> ~~accountability and control~~ board under ss. 5.64

20 (2) and 7.08 (1) (a) and the question on the ballot shall be:

21 **SECTION 93.** 121.91 (3) (c) of the statutes is amended to read:

22 121.91 (3) (c) The referendum shall be held in accordance with chs. 5 to 12. The  
23 school district clerk shall provide the election officials with all necessary election  
24 supplies. The form of the ballot shall correspond substantially with the standard  
25 form for referendum ballots prescribed by the ~~ethics and elections~~ <sup>government</sup> ~~accountability and~~

**BILL**

1 control board under ss. 5.64 (2) and 7.08 (1) (a). The question submitted shall be  
 2 whether the limit under sub. (2m) may be exceeded by a specified amount. If the  
 3 resolution provides that any of the excess revenue will be used for a nonrecurring  
 4 purpose, the ballot in the election shall so state and shall specify the amount that will  
 5 be used for a nonrecurring purpose. The limit otherwise applicable to the school  
 6 district under sub. (2m) is increased by the amount approved by a majority of those  
 7 voting on the question.

8 **SECTION 94.** 125.05 (1) (b) 10. of the statutes is amended to read:

9 125.05 (1) (b) 10. Each question submitted to the electors shall conform to the  
 10 form prescribed by the ~~ethics and elections~~ <sup>↓ government</sup> accountability and control board under  
 11 ss. 5.64 (2) and 7.08 (1) (a).

12 **SECTION 95.** 165.25 (1) of the statutes is amended to read:

13 165.25 (1) REPRESENT STATE. Except as provided in s. ss. 5.05 (2m) <sup>(1)</sup> and  
 14 978.05 (5), appear for the state and prosecute or defend all actions and proceedings,  
 15 civil or criminal, in the court of appeals and the supreme court, in which the state  
 16 is interested or a party, and attend to and prosecute or defend all civil cases sent or  
 17 remanded to any circuit court in which the state is a party; and, if requested by the  
 18 governor or either house of the legislature, appear for and represent the state, any  
 19 state department, agency, official, employee, or agent, whether required to appear  
 20 as a party or witness in any civil or criminal matter, and prosecute or defend in any  
 21 court or before any officer, any cause or matter, civil or criminal, in which the state  
 22 or the people of this state may be interested. The public service commission may  
 23 request under s. 196.497 (7) that the attorney general intervene in federal  
 24 proceedings. All expenses of the proceedings shall be paid from the appropriation  
 25 under s. 20.455 (1) (d).

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1           **SECTION 96.** 198.08 (10) of the statutes is amended to read:

2           **198.08 (10) ELECTION STATISTICS.** The clerk of the district shall seasonably  
3 obtain, compile, and file in his or her office, for the information of the public, a  
4 statement showing the total number of votes cast for the office of governor in the last  
5 preceding general election in each subdistrict of the district. The clerk of every  
6 municipality and the ~~ethics and elections~~ <sup>↓ government</sup> ~~accountability and control~~ board shall  
7 furnish such information so far as obtainable from their records, duly certified, to the  
8 clerk of the district upon request therefor by the clerk of the district. If the total  
9 number of votes cast in any subdistrict for the office of governor in the last preceding  
10 election cannot, because of an intervening change of boundaries of election wards or  
11 for any reason, be ascertained from any official record the clerk of the district shall  
12 fairly estimate such number for the purposes of such statement to be filed in his or  
13 her office.

14           **SECTION 97.** 200.09 (11) (am) 3. of the statutes is amended to read:

15           **200.09 (11) (am) 3.** If the governing bodies of each city, town, and village  
16 comprising the district pass a resolution to discontinue election of commissioners,  
17 each commissioner may hold office until a successor is appointed and qualified. The  
18 commission shall immediately notify the ~~ethics and elections~~ <sup>↓ government</sup> ~~accountability and~~  
19 ~~control~~ board under s. 5.05 upon passage of a resolution under this subdivision.

20           **SECTION 98.** 227.03 (6) of the statutes is amended to read:

21           **227.03 (6)** Orders of the ~~ethics and elections~~ <sup>↓ government</sup> ~~accountability and control~~ board  
22 under s. 5.06 (6) are not subject to this chapter.

23           **SECTION 99.** 227.03 (6m) of the statutes is created to read:

24           **227.03 (6m)** Cases before the enforcement division of the ~~ethics and elections~~ <sup>↓ government</sup>  
25 ~~accountability and control~~ board under s. 5.066 are not subject to this chapter.

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1 SECTION 100. 227.52 (6) of the statutes is amended to read:

2 227.52 (6) Decisions of the chairperson of the ~~ethics and elections~~  
3 ~~accountability and control~~ board or the chairperson's designee.

4 ~~SECTION 101. 227.52 (8) of the statutes is created to read:~~

5 227.52 (8) The decisions of the enforcement division of the ~~ethics and elections~~  
6 ~~accountability and control~~ board under s. 5.066.

7 SECTION 102. 230.08 (2) (e) ~~(d)~~ of the statutes is created to read:

8 230.08 (2) (e) ~~(d)~~ ~~ethics and elections~~ <sup>Government</sup> accountability ~~and control~~ board — 5.

9 SECTION 103. 230.08 (2) ~~(d)~~ <sup>(on)</sup> of the statutes is ~~amended~~ <sup>created</sup> to read:

10 230.08 (2) ~~(d)~~ <sup>(on)</sup> The executive director of the ~~ethics and elections and~~  
11 ~~accountability and control~~ board.

12 plain SECTION 104. 230.08 (2) (wm) of the statutes is repealed.

13 SECTION 105. 230.08 (4) (a) of the statutes is amended to read:

14 230.08 (4) (a) The number of administrator positions specified in sub. (2) (e)  
15 includes all administrator positions specifically authorized by law to be employed  
16 outside the classified service in each department, board or commission and the  
17 historical society. In this paragraph, "department" has the meaning given under s.

18 15.01 (5), "board" means the educational communications board, ~~ethics and elections~~  
19 ~~government~~ ~~accountability and control~~ board, investment board, public defender board and

20 technical college system board and "commission" means the public service  
21 commission. Notwithstanding sub. (2) (z), no division administrator position  
22 exceeding the number authorized in sub. (2) (e) may be created in the unclassified  
23 service.

24 SECTION 106. 234.02 (3m) (c) of the statutes is amended to read:

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1 234.02 (3m) (c) The authority shall, with the advice of the ~~ethics and elections~~  
 2 ~~government~~ government ~~accountability and control~~ board, adopt and enforce ethics guidelines applicable to  
 3 its paid consultants which are similar to subch. III of ch. 19, except that the authority  
 4 may not require its paid consultants to file financial disclosure statements.

5 SECTION 107. 560.04 (2m) of the statutes is amended to read:

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

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

16 **778.135 Campaign finance forfeitures; how recovered.** Notwithstanding  
 17 s. 778.13, whenever any action or proposed action by the ~~ethics and elections~~  
 18 ~~government~~ government ~~accountability and control~~ board under s. 5.05 (1) (c) is settled as a result of  
 19 agreement between the parties without approval of the court, the moneys accruing  
 20 to the state on account of such settlement shall be paid to the board and deposited  
 21 with the state treasurer. Whenever any proposed action by a county board of election  
 22 commissioners under s. 7.21 (2m) (a) is settled as a result of agreement between the  
 23 parties, the moneys accruing to the county on account of such settlement shall be  
 24 paid to the board of election commissioners and deposited with the county treasurer  
 25 in the same manner as provided for forfeitures under s. 778.13.

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

2           **778.136 Ethics and lobbying forfeitures; how recovered.**

3           Notwithstanding s. 778.13, whenever any moneys are received by the ~~ethics and~~  
4           ~~elections accountability and control~~ <sup>government</sup> board or attorney general in settlement of a civil  
5           action or other civil matter for violation of the lobbying law or code of ethics for state  
6           public officials and employees under s. 19.545, the moneys shall accrue to the state  
7           and be deposited with the state treasurer.

8           **SECTION 110. Nonstatutory provisions.**

9           (1) TRANSFER OF ELECTIONS BOARD.

10           (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and  
11           liabilities of the elections board shall become the assets and liabilities of the ~~elections~~  
12           ~~and elections accountability and control~~ <sup>government</sup> board.

13           (b) *Positions and employees.*

14           1. On the effective date of this subdivision, all full-time equivalent positions  
15           in the elections board are transferred to the ~~ethics and elections accountability and~~  
16           ~~control~~ <sup>government</sup> board.

17           2. All incumbent employees holding positions in the elections board are  
18           transferred on the effective date of this subdivision to the ~~ethics and elections~~  
19           ~~accountability and control~~ <sup>government</sup> board.

20           3. Employees transferred under subdivision 2. have all the rights and the same  
21           status under subchapter V of chapter 111 and chapter 230 of the statutes in the ~~ethics~~  
22           ~~and elections accountability and control~~ <sup>government</sup> board that they enjoyed in the elections  
23           board immediately before the transfer. Notwithstanding section 230.28 (4) of the  
24           statutes, no employee so transferred who has attained permanent status in class is  
25           required to serve a probationary period.

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1 (c) *Tangible personal property.* On the effective date of this paragraph, all  
2 tangible personal property, including records, of the elections board is transferred to  
3 the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board.

4 (d) *Contracts.* All contracts entered into by the elections board in effect on the  
5 effective date of this paragraph remain in effect and are transferred to the ~~ethics and~~  
6 ~~elections~~ <sup>government</sup> accountability ~~and control~~ board. The ~~ethics and elections~~ <sup>government</sup> accountability  
7 ~~and control~~ board shall carry out any contractual obligations under such a contract  
8 until the contract is modified or rescinded by the ~~ethics and elections~~ <sup>government</sup> accountability  
9 ~~and control~~ board to the extent allowed under the contract.

10 (e) *Rules and orders.* All rules promulgated by the elections board that are in  
11 effect on the effective date of this paragraph remain in effect until their specified  
12 expiration dates or until amended or repealed by the ~~ethics and elections~~  
13 ~~accountability and control~~ <sup>government</sup> board. All orders issued by the elections board that are  
14 in effect on the effective date of this paragraph remain in effect until their specified  
15 expiration dates or until modified or rescinded by the ~~ethics and elections~~  
16 ~~accountability and control~~ <sup>government</sup> board.

17 (f) *Pending matters.* Any matter pending with the elections board on the  
18 effective date of this paragraph is transferred to the ~~ethics and elections~~  
19 ~~accountability and control~~ <sup>government</sup> board, and all materials submitted to or actions taken by  
20 the elections board with respect to the pending matter are considered as having been  
21 submitted to or taken by the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board.

22 (2) TRANSFER OF ETHICS BOARD.

23 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and  
24 liabilities of the ethics board shall become the assets and liabilities of the ~~ethics and~~  
25 ~~elections~~ <sup>government</sup> accountability ~~and control~~ board.

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1 (b) *Positions and employees.*

2 1. On the effective date of this subdivision, all full-time equivalent positions  
3 in the ethics board are transferred to the ~~ethics and elections~~ <sup>government</sup> accountability and  
4 ~~control~~ board.

5 2. All incumbent employees holding positions in the ethics board are  
6 transferred on the effective date of this subdivision to the ~~ethics and elections~~  
7 <sup>government</sup> accountability and control board.

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

14 (c) *Tangible personal property.* On the effective date of this paragraph, all  
15 tangible personal property, including records, of the ethics board is transferred to the  
16 ~~ethics and elections~~ <sup>government</sup> accountability and control board.

17 (d) *Contracts.* All contracts entered into by the ethics board remain in effect  
18 and are transferred to the ~~ethics and elections~~ <sup>government</sup> accountability and control board. The  
19 ~~ethics and elections~~ <sup>government</sup> accountability and control board shall carry out any contractual  
20 obligations under such a contract until the contract is modified or rescinded by the  
21 ~~ethics and elections~~ <sup>government</sup> accountability and control board to the extent allowed under the  
22 contract.

23 (e) *Rules and orders.* All rules promulgated by the ethics board that are in effect  
24 on the effective date of this paragraph remain in effect until their specified expiration  
25 dates or until amended or repealed by the ~~ethics and elections~~ <sup>government</sup> accountability and

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1 ~~control~~ board. All orders issued by the ethics board that are in effect on the effective  
2 date of this paragraph remain in effect until their specified expiration dates or until  
3 modified or rescinded by the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board.

4 (f) Pending matters. Any matter pending with the ethics board on the effective  
5 date of this paragraph is transferred to the ~~ethics and elections~~ <sup>government</sup> accountability ~~and~~  
6 ~~control~~ board, and all materials submitted to or actions taken by the ethics board  
7 with respect to the pending matter are considered as having been submitted to or  
8 taken by the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board.

9 BOARD TRANSITIONS (CS)  
10 ~~TRANSITION~~. INITIAL TERMS.

11 (a) Notwithstanding section 15.61, 2001 stats., section 15.62, 2001 stats., and  
12 section 15.07 (1) (c) of the statutes, the terms of office of all members of the elections  
13 board and all members of the ethics board holding office ~~at the time at which all~~  
14 members of the elections and ethics ~~accountability and control~~ <sup>government</sup> board are appointed  
15 as provided in section 15.61 of the statutes, as affected by this act, and qualified to  
16 take office shall expire <sup>ON MAY 1, 2004</sup> ~~at that time~~.

17 (b) <sup>Each member</sup> All members of the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board  
18 who ~~are~~ <sup>is</sup> appointed as provided in paragraph (c) and qualified to take office shall take  
19 office <sup>ON NOVEMBER 1, 2003, OR UPON QUALIFICATION TO TAKE OFFICE,</sup> ~~immediately upon expiration of the terms of office under paragraph (a),~~  
20 <sup>WHICHEVER IS LATER</sup>

21 (c) Notwithstanding section ~~15.61~~ (1) of the statutes, as ~~affected~~ <sup>Created</sup> by this act, and  
22 section 15.07 (1) (c) of the statutes:

23 1. Of the members of the ~~ethics and elections~~ <sup>government</sup> accountability ~~and control~~ board  
24 who are initially nominated by the governor, and with the advice and consent of the  
senate appointed, 2 shall be appointed to serve for terms expiring on May 1, 2005,  
and 2 shall be appointed to serve for terms expiring on May 1, 2007.

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2. All members of the ~~ethics and elections~~ <sup>government</sup> accountability and control board who are initially appointed to represent political parties shall serve for terms expiring on May 1, ~~2005~~ <sup>2007</sup>.

15.603.11

(d) Notwithstanding section ~~15.603.11(A)~~ of the statutes, as created by this act, the person who is initially appointed to serve as administrator of the enforcement division of the ~~ethics and elections~~ <sup>government</sup> accountability and control board shall serve for a term expiring on September 1, 2009.

FNS 47-7

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~~SECTION 110~~ POSITION AUTHORIZATIONS.

(a) There is authorized for the ~~ethics and elections~~ <sup>government</sup> accountability and control board 3.0 FTE GPR division administrator positions, to be funded from the appropriation under section ~~20.510~~ <sup>20.511</sup> (1) (a) of the statutes, as ~~created~~ <sup>created</sup> by this act.

(b) There is authorized for the ~~ethics and elections~~ <sup>government</sup> accountability and control board 1.0 FTE GPR division administrator position, ~~and~~ <sup>and 1.0 FTE GPR investigator position</sup> 1.0 FTE GPR attorney position to be funded from the appropriation under section ~~20.510~~ <sup>20.511</sup> (2) (a) of the statutes, as created by this act.

FNS 47-16

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SECTION 111. Appropriation changes.

~~SECTION 111~~ The unencumbered balance in the appropriation account under section 20.521 (1) (g) of the statutes is transferred to the appropriation account under section ~~20.510~~ <sup>20.511</sup> (1) (i) of the statutes, as ~~affected~~ <sup>created</sup> by this act, and the amount in the schedule for section ~~20.510~~ <sup>20.511</sup> (1) (i) of the statutes in fiscal year ~~2003-03~~ <sup>2003-04</sup> is increased by the amount transferred.

~~SECTION 111~~ The unencumbered balance in the appropriation account under section 20.521 (1) (i) of the statutes is transferred to the appropriation account under section ~~20.510~~ <sup>20.511</sup> (1) (h) of the statutes, as ~~affected~~ <sup>created</sup> by this act, and the amount in the schedule

**BILL**

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~~for section 20.510 (1) (h) of the statutes in fiscal year 2002-03 is increased by the~~

~~amount transferred.~~

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48<sup>3</sup>-2

(END)

2003-2004 DRAFTING INSERT  
FROM THE  
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INS 2A:

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Each of the four members who is not appointed to represent a political party must be appointed from nominations submitted by a Government Accountability Candidate Committee, which consists of <sup>nine</sup> 9 members, including the chief justice of the supreme court, the dean of the University of Wisconsin law school, the dean of the Marquette University law school, and the chief officer of each of the following organizations or their successor organizations: a) the Wisconsin Counties Association; b) the Wisconsin Towns Association; c) the League of Wisconsin Municipalities; d) the League of Women Voters of Wisconsin; e) the Wisconsin Newspaper Association; and f) the State Bar of Wisconsin. The votes of six members of the committee are required to nominate a candidate.

INS 3A:

<sup>substitute amendment</sup> The ~~bill~~ also permits the executive director to appoint up to four other division administrators outside the classified service. The ~~bill~~ authorizes <sup>three</sup> 3 new division administrator positions for the board, plus one new division administrator position, one new attorney position, and one new investigator position for the enforcement division. <sup>In addition, all members of the existing staffs of the Elections Board and Ethics Board and their positions are transferred to the Government Accountability Board and the staff members who have civil service rights retain those rights.</sup>

INS 3B:

no fl

However, before bringing an action to prosecute any alleged criminal violation, the division must provide written notice to the district attorney for the county where the alleged violation occurs. If the district attorney fails to prosecute within 30 days after receiving the notice or declines to prosecute, the division may then prosecute the alleged violation.

INS 4A:

<sup>substitute amendment provides for the bill to</sup> The ~~bill~~ becomes law on November 1, 2003, after which date the members of the Government Accountability Board may be appointed and take office, the board may employ staff and the board may expend moneys from its appropriations. However, the existing Elections Board and Ethics Board continue in operation until May 1, 2004, and the Government Accountability Board may not exercise administrative or enforcement authority until that date. The ~~bill~~ also provides that the executive director of the Legislative Council Staff shall serve as executive director of the

<sup>substitute amendment</sup>

Government Accountability Board, without additional compensation, until the initial executive director of the Government Accountability Board is appointed and qualified, and may exercise all of the functions of the executive director of the Government Accountability Board, the enforcement division, and the administrator of the enforcement division, including the retention and termination of all staff not transferred to the board under the ~~bill~~.

*substitute amendment*

✓

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FROM THE  
LEGISLATIVE REFERENCE BUREAU

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INS 5-11:

SECTION 1. 5.05 (1m) of the statutes is created to read:

5.05 (1m) EXECUTIVE DIRECTOR; LEGAL COUNSEL. The board shall employ an executive director outside the classified service and shall employ legal counsel to perform legal services outside the enforcement division.

INS 6-13:

2. Prior to commencing any criminal prosecution with respect to an alleged violation of chs. 5 to 12, subch. III of ch. 13 or subch. III of ch. 19, the enforcement division shall provide written notice to the district attorney for the county in which the violation is alleged to have occurred. If the district attorney notifies the board in writing that he or she will not commence a criminal prosecution with respect to that alleged violation or the district attorney fails to commence a criminal prosecution with respect to that alleged violation within 30 days after receiving notice from the board, the board may commence a criminal prosecution with respect to that alleged violation.

(d) 1. The division may employ special counsel to investigate any alleged violation of chs. 5 to 12, sub III of ch. 13 or subch. III of ch. 19, to bring any action authorized to be brought by the division or the board or to enforce any order of the division or the board.

2. When special counsel is employed, a contract in writing shall be entered into between the state and such counsel, in which shall be fixed the compensation to be

division

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subch.

enforcement

✓

paid such counsel by the state. The contract shall be executed <sup>on</sup> behalf of the state by the administrator of the <sup>enforcement</sup> division, who shall file the contract in the office of the secretary of state. ~~Such~~ <sup>The</sup> compensation shall be charged to the ~~special counsel~~ appropriation ~~in~~ s. 20.455 (1) (b).

under

of the enforcement division

3. Upon employment of special counsel, the administrator shall certify the maximum amount provided in the employment contract to the secretary of administration, and direct the department of administration to pay special counsel bills related to that case within the certified amount. ✓

INS 6-23:

History: 1971 c. 164; 1981 c. 20 s. 2202 (17) (a); 1985 a. 332 s. 253; 1991 a. 316.

SECTION 2. 5.05 (3m) of the statutes is created to read:

5.05 (3m) CHIEF ELECTION OFFICER. The board shall designate an employee of the board to serve as the chief election officer of this state. ✓

INS 6-24

SECTION 3. 5.052 of the statutes is created to read:

5.052 Governmental accountability candidate committee. (1) The governmental accountability candidate committee shall organize whenever a vacancy occurs in the membership of the board that requires a nomination to be submitted to the governor under s. ~~15.61~~ (2). At its first meeting after each organization, the committee shall elect a chairperson and vice chairperson. ✓

(2) No person may be nominated by the committee unless the person receives the votes of at least 6 members. ✓

15.60 ✓

(3) Except as provided in sub. (4), the committee shall submit the following number of nominations to fill the following vacancies:

<u>Number of vacancies</u>	<u>Number of nominations</u>
1	2
2	3
3	5
4	6

(4) If a nomination of the governor is rejected by the senate, the committee shall submit an additional nominee to the governor.

SECTION 4. 5.054<sup>^</sup> of the statutes is created to read:

**5.054 Duties of the executive director.** The executive director of the board shall:

(1) Whenever a vacancy occurs on the board, call an organizational meeting of the government accountability nominating committee. (a)  
cand. date

(2) Assist the governmental accountability nominating committee in the performance of its functions. cand. date

INS 10-12:

(13) If the board or the division issues an order requiring an election official or private person to act in conformity with chs. 5 to 12, subch. III of ch. 13<sup>ke</sup> or subch. III of ch. 19<sup>5</sup>, or rules of the board, the division may file an action in circuit court for any county where the official or other person is present to obtain relief requiring compliance with the order.

INS 11-9:

- ¶ (a) To fill one vacancy, 2 nominations.
- ¶ (b) To fill 2 vacancies, 3 nominations.
- ¶ (c) To fill 3 vacancies, 5 nominations.
- ¶ (d) To fill 4 vacancies, 6 nominations.

**SECTION 5.** 7.08 (7) of the statutes is amended to read:

7.08 (7) VOTING SYSTEM TRANSITIONAL ASSISTANCE. From the appropriation under s. ~~20.510 (1) (e)~~ 20.511 (1) (c), provide assistance to municipalities that used punch card electronic voting systems at the 2001 spring election to enable the municipalities to employ another type of electronic voting system, and provide training for election officials in the use of replacement systems.

**NOTE: NOTE: Sub. (7) is repealed eff. 7-1-08 by 2001 Wis. Act 16. NOTE:**

**History:** 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192; 1993 a. 140; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16, 38, 107, 109.

**SECTION 6.** 7.31 (5) of the statutes is amended to read:

7.31 (5) The board shall conduct regular training and administer examinations to ensure that individuals who are certified by the board under this section are knowledgeable concerning their authority and responsibilities. The board shall pay all costs required to conduct the training and to administer the examinations from the appropriation under s. ~~20.510 (1) (bm)~~ 20.511 (1) (bm).

**History:** 2001 a. 16, 104.

INS 18-19:

**SECTION 7.** 9.01 (1) (ag) 4. of the statutes is amended to read:

9.01 (1) (ag) 4. The board shall deposit all moneys received by it into the account under s. ~~20.510 (1) (g)~~ 20.511 (1) (g), and shall pay the fees required for each recount to the county clerks of the counties in which the recount is to be held. The county clerk shall deposit fees received by him or her with the county treasurer. The

municipal clerk shall deposit fees received by him or her with the municipal treasurer.

**History:** 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (3); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1993 a. 213; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16.

nominated

subject to the advice and consent of the senate

INS 23-16:

(2) (a) All members of the board who are appointed by the governor shall be appointed from nominations submitted to the governor by a nominating committee to be called the governmental accountability candidate committee, which shall consist of the following:

1. The chief justice of the supreme court.
2. The dean of the Marquette University law school.
3. The dean of the University of Wisconsin law school.
4. The chief officer of each of the following organizations, or if any of the following organization ceases to exist, the organization determined by the governor to be the successor organization representing interests substantially similar to the predecessor organization:

- a. The Wisconsin counties association.
- b. The Wisconsin towns association.
- c. The League of Wisconsin municipalities.
- d. The League of Women Voters of Wisconsin.
- e. The Wisconsin newspaper association.
- f. The state bar of Wisconsin.

(3) No member, other than a member who is appointed to represent a political party, may hold any other office or employment in the government of this state.

(4) No member, other than a member who is appointed to represent a political party, for one year immediately prior to the date of appointment may have been, or 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 elective public office. ✓

INS 32-1:

**SECTION 8.** 20.455 (1) (b) of the statutes is amended to read:

20.455 (1) (b) *Special counsel.* A sum sufficient, subject to the procedure established in ~~s.~~ ss. 5.05 (2m) (d) and 14.11 (2) (c), for the compensation of special counsel appointed as provided in ss. 5.05 (2m) (d) and 14.11 (2) and 21.13.

**History:** 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186; 2001 a. 16, 109.

INS 32-17:

**SECTION 9.** 20.510 (intro.) of the statutes is repealed.

**SECTION 10.** 20.510 (1) (title) of the statutes is repealed.

**SECTION 11.** 20.510 (1) (a) of the statutes is repealed.

**SECTION 12.** 20.510 (1) (bm) of the statutes is renumbered 20.511 (1) (bm).

**SECTION 13.** 20.510 (1) (c) of the statutes is renumbered 20.511 (1) (c).

**SECTION 14.** 20.510 (1) (g) of the statutes is renumbered 20.511 (1) (g).

**SECTION 15.** 20.510 (1) (h) of the statutes is repealed.

**SECTION 16.** 20.510 (1) (i) of the statutes is repealed.

**SECTION 17.** 20.510 (1) (j) of the statutes is renumbered 20.511 (1) (j).

SECTION 18. 20.510 (1) (q) of the statutes, as affected by 2001 Wisconsin Act 109, is renumbered 20.511 (1) (q). ✓

INS 34-17:

SECTION 19. 20.923 (4) (intro.) of the statutes is amended to read:

20.923 (4) STATE AGENCY POSITIONS. (intro.) State agency heads, the administrator of the division of merit recruitment and selection in the department of employment relations, the administrator of the division of enforcement in the government accountability board and commission chairpersons and members shall be identified and limited in number in accordance with the standardized nomenclature contained in this subsection, and shall be assigned to the executive salary groups listed in pars. (a) to (i). Except for positions specified in ~~par.~~ par. (c) 3m. and (e) 2e. and sub. (12), all unclassified division administrator positions enumerated under s. 230.08 (2) (e) shall be assigned, when approved by the joint committee on employment relations, by the secretary of employment relations to one of 10 executive salary groups. The joint committee on employment relations, by majority vote of the full committee, may amend recommendations for initial position assignments and changes in assignments to the executive salary groups submitted by the secretary of employment relations. All division administrator assignments and amendments to assignments of administrator positions approved by the committee shall become part of the compensation plan. Whenever a new unclassified division administrator position is created, the appointing authority may set the salary for the position until the joint committee on employment relations approves assignment of the position to an executive salary group. If the committee approves

assignment of the position to an executive salary group having a salary range minimum or maximum inconsistent with the salary paid to the incumbent at the time of such approval, the incumbent's salary shall be adjusted by the appointing authority to conform with the committee's action, effective on the date of that action.

Positions are assigned as follows:

History: 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c. 20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29 ss. 603 to 607, 3202 (22) (a); 1985 a. 34, 332; 1987 a. 6, 27, 82, 119, 306, 340, 354, 399, 403; 1989 a. 31, 56, 107, 208, 219, 336; 1991 a. 39, 269; 1993 a. 12, 16, 75, 123, 144, 184, 294, 349, 399, 490; 1995 a. 27 ss. 1193 to 1217m, 9130 (4), 9216 (19); 1995 a. 37, 216, 225; 1997 a. 2, 3, 27, 29, 41, 194, 237; 1999 a. 9, 42, 102, 186; 2001 a. 16, 19, 29, 109.

SECTION 20. 20.923 (4) (e) 2e. of the statutes is created to read:

20.923 (4) (e) 2e. Governmental accountability board: Administrator of the enforcement division.

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INS 39-25:

SECTION 21. 165.25 (4) (e) of the statutes is created to read:

165.25 (4) (e) Provide assistance to the enforcement division of the government accountability board in the investigation and prosecution of violations of chs. 5 to 12, subch. III of ch. 13 and subch. III of ch. 19.

INS 47-7:

IMPLEMENTATION. (a) Notwithstanding section 5.05 (1m) of the statutes, as created by this act, the executive director of the legislative council staff shall serve as executive director of the government accountability board until such time as the board initially appoints an executive director and the appointee qualifies to take office. The executive director of the legislative council staff is vested with full authority and responsibility to carry out all functions of the government

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accountability board, the enforcement division and the administrator of the enforcement division prior to appointment and qualification of the initial executive director, including the retention and termination of all staff not transferred to the board that the board is authorized to employ under this act. ✓

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(b) Prior to May 1, 2004, the government accountability board may expend moneys from the appropriation under section 20.511 (1) (a) of the statutes for the purpose of meeting, employing staff and preparing to assume its full authority and responsibilities on May 1, 2004.

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INS 47-16:

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~~(1)~~ The unencumbered balance in the appropriation account under section 20.510 (1) (a) of the statutes is transferred to the appropriation account under section 20.511 (1) (a) of the statutes, as created by this act, and the amount in the schedule for section 20.511 (1) (a) of the statutes in fiscal year 2003-04 is increased by the amount transferred.

~~(2)~~ The unencumbered balance in the appropriation account under section 20.510 (1) (h) of the statutes is transferred to the appropriation account under section 20.511 (1) (h) of the statutes, as created by this act, and the amount in the schedule for section 20.511 (1) (h) of the statutes in fiscal year 2003-04 is increased by the amount transferred.

~~(3)~~ The unencumbered balance in the appropriation account under section 20.510 (1) (i) of the statutes is transferred to the appropriation account under section 20.511 (1) (i) of the statutes, as created by this act, and the amount in the schedule

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# (2) The ~~repeal~~ of section 20.511 (1) (c) of the statutes takes effect on July 1, 2008

for section 20.511 (1) (i) of the statutes in fiscal year 2003-04 is increased by the amount transferred.

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The unencumbered balance in the appropriation account under section 20.521 (1) (a) of the statutes is transferred to the appropriation account under section 20.511 (1) (a) of the statutes, as created by this act, and the amount in the schedule for section 20.511 (1) (a) of the statutes in fiscal year 2003-04 is increased by the amount transferred.

(title)  
(intro.)

INS 48-2:

**SECTION 22. Effective dates.** This act takes effect on May 1, 2004, except as follows:

(1) The treatment of sections 5.052, 5.054, 15.03 (2), 15.07 (1) (a) 2m. and 5m, 15.60, 15.603, 20.511 (1) (intro.) and (a) and (2), 20.923 (4) (intro.), (e) 2e., and (f) 3j., 230.08 (2) (e) 4c and (on) and (4) (a) of the statutes and SECTION (3) (b) to (d), (4) and (5) 20.511 of the statutes takes effect on November 1, 2004.

(5)(m)

4h.

of this act

2003

use auto ref "F" from page 47 of bill

use auto ref "A" from p. 43 of bill

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the renumbering and amendment of section 15.03 of the statutes  
the creation of section 15.03 (2) of the statutes

705 43-7

SECTION # . 2001 Wisconsin Act 16, section  
9415 (2y) is amended to read:  
[2001 Wisconsin Act 16] section 9415

(2y) Voting system transitional assistance. The repeal of sections 7.08(7) and  
20.510(1)(c) of the statutes takes effect on July 1, 2008.

20.511(1)(c)

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

LRBs0060/1dn

JTK.....

ANS DIA

1.

○ This draft is predicated upon the assumption that the bill resulting from its enactment will become law no later than November 1, 2003. If the bill becomes law after November 1, 2003, **it may be inoperative**. If it appears that the bill will become law after November 1, 2003, please contact me and I will prepare an amendment to take account of the revised effective date.

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

50060/1du  
LRB-1307/P1dr  
JTK:kmg:ch

April 4, 2003

Senator Ellis:

~~DWS DIA~~

2. For this draft, I have included ~~an~~ appropriation but have specified "\$-0-" for expenditure in fiscal years 2003-04 and 2004-05. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. In addition, please note that since the 2003-05 biennial budget act repeals and recreates the appropriation schedule, if that act is enacted after the bill resulting from this draft becomes law, that act will eliminate any appropriations contained in this draft. To eliminate this problem, you may wish to seek inclusion of this draft in the budget bill.

3. The draft does not specify whether the enforcement division of the <sup>government</sup> ~~ethics and elections~~ accountability ~~and control~~ board must bring an enforcement action upon direction of the board if the division does not want to bring that action. You may wish to clarify that point.

3. 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.

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

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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.

4. ~~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.

legislative

responsibility in the executive director

Government

of government

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

CS 129  
 Section 4

of the legislative council staff to serve as interim executive director of the government accountability board and to exercise certain authority in that capacity

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

LRBs0060/1dn  
JTK:kmg:jf

April 21, 2003

Senator Ellis:

1. This draft is predicated upon the assumption that the bill resulting from its enactment will become law no later than November 1, 2003. If the bill becomes law after November 1, 2003, **it may be inoperative**. If it appears that the bill will become law after November 1, 2003, please contact me and I will prepare an amendment to take account of the revised effective date.
2. For this draft, I have included appropriations but have specified “-0-” for expenditure in fiscal years 2003-04 and 2004-05. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate.
3. The draft does not specify whether the enforcement division of the Government Accountability Board must bring an enforcement action upon direction of the board if the division does not want to bring that action. You may wish to clarify that point.
4. Proposed SECTION 129 (4), which places the responsibility in the director of the Legislative Council Staff to serve as interim executive director of the Government Accountability Board and to exercise certain authority in that capacity, 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 legislative 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 Government Accountability Board will exercise some authority over all three branches of government. 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 SECTION 129 (4) 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

## Kuesel, Jeffery

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**From:** Onsager, Paul  
**Sent:** Thursday, May 01, 2003 11:08 AM  
**To:** Kuesel, Jeffery  
**Subject:** FW: Substitute Amendment to Senate Bill 11--Chapter 20 Schedule

Jeff:

Here are the numbers for the substitute amendment that have been approved by Mike.

Paul A. Onsager  
Legislative Fiscal Bureau  
608-266-3847  
Paul.Onsager@legis.state.wi.us

-----Original Message-----

**From:** Onsager, Paul  
**Sent:** Wednesday, April 30, 2003 9:21 AM  
**To:** Boerger, Michael (Legislature)  
**Subject:** Substitute Amendment to Senate Bill 11--Chapter 20 Schedule

Mike:

What follows are the numbers to plug in to the Chapter 20 schedule for the substitute amendment, based on the funding goals you outlined to me. In addition, based on our discussions I have also outlined the assumptions that underlie these figures. After you have reviewed this and give me the okay, I will forward this information to Jeff Kuesel. Thanks.

<u>Appropriation</u>	<u>2003-04</u>	<u>2004-05</u>
<i>(1) Administration of Elections; Ethics and Lobbying Laws</i>		
20.511(1)(a) General Program Operations; GPR	335,200	1,372,200
20.511(1)(h) Materials and Services	5,800	35,000
20.511(1)(i) General Program Operations; PR	66,000	395,800
<i>(2) Enforcement Division</i>		
20.511(2)(a) General Program Operations; GPR	275,400	383,800

Assumptions:

1. New executive director set as an ESG-6
2. New division administrator for enforcement division set as an ESG-5
3. Assume compensation for two division administrators transferred over from current boards will remain unchanged at ESG-4 level
4. All new positions filled November 1, 2003
5. All new positions filled at maximum salary for classification
6. Investigator position filled as public defender investigator-senior
7. Higher Ethics Board fringe rate utilized for new positions
8. All new positions budgeted \$4,000 in one-time funding for modular furniture
9. All new positions budgeted \$2,500 in one-time funding for computers
10. \$1,200 annually for ongoing supplies and services provided to all new positions
11. Code of ethics investigations appropriation funding under Ethics Board dropped due to provision of "special counsel" sum sufficient appropriation
12. No funding provided for transition costs, including moving and merging computer systems
13. Assumes Ethics Board budget for Ethics Board activities under SB 44 as modified by Joint Finance action
14. Assumes Elections Board budget for Elections Board activities under SB 44
15. Assumes 4 Government Accountability Board meetings before meeting costs absorbed by existing budgets under Ethics and Elections for such costs
16. All existing Ethics Board and Elections Board costs assumed by the new Board effective May 1, 2004
17. No support staff provided to new enforcement division
18. All new positions funded as GPR positions

Paul A. Onsager  
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