

**STATEMENT OF SCOPE**  
**PURSUANT TO WIS. STAT. § 227.135**  
**GOVERNMENT ACCOUNTABILITY BOARD**

**Rule No.:** GAB 7 Electronic Voting Systems

**Relating to:** Approval of Electronic Voting Equipment in Accordance with WIS. STAT. §§5.40(2), 5.76, 5.77, 5.905, 5.91, and 7.23(1)(g)

**Rule Type:** Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

N/A

**2. Detailed description of the objective of the proposed rule:**

The Government Accountability Board's ("G.A.B." or "Board") rules on electronic voting equipment, promulgated pursuant to WIS. STAT. §§ 5.05 (1) (f) and 5.93, have become outdated due to technological advances. Further, such rules have also become outdated due to heightened public concerns regarding the security of electronic voting systems and the procedures in place to determine their compliance with Wisconsin Statutes. The rules on electronic voting equipment were first promulgated in 2000, so the Board proposes to repeal and re-create Chapter GAB 7 so that such rules are appropriate and applicable with current modes and practices.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policy: Chapter GAB 7 was originally published in 2000. It was only amended once in 2008, and such amendment was not substantive in nature. Chapter GAB 7 currently establishes a number of criteria for approval of an electronic voting system. The chapter does not include guidelines to address technological and policy issues present in recent years. Such issues include the approval of engineering change orders and the approval of new components for use with equipment that, before the introduction of new components, was federally certified and approved for use in Wisconsin.

Proposed policy: In recent elections, voters, citizens, clerks, and G.A.B. staff members have raised concerns regarding the security of electronic voting systems. The Board proposed to initiate a comprehensive review of the existing Chapter GAB 7 to determine whether more specific standards

would address recent developments in voting equipment technology and testing. With this review, the Board proposed to revise and re-create Chapter GAB 7 to ensure that all systems are protected by necessary safeguards to ensure they remain tamper-free and meet new testing criteria that reflect the enhanced technology currently available. Further, the Board proposed to review Chapter GAB 7 to ensure that voting equipment would also be compliant with Wisconsin's public records law.

Alternatives: As an alternative to repealing and recreating Chapter GAB 7, the Board could do nothing, leaving those rules unchanged.

Pros: Such alternative would free more time for G.A.B. staff members to attend to other duties and tasks of the agency.

Cons: Such alternative would perpetuate the existing, out-of-date, measures regarding the testing and approval of the various electronic voting systems that are increasingly available. Further, as technology continues to advance, the appropriateness and applicability of Chapter GAB 7 worsen. Actual and perceived problems regarding the testing and approval of electronic voting systems will likely become more egregious.

#### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

WIS. STAT. §5.05(1)(f) expressly authorizes the Board to promulgate rules under Chapter 227 of the Wisconsin Statutes “for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.”

WIS. STAT. §5.93 expressly authorizes the Board to “promulgate reasonable rules for the administration of this [Electronic Voting Systems] subchapter.”

WIS. STAT. §227.11(2)(a) expressly authorizes the Board to promulgate rules to interpret the provisions of statutes that the Board enforces or administers.

#### **5. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

300-350 hours.

#### **6. List with description of all entities that may be affected by the proposed rule :**

This rule will affect manufacturers and vendors of electronic voting equipment, as well as county and municipal election officials.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

The Help America Vote Act of 2002 (“HAVA”) establishes a process for testing electronic voting systems by accredited laboratories and certification by the federal Elections Assistance Commission. States may adopt the testing results and certification guidelines used by the Commission. Current administrative rules and Board procedures rely on the federal testing and certification process. The Board supplements the federal process with functional testing to ensure that voting systems comply with Wisconsin election laws and infrastructure. Federal procedures are functionally consistent with current Board processes and practices.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated economic impact from the implementation of the proposed rule is minimal to none. Equipment manufacturers and vendors are already required to pay all costs related to the Board’s testing and approval of electronic voting equipment. The proposed rule would incorporate current procedures used by equipment manufacturers and the Board as part of the testing and approval protocols. The proposed rule would not have a significant economic impact on small businesses.

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