

Report From Agency
REPORT
OF
GOVERNMENT ACCOUNTABILITY BOARD

Clearinghouse Rule 15-047
WIS. ADMIN. CODE GAB Ch. 10

The Government Accountability Board proposes an order to create ch. GAB 10, relating to the use of Wisconsin technical college system identification cards for voting purposes.

a) Proposed rule:

See Proposed Rule attached immediately following this report. (Appendix A)

b) Rule summary:

2011 Wisconsin Act 23 created the requirement that electors present an acceptable form of photo identification as a condition of obtaining a ballot. 2011 Wisconsin Act 23 also created the list of documents that qualify as identification for purposes of voting, including a student identification card issued by an accredited educational institution that meets certain criteria. These proposed rules clarify that an identification card issued by an institution in the Wisconsin Technical College System is an acceptable form of photo identification for voting if the card a) is unexpired; b) contains the date that the card was issued; c) contains the name of the student to whom the card was issued; d) contains the signature of the student to whom the card was issued; e) contains a photograph that reasonably resembles the student to whom the card was issued; f) contains an expiration date indicating that the card will expire no later than two years after the card was issued; and g) is issued to a student who establishes that he or she is enrolled at the college that issued the card on the date that the student uses the card for voting purposes. These conditions are identical to the requirements for acceptable photo identification cards issued by other accredited educational institutions.

See also Proposed Rule attached immediately following this report. (Appendix A)

c) Reference to applicable forms:

Not applicable.

d) Fiscal estimate:

See Fiscal Estimate & Economic Impact Analysis attached immediately following this report. (Appendix B)

e) Any statement, suggested changes, or other material submitted to the agency by the SBRRB:

Not applicable.

f) Any economic impact analysis prepared by the agency:

See Fiscal Estimate & Economic Impact Analysis attached immediately following this report. (Appendix B)

g) Any revised economic impact analysis prepared by the agency:

Not applicable.

h) Any report prepared by DOA for a proposed rule with \$20,000,000 or more in implementation and compliance costs:

Not applicable.

i) Any energy impact report received from the Public Service Commission:

Not applicable.

j) Rules Clearinghouse Report:

See Clearinghouse Report to Agency attached immediately following this report. (Appendix C)

k) Detailed statement explaining the basis and purpose of the proposed rule, including how the proposed rule advances relevant statutory goals or purposes.

The Government Accountability Board (“G.A.B.” or “Board”) has “the responsibility for the administration of chs. 5 to 12, other laws relating to elections and election campaigns, subch. III of ch. 13, and subch. III of ch. 19.” s. 5.05(1), Stats. The G.A.B. may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections . . . or ensuring their proper administration.” s. 5.05(1)(f), Stats. The G.A.B. “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute[.]” s. 227.11(2)(a), Stats. The photo identification requirement is found in chapters 5 and 6 of the Wisconsin Statutes. *See* 2011 Wisconsin Act 23. Consistent with that authority, the proposed rules interpret ss. 5.02(6m), 5.02(16c), 6.15(2)(bm), and 6.79(2), Stats., clarifying the Board’s finding that a Wisconsin Technical College System is an accredited institution for the purposes of issuing a student identification card for voting.

On November 15, 2011, the Joint Committee for Review of Administrative Rules (“JCRAR”) ordered the G.A.B., pursuant to ss. 227.10(1) and 227.26(2), Wis. Stats., to promulgate an emergency rule to allow for the use of technical college system student identification cards to meet the photo identification requirements of 2011 Wisconsin Act 23, which was enacted on May 25, 2011. The G.A.B. could not comply with JCRAR’s order until the U.S. Supreme Court denied certiorari on the judicial challenges to the photo identification requirements. The G.A.B. may now comply with JCRAR’s order. The G.A.B. promulgated an emergency rule, EmR1515, effective on May 15, 2015, and the G.A.B. now seeks to promulgate EmR1515’s permanent counterpart.

l) Summary of public comments to the proposed rule and the agency’s response to those comments, and an explanation of any modification made in the proposed rule as a result of public comments or testimony received at a public hearing:

No hearing was required for this proposed rule, as the Board undertook the promulgation process at the direction of the Joint Committee for Review of Administrative Rules. *See s. 227.16(2)(d). Stats.*

The agency did not receive any public comments regarding the proposed rule.

m) List of the persons who appeared or registered for or against the proposed rule at a public hearing:

No hearing was required for this proposed rule, as the Board undertook the promulgation process at the direction of the Joint Committee for Review of Administrative Rules. *See s. 227.16(2)(d). Stats.*

n) Any changes to the rule summary or the fiscal estimate:

Not applicable.

o) A response to the recommendations in the Rules Clearinghouse Report indicating acceptance of the recommendations in whole, acceptance of the recommendations in part, rejection of the recommendations in whole, rejection of the recommendations in part, and the specific reason for rejecting any recommendation:

The Government Accountability Board accepted the recommendations in the Rules Clearinghouse Report in whole.

p) For a proposed rule that will have an effect on small businesses, a final regulatory flexibility analysis that contains the information in s. 227.19(3)(e):

Not applicable.

- q) An explanation of changes, if any, that were made in the propose rule in response to any energy impact report submitted:**

Not applicable.

- r) If applicable, the report from DOA for a proposed rule that directly or substantially affects the development, construction, cost, or availability of housing in this state:**

Not applicable.

- s) A response to any report prepared by SBRRB:**


Not applicable.

The Government Accountability Board recommends promulgation of this rule.

Respectfully submitted,

October 6, 2015

GOVERNMENT ACCOUNTABILITY BOARD



Kevin J. Kennedy
Director and General Counsel