

## 2005-06 SESSION

### COMMITTEE HEARING RECORDS

#### Assembly Committee on Campaigns & Elections (AC-CE)

Sample:

#### Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ **05hr\_AC-CE\_CRule\_05-061**

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **05-061**

AN ORDER to create ElBd 1.46 (3), relating to the identification of individual contributors on campaign finance reports

Submitted by **ELECTIONS BOARD**

06-15-2005 RECEIVED BY LEGISLATIVE COUNCIL.

06-28-2005 REPORT SENT TO AGENCY.

RS:RJC

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached            YES             NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached            YES             NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached            YES             NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]  
Comment Attached            YES             NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached            YES             NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached            YES             NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached            YES             NO



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### CLEARINGHOUSE RULE 05-061

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### 1. Statutory Authority

Section EIBd 1.46 (3) (a) effectively extends by 60 days the time for filing a complete report under s. 11.06, Stats. For example, if a registrant fails to disclose the names of contributors making contributions of \$20 or more by the due date -- information required by s. 11.06 (1) (a), Stats., -- the rule says that the registrant has not violated the reporting requirement if he or she notifies the filing officer of those names within 60 days after the due date of the report. This seems to be at odds with the statutory directive to file reports by certain dates as provided in s. 11.20 (2) and (4), Stats. Is this the intent of the rule? If so, the statutory authority for this treatment should be fully explained because this application seems to unreasonably strain the concept of "good faith" compliance that the rule claims to be trying to accommodate. If not, what is the intent? Is the rule really intended to apply to all information required by s. 11.06 (1) (a) and (b), Stats., or just the material addressed in s. EIBd 1.46 (1) and (2), i.e., street address and occupation and principal place of business of certain contributors? The latter interpretation would appear to better coincide with the rule's placement in the administrative code.

#### 2. Form, Style and Placement in Administrative Code

a. As a result of 2003 Wisconsin Acts 118 and 145, the required content of administrative rules analyses has changed. [See s. 1.02 (2), Manual.]

b. Underscoring is not required when creating a new subunit of a rule. [See s. 1.06 (1), Manual.]

**4. Adequacy of References to Related Statutes, Rules and Forms**

The "statutes interpreted" portion of the analysis, the last paragraph of the analysis, and certain other portions of the rule, refer to s. 11.22 (2) (c), Stats. No such provision exists.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Because s. EIBd 1.43 (3) (a) is a long paragraph, it could be divided into two subdivisions. It appears that a natural break for the subdivisions would be after the second sentence.

b. When a registrant notifies the filing officer after the due date about information not included in the report, must the notification be in writing? On a special form? The rule should be clarified.

c. The last sentence of s. EIBd 1.46 (3) (a) appears ambiguous. Is the registrant required to divest itself of the entire contribution if the contribution exceeds \$250 or just that portion of the contribution that exceeds \$250? The rule should be clarified. In addition, the phrase "be required to" should be deleted. Finally, the comma after the word "contribution" should be deleted.

d. In s. EIBd 1.46 (3) (b), what is an "unacceptable contribution"? The rule may be more clear if the phrase "of an unacceptable contribution under this section" were replaced by the phrase "under par. (a)." Additionally, the phrase "common school fund" should not be capitalized. Finally, it would appear that to be consistent with several statutory citations, the phrase "any other bona fide charity" should be replaced by the phrase "a charitable organization." [See, for example, ss. 11.12 (2) and 11.16 (2), Stats.]

e. Section EIBd 1.46 (3) (c) appears to impose a new standard for the board to impose civil penalties. Under the paragraph, it would appear that civil penalties would only be imposed if a violation involved egregious circumstances. Is that the intent of the rule? In addition, the hyphen before the word "not" should be deleted and the word "boards" should not be capitalized.

f. In s. EIBd 1.46 (3) (d), what is an "illegal" contribution? Also, consistent terminology should be used throughout the rule. For example, it would appear that the word "committee's" should be "registrant's" and "disposition" should be "divestiture." Thus, it would appear that the paragraph could be rewritten substantially as follows: "The registrant's divestiture of a contribution under par. (a) shall be reported on its next succeeding campaign finance report."

g. The contact address of the contact person should be reviewed to ensure that a current address is listed.