

98-051 - ELEC BD 6.05 ELEC CTROL  
FILING - CAMPAIGN REPORTS

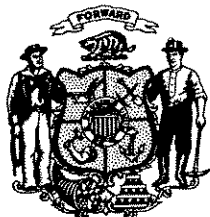
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

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**CLEARINGHOUSE REPORT TO AGENCY**

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[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 98-051**

AN ORDER to create EIBd 6.05, relating to filing campaign finance reports in electronic format.

Submitted by **ELECTIONS BOARD**

03-30-98      RECEIVED BY LEGISLATIVE COUNCIL.  
04-24-98      REPORT SENT TO AGENCY.

RS:SPH:jt;kjf

**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)]

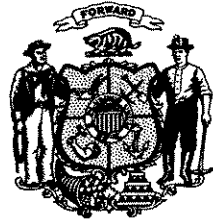
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 98-051

### 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 October 1994.]**

#### 1. Statutory Authority

a. As of the date of submission of this rule to the Clearinghouse, the statutes interpreted (i.e., statutes affected by 1997 Assembly Bill 150, as passed by the Legislature) had not been signed into law by the Governor. Thus, the rule revision and its submission to the Clearinghouse is premature. However, comments are provided to assist the agency and expedite the process, based on the assumption that the legislation will be signed into law.

b. The enabling legislation for this rule, 1997 Assembly Bill 150, includes an initial applicability provision stating that the Act first applies with respect to campaign finance reports that are required to be filed after June 30, 1999. Section EIBd 6.05 (2) uses the phrase "Beginning with any campaign finance report filed on or after January 1, 1999." This phrase should be revised to comport with the initial applicability provision of Assembly Bill 150.

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

a. Consistent with the suggestion in the Manual, the proposed definitions of "contributions" and "registrant," which cross-reference statutory definitions, should use the connecting phrase "given in" rather than "as provided in." Also, in s. EIBd 6.05 (1) (intro.), the phrase "Definitions: as used in this rule:" should be replaced by the phrase "In this section:".

b. The definition of "campaign period" in the rule is a restatement of the definition of "campaign period" in s. 11.21 (16), Stats. Consistent with the treatment of the definitions of

“contribution” and “registrant,” “campaign period” should be defined as having “. . . the meaning given in s. 11.21 (16), Stats.” The advantage of cross-referencing a statutorily defined term is that it may not be necessary to revise the rule should a change be made in the statutory definition.

c. Neither the definition of “electronic format” nor the substantive provisions of the rule are responsive to s. 11.21 (16), Stats., which requires the Elections Board to “specify, by rule, a type of software that is suitable for compliance with the electronic filing requirement under this subsection.” Although a definition of “electronic format” may be useful, it is not an adequate substitute for a substantive rule provision specifying the type of software that is suitable.

d. In s. EIBd 6.05 (1) (f), both occurrences of the word “and” should be replaced by the word “or.”

e. In s. EIBd 6.05 (2), it appears that the phrase “campaign finance report that is required to be filed by ch. 11, Stats.,” should be replaced by the defined term “report.” See also the use of the phrase “campaign finance report” in subs. (3) and (4).

f. Section EIBd 6.05 (5) deals with the authority of a registrant to use its own software to file electronically. This provision should be restated to more clearly express the concept that a registrant must use a type of software specified as approved by the Elections Board unless the board specifically authorizes the use of other software submitted by a registrant to the board for testing. Although this result is obviously intended by sub. (5), this provision does not clearly express the concept that only approved software may be used, unless the board evaluates and determines that software not previously specified as approved by the board is capable of generating data in a format suitable to the board. Finally, the word “must” should be replaced by the word “shall.”

g. A review of the arrangement of subsections of the rule leads to the conclusion that s. EIBd 6.05 (6), relating to filing of a paper copy of the report filed electronically, is out of place. A more logical placement would be after subs. (2) and (3), relating to the requirement and authority to file a campaign finance report in an electronic format.

NOTICE OF PROPOSED RULE

STATE ELECTIONS BOARD

NOTICE IS HEREBY GIVEN that pursuant to ss.5.05(1)(f) and 227.11(2)(a), Stats., and interpreting ss.11.21(2), 11.21(9), 11.21(16), 11.31(6) and 20.510(1)(i), Stats., and according to the procedure set forth in s.227.17, Stats., the State of Wisconsin Elections Board will hold a public hearing on the adoption of the rule proposed in this notice on Wednesday, May 13, 1998, beginning at 9:30 a.m., in the G.A.R. Memorial Conference Room on the Fourth Floor of the Wisconsin State Capitol to consider creation of EIBd 6.05, relating to filing campaign finance reports in electronic format .

ANALYSIS PREPARED BY STATE ELECTIONS BOARD:

Statutory authority: ss.5.05(1)(f) and 227.11(2)(a)

Statutes interpreted: ss.11.21(2), 11.21(9), 11.21(16), 11.31(6) and 20.510(1)(i)

This rule interprets ss.11. 21(2), 11.21(9), 11.21(16), 11.31(6) and 20.510(1)(i), Stats. The rule provides standards for those registrants who are required to file campaign finance reports in electronic format and those registrants who may elect to file campaign finance reports in electronic format. The rule requires the registrant to use the Elections Board's software or use software that is compatible with the Board's campaign finance data base. The rule further requires registrants who file electronically to also file a hard copy of their reports.

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss.5.05(1)(f) and 227.(11)(2)(a), Stats., the Elections Board hereby creates Rule EIBd 6.05 interpreting ss.11. 21(2), 11.21(9), 11.21(16), 11.31(6) and 20.510(1)(i), Stats., as follows:

SECTION 1. EIBd 6.05 is created to read:

ELBD 6.05 FILING CAMPAIGN FINANCE REPORTS IN ELECTRONIC FORMAT

(1) Definitions: As used in this rule:

(a) "Campaign period" for a candidate, personal campaign committee or support committee has the same meaning as provided in s.11.26(17), Stats., and for any other registrant begins on January 1 of an odd-numbered year and ends on December 31 of the following year.

(b) "Contribution" has the same meaning as provided in s.11.01(6), Stats.

(c) "Electronic format" means computer diskette, modem, or other means of electronic transfer, using either software designated by the board or software that meets the board's specifications for a standard file format.

(d) "Filing officer" means the state elections board.

(e) "Registrant" has the same meaning <sup>given</sup> as provided in s.11.01(18m), Stats.

(f) "Report" means any filing required by ss.11.05, 11.06, 11.12(5) and (6), 11.20, ~~or~~ ~~and~~ 11.23, Stats.

(2) Beginning with any campaign finance report filed on or after January 1, 1999, covering activity on or after January 1, 1999, any registrant who files with the state elections board and who accepts contributions or makes disbursements in a total amount or value of \$20,000 or more during a campaign period shall file each ~~campaign finance~~ report ~~that is required to be filed by Chapter 11, Stats.~~, in an electronic format.

(3) Beginning with the Fall 1998 preprimary report, covering activity from July 1, 1998, through the close of the reporting period, any registrant not required to file reports electronically may elect to file any ~~campaign finance~~ report in an electronic format.

(4) Any ~~campaign finance~~ report filed in an electronic format shall be transmitted in time to be received by the filing officer no later than the time provided by law for filing the report.

(5) If a registrant uses its own software to file electronically, it must submit a trial report to the board before the end of the report period to determine if the software can generate a report in a format that is compatible with the board's campaign finance data base.

(6) Each registrant who files a report in an electronic format shall file, with the filing officer, a paper copy of the report that complies with the format set forth in Forms EB-2, EB-3, EB-7, EB-10, EB-12 or EB-24. The paper copy of the report shall be signed by an individual authorized by the registrant to file and filed no later than the time prescribed by law for filing the report.

#### INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

#### FISCAL ESTIMATE:

The creation of this rule does not affect business.

#### CONTACT PERSON:

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Proposed Rule EIBd 6.05  
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The creation of this rule will take effect on the first day of the month following its publication in the Wisconsin Administrative Register pursuant to s.227.22(2), Stats.

Dated March 27, 1998

*Kevin J. Kennedy*  
per KEVIN J. KENNEDY  
Executive Director  
State Elections Board