

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Campaigns &  
Elections  
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

- > 05hr\_AC-Ed\_RCP\_pt01a
- > 05hr\_AC-Ed\_RCP\_pt01b
- > 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

> Committee Hearings ... CH (Public Hearing Announcements)

> \*\*

> Committee Reports ... CR

> \*\*

> Executive Sessions ... ES

> \*\*

> Record of Comm. Proceedings ... RCP

> \*\*

*Information Collected For Or  
Against Proposal*

> Appointments ... Appt

> \*\*

> Clearinghouse Rules ... CRule

**01hr\_CRule\_00-153\_AC-CE\_pt01**

> Hearing Records ... HR (bills and resolutions)

> \*\*

> Miscellaneous ... Misc

> \*\*

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 3/1/01  
 Moved by: Radwicz Seconded by: Jeff Fitzgerald  
 Clearinghouse Rule: 00-153  
 Appointment: \_\_\_\_\_  
 Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence
  - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Stephen Freese, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocar	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	_____	_____	_____	_____

Formal request to modify rule to address -

- Sec (7) 1- page numbering not invalidating ballot
  - Sec. (4) 2- 24 hour delivery option by Elections Bd w/ fee
- Recommend the EB require the complainant provide 2 copies of complaint

Motion Carried  Motion Failed

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 3/15/01  
Moved by: Stovis Seconded by: Freese  
Clearinghouse Rule: 00-153  
AB: \_\_\_\_\_ SB: \_\_\_\_\_ Appointment: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Other: \_\_\_\_\_  
AR: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>	_____	_____

*Motion option 2 on CR 00-153*

Motion Carried       Motion Failed

Option 1

MOTION

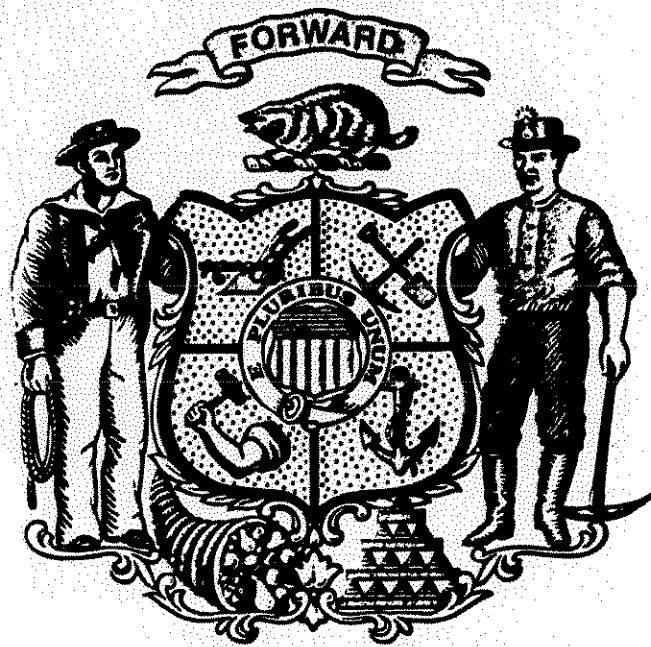
Move that the Assembly Committee on Campaigns and Elections objects to the following provisions of Clearinghouse Rule 00-153: (1) the modification made to s. ElBd 2.07 (2) (a), which requires that a copy of the complaint be delivered to the respondent within 24 hours of the complaint being filed; and (2) the modification made to s. ElBd 2.05 (2), which requires that nomination papers be sequentially numbered. This objection is based on s. 227.19 (4) (d) 6., Stats., in that the requirements to deliver a copy of the complaint to the respondent within 24 hours and to sequentially number the nomination papers are arbitrary and capricious and impose undue hardships on nomination paper filers and complainants.

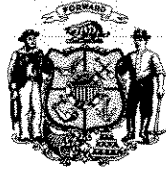
Option 2

*adopted 6-0*

MOTION

Move that the Assembly Committee on Campaigns and Elections request that the Elections Board modify the following provisions of Clearinghouse Rule 00-153 to address concerns raised at the Committee's March 1, 2001 hearing: (1) the modification made to s. ElBd 2.07 (2) (a), which requires that a copy of the complaint be delivered to the respondent within 24 hours of the complaint being filed; and (2) the modification made to s. ElBd 2.05 (2), which requires that nomination papers be sequentially numbered. If the Elections Board does not notify the Assembly Committee on Campaigns and Elections, by 4 p.m. on March 23, 2001, that the Board agrees to modify the rule, this motion becomes an objection to said portions of the rule based on s. 227.19 (4) (d) 6., Stats., in that the requirements to deliver a copy of the complaint to the respondent within 24 hours and to sequentially number nomination papers are arbitrary and capricious and impose undue hardships on nomination paper filers and complainants.





Rep. Steve Freese, Chair  
Campaigns & Elections  
115 W

Wisconsin Speaker Pro Tempore  
**Representative Stephen J. Freese**

TO: Members of the Assembly Campaigns and Elections Committee  
  
Rep. Bonnie Ladwig, Vice-Chair                      Rep. David Travis  
Rep. Jeff Stone    Rep. Mark Pocan  
Rep. Jeff Fitzgerald

FROM: Representative Stephen Freese, Chair

DATE: January 25, 2001

RE: Clearinghouse Rule 00-153

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On January 25, 2001, the following clearinghouse rule was referred to the Assembly Campaigns and Elections Committee:

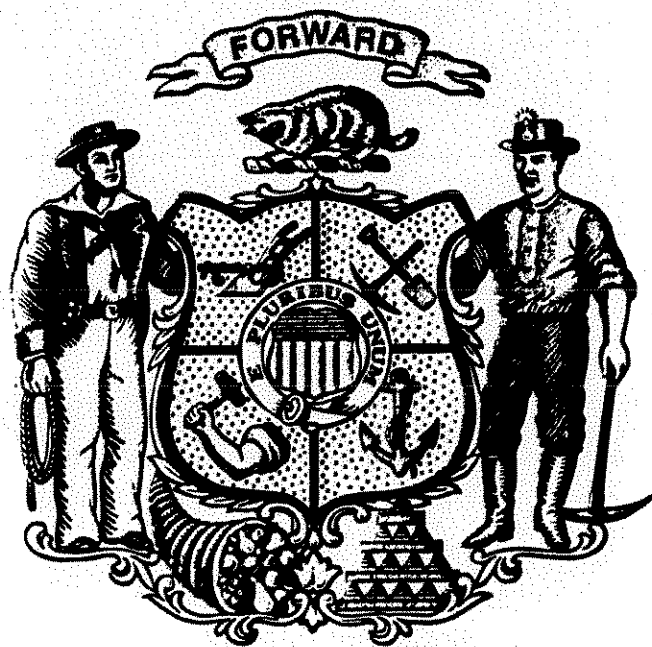
**Clearinghouse Rule 00-153**, relating to sufficiency of nominations papers.

The deadline for committee action on this rule is **February 24, 2001**. If you would like a copy of the rule, please contact Terri Griffiths in my office at 266-7502. If you are interested in requesting a hearing and/or submitting comments, please do so prior to the deadline date.

Attached is the rule for your reference.

***Fifty-First Assembly District***

Capitol Office: P.O. Box 8952 • Madison, Wisconsin 53708-8952  
(608) 266-7502 • Toll-Free: (888) 534-0051 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us  
District: 310 E. North • Dodgeville, Wisconsin 53533 • (608) 935-3789



# State of Wisconsin \ Elections Board

Post Office Box 2973  
132 East Wilson Street, 2<sup>nd</sup> Floor  
Madison, WI 53701-2973  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: seb@seb.state.wi.us  
http://elections.state.wi.us



JOHN P. SAVAGE  
Chairperson

KEVIN J. KENNEDY  
Executive Director

---

**DATE:** March 6, 2001  
**TO:** Assembly Committee on Campaigns and Elections  
**FROM:** Kevin J. Kennedy, George A. Dunst  
**SUBJECT:** Clearinghouse Rule 00-153

At the hearing on the proposed changes to the Elections Board rules relating to preparation of nomination papers and nomination paper challenges, committee members requested that the Elections Board address some concerns raised by committee members. The Elections Board staff has developed some recommendations.

The first change adds a sentence in Section 1 at the end of paragraph 4. The sentence makes it clear that the failure to list a page number will not invalidate any signatures on the nomination paper.

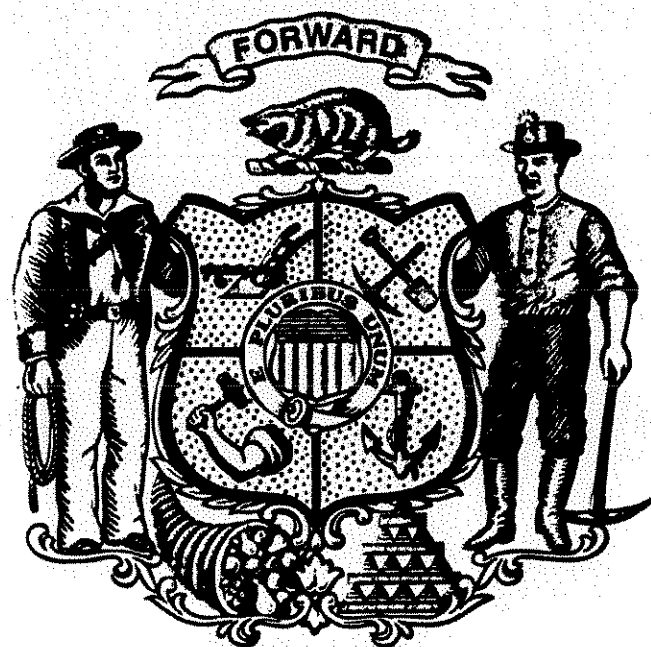
The second change requires the complainant filing a challenge to nomination papers to file an original and one copy of the challenge complaint. The filing officer is required to make arrangements to deliver a copy of the challenge complaint to the challenged candidate within 24 hours of receipt of the challenge. This places a burden on local filing officers as well as the Elections Board staff to ensure prompt delivery of the challenge.

If these changes address the concerns of committee members the staff will present them to the Elections Board at its next meeting. A copy of the rule with the proposed changes is included with this memorandum.

C: Senator Judy Robson

G:Dunst.Rules.amend.2.05.Ass.Comm.







Wisconsin Speaker Pro Tempore  
**Representative Stephen J. Freese**

March 25, 2001

Kevin Kennedy, Executive Director  
State Elections Board  
PO Box 2973  
Madison, WI 53701-2973

Dear Kevin,

Today the Assembly Committee on Campaigns & Elections voted to request the State Elections Board modify provisions of Clearinghouse Rule 00-153 to address concerns raised at the Committee's March 1, 2001 hearing:

- (1) the modification made to s. EIBd 2.07 (2) (a), which requires that a copy of the complaint be delivered to the respondent within 24 hours of the complaint being filed; and
- (2) the modification made to s. EIBd 2.05 (2), which requires that nomination papers be sequentially numbered. If the Elections Board does not notify the Assembly Committee on Campaigns and Elections, by 4 p.m. on March 23, 2001, that the Board agrees to modify the rule, this motion becomes an objection to said portions of the rule based on s. 227.19 (4) (d) 6., Stats., in that the requirements to deliver a copy of the complaint to the respondent within 24 hours and to sequentially number nomination papers are arbitrary and capricious and impose undue hardships on nomination paper filers and complainants.

Thank you for your consideration of the Committee's request.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen J. Freese".

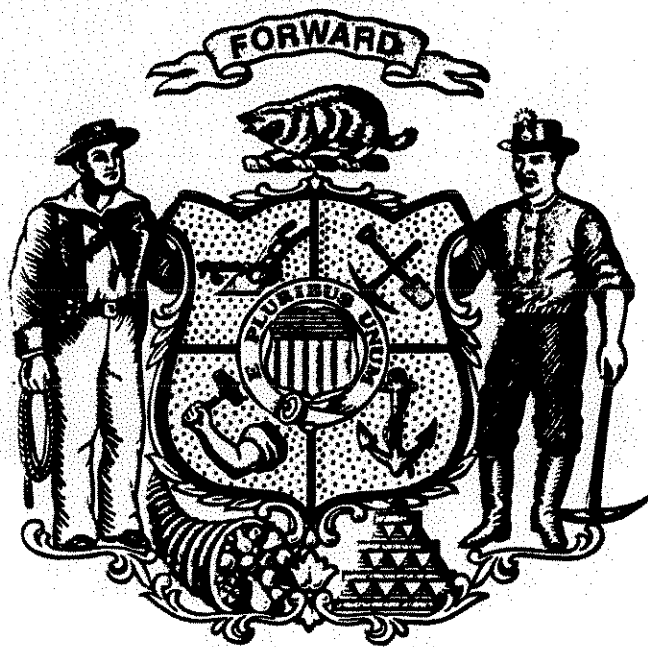
STEPHEN J. FREESE  
State Representative  
Chair  
Assembly Committee on Campaigns & Elections

/tsg

c: Sen. Gary George

**Fifty-First Assembly District**

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# State of Wisconsin \ Elections Board

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<http://elections.state.wi.us>



JOHN P. SAVAGE  
Chairperson

KEVIN J. KENNEDY  
Executive Director

April 30, 2001

Honorable Stephen J. Freese, Chair  
Assembly Committee on Campaigns and Elections  
115 West, State Capitol  
Madison, WI 53702


Dear Representative Freese:

This letter confirms the information I provided you following the Elections Board meeting on March 21, 2001 concerning Clearing House Rule 00-153. In response to the request of the Assembly Committee on Campaigns and Elections, the Elections Board agreed to make the following changes:

1. Add a provision to EIBd 2.05 (2) that provides that the filing officer will accept nomination papers even if the papers are not sequentially numbered.
2. Provide that the filing officer shall make arrangements to deliver a copy of the nomination paper challenge to the challenged candidate and may collect a fee to cover the cost of delivery.
3. Add a provision to EIBd 2.07 (2) (a) that provides that the filing officer will accept a nomination paper challenge even if the complainant does not provide a copy of the challenge along with the original challenge.

I have enclosed a copy of Clearing House Rule 00-153 with the changes approved by the State Elections Board. If you or members of the Assembly Committee on Campaigns and Elections have any questions please contact me.

**State Elections Board**

  
Kevin J. Kennedy  
Executive Director

## WISCONSIN ADMINISTRATIVE CODE

### STATE ELECTIONS BOARD

SECTION 1. EIBd 2.05(2), (4), and (14) are amended to read:

(2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. Each of the nomination papers shall be numbered, before they are filed, and the numbers shall be assigned sequentially, beginning with the number "1". Notwithstanding any other provision of this chapter, the absence of a page number will not invalidate the signatures on that page.

(4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the affidavit-certificate of circulator ~~under oath~~ and does so after, not before, the paper is circulated. No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.

SECTION 2. EIBd 2.05(15) is repealed and the following subsections are re-numbered:

EIBd 2.05(16) is re-numbered EIBd 2.05(15)

EIBd 2.05(17) is re-numbered EIBd 2.05(16)

EIBd 2.05(18) is re-numbered EIBd 2.05(17)

SECTION 3. EIBd 2.05(16)(b) is amended to read

(16)(b) The signature is dated after the date of ~~notarization~~ certification contained in the affidavit certificate of circulator.

SECTION 4. EIBd 2.07(2)(a) and (2)(b) are amended to read:

EIBd 2.07(2)(a) Any challenge to the sufficiency of a nomination paper shall be made by verified complaint, filed with the appropriate filing officer. The complainant shall file both an original and a copy of the challenge at the time of filing the complaint. Notwithstanding any other provision of this chapter, the failure of the complainant to provide the filing officer with a copy of the challenge complaint will not invalidate the challenge complaint. The filing officer shall make arrangements to have a copy of the challenge delivered to the challenged candidate within 24 hours of the filing of the challenge complaint. The filing officer may impose a fee for the cost of photocopying the challenge and for the cost of delivery of the challenge to the respondent.

The form of the complaint, and its filing and its service shall comply with the requirements of ch. EIBd 10. Any challenge to the sufficiency of a nomination paper shall be filed within 3 business calendar days after the filing deadline for the challenged nomination papers. The challenge shall be established by affidavit, or other supporting evidence, demonstrating a failure to comply with statutory or other legal requirements.

(b) The response to a challenge to nomination papers shall be filed, by the candidate challenged, within 3 business calendar days of the filing of the challenge and shall be verified.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

CONTACT PERSON:

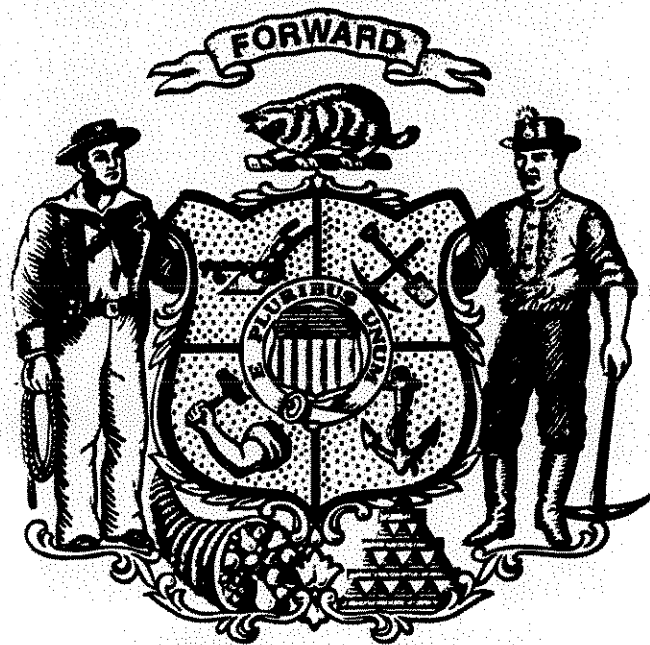
George A. Dunst  
Legal Counsel, State Elections Board  
132 E. Wilson Street, P.O. Box 2973  
Madison, Wisconsin 53701-2973; Phone 266-0136

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 January 19, 2001, (Proposed changes April 27, 2001)

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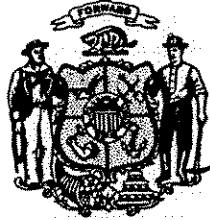
KEVIN J. KENNEDY  
Executive Director



***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**Terry C. Anderson, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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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 00-153**

AN ORDER to repeal ElBd 2.05 (15); to renumber ElBd 2.05 (16), (17) and (18); to amend ElBd 2.05 (2), (14) and (16) (b) and 2.07 (2) (a) and (b); and to create ElBd 2.05 (16) (f), relating to sufficiency of nomination papers.

Submitted by **ELECTIONS BOARD**

11-01-00 RECEIVED BY LEGISLATIVE COUNCIL.  
11-17-00 REPORT SENT TO AGENCY.

RS:RJC;jal;tlu



**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

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
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Assistant Director  
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Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 00-153

### 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 September 1998.]

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

- a. In SECTION 1 of the rule, the title to s. EIBd 2.05 should not be reproduced in the rule.
- b. In SECTION 2 of the rule, the administrative code section number should precede the creation of par. (f). In addition, because par. (f) is being created by the rule, it need not be underscored. Finally, it is not clear that s. EIBd 2.05 (16) (f) is appropriately placed in sub. (16). The introductory provision to sub. (16) provides that: "An individual's signature on a nomination paper may not be counted when any of the following occur:". Paragraph (f) as created by the rule relates to correcting or rehabilitating nomination papers. It appears to be an exception to the introductory provision of sub. (16). Accordingly, it may be more appropriate to renumber sub. (16) (intro.) as sub. (16) (a), renumber pars. (a) to (e) as subds. 1. to 5. and rewrite par. (f) as a new par. (b).
- c. Rule sections are to be treated in sequential order. Therefore, the repeal of s. EIBd 2.05 (15) should precede, in a separate SECTION, the treatment of s. EIBd 2.05 (16).
- d. In SECTION 4 of the rule, the title to s. EIBd 2.07 need not be shown. In addition, the (2) before par. (b) need not be shown. Finally, at the beginning of the text, the notation "EIBd 2.07" should precede (2) (a).

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

In s. EIBd 2.05 (16) (f), the rule refers to "any other rule." Can the rule be made any more specific in terms of which rule provision is being referred to? For example, could the rule be rewritten to provide "notwithstanding any other provision of this chapter"? The rule should be clarified. In addition, the final sentence of par. (f) refers to the "due date for the nomination papers being corrected." When is that date? Is this the time period referred to in s. EIBd 2.07? An appropriate cross-reference should be provided, or the rule should be otherwise clarified.

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

a. In the analysis to the rule, the rule is described as though the rule has already gone into effect. For example, the analysis provides that "nomination papers now are required to be numbered." In order to provide more clarity to the analysis, this sentence and similar sentences should be rewritten to provide that "the rule proposes to . . ." Without such a change, it is not clear what the effect of the rule is vis 'a vis the current rule.

b. In s. EIBd 2.05 (16) (f), the phrase "nomination paper errors in information" is awkward. To improve the clarity of that phrase, might the phrase be rewritten substantially as follows: "errors in information contained in nomination papers"? Also, in the second sentence, both occurrences of the word "must" should be replaced by the word "shall."

c. Current s. EIBd 2.07 (2) (a) requires that service of a complaint challenging nomination papers must comply with the requirements of ch. EIBd 10. The rule deletes this requirement but yet provides that the complaint must be delivered to the respondent within 24 hours of the complaint being filed with the filing officer. What is meant by "delivered"? Is a postmark sufficient? Must the delivery be made personally to the respondent? The rule should be clarified.

d. In s. EIBd 2.07 (2) (b), the current rule contains a comma after the word "challenged." That comma is missing in the rule. If the comma is to be deleted, it should be shown as stricken. However, it is not clear that that comma and the comma after the word "filed" are necessary.

## WISCONSIN ADMINISTRATIVE CODE

### STATE ELECTIONS BOARD

SECTION 1. EIBd 2.05(2), (4), and (14) are amended to read:

(2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. Each of the nomination papers shall be numbered, before they are filed, and the numbers shall be assigned sequentially, beginning with the number "1".

(4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the affidavit-certificate of circulator ~~under oath~~ and does so after, not before, the paper is circulated. No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.

SECTION 2. EIBd 2.05(15) is repealed and the following subsections are re-numbered:

EIBd 2.05(16) is re-numbered EIBd 2.05(15)

EIBd 2.05(17) is re-numbered EIBd 2.05(16)

EIBd 2.05(18) is re-numbered EIBd 2.05(17)

SECTION 3. EIBd 2.05(16)(b) is amended to read

(16)(b) The signature is dated after the date of ~~notarization~~ certification contained in the affidavit certificate of circulator.

SECTION 4. EIBd 2.07(2)(a) and (2)(b) are amended to read:

EIBd 2.07(2)(a) Any challenge to the sufficiency of a nomination paper shall be made by verified complaint, filed with the appropriate filing officer. The complainant shall certify to the filing officer that a copy of the complaint shall be delivered to the respondent within 24 hours of the complaint being filed with the filing officer. Receipt of the complaint by the respondent, or the respondent's

Fed EX  
UPS  
WI [Signature]

agent, constitutes delivery. Receipt of the complaint by the respondent, or the respondent's agent, within 24 hours of the complaint being filed constitutes timely delivery. The form of the complaint, and its filing ~~and its service~~ shall comply with the requirements of ch. EIBd 10. Any challenge to the sufficiency of a nomination paper shall be filed within 3 business calendar days after the filing deadline for the challenged nomination papers. The challenge shall be established by affidavit, or other supporting evidence, demonstrating a failure to comply with statutory or other legal requirements.

(b) The response to a challenge to nomination papers shall be filed, by the candidate challenged, within 3 business calendar days of the filing of the challenge and shall be verified.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

CONTACT PERSON:

George A. Dunst  
Legal Counsel, State Elections Board  
132 E. Wilson Street, P.O. Box 2973  
Madison, Wisconsin 53701-2973; Phone 266-0136

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 January 19, 2001

  
KEVIN J. KENNEDY  
Executive Director

**REPORT**  
**OF**  
**STATE ELECTIONS BOARD**

Clearinghouse Rule 00-153  
Rules Chapter ElBd. 2.05 - 2.07  
Wisconsin Administrative Code

El.Bd. 2.05-2.07

1. Findings of fact:

Sections 8.10, 8.15, 8.20, 8.50 and 9.10, Stats., provide for nominating candidates to elective office through the filing of nomination papers. Sections ElBd 2.05 and 2.07 of the Wisconsin Administrative Code set forth the Elections Board's rules for determining the sufficiency of those nomination papers and for determining the validity of challenges to nomination papers. 1999 Wisconsin Act 182 amended those statutory sections to change the affidavit of the circulator on nomination papers to a certificate of the circulator. The Board found that its rules, ss.2.05 and 2.07 needed to be amended, and that s. ElBd 2.05(15) had to be repealed to reflect the statutory changes. Also, the Board found that its existing practices of allowing errors in nomination papers to be corrected by the filing of a correcting affidavit, and requiring challenges to be filed in three calendar, not business, days needed to be codified.

The rule interprets ss.8.02, 8.04, 8.05(3) and (4), 8.07, 8.10, 8.11, 8.15, 8.20, 8.30, 8.50(3)(a) and 9.10, Stats. The rule proposes clearer standards for filing officers to determine whether nomination papers comply with the requirements of ch. 8 of the Wisconsin Statutes and proposes more specific guidance to candidates and other circulators to enable them to so comply. The old rule was no longer consistent with board policy and practice or with the legislature's having changed the circulator's affidavit to a circulator's certificate. The rule proposes that nomination papers be numbered. The rule also proposes that correctable nomination paper errors may be corrected by the filing of a correcting affidavit within three calendar days of the filing of the nomination papers. Challenge complainants will be required to certify that a copy of their challenge complaint will be delivered to the challenged candidate within 24 hours of their challenge. Receipt of a complaint by a respondent or an agent of the respondent, within 24 hours of the filing of the complaint, will constitute timely delivery. Both challenge complainants and respondents will be given three calendar days, not business days, in which to file their pleadings.

2. Conclusion and recommended action:

The State Elections Board unanimously concludes that ss.ElBd. 2.05 and 2.07 should be amended as described and 2.05(15) should be repealed. The amendment to these rules is necessary to conform the rules to statutory changes and to existing Elections Board practices. The Board recommends promulgation of this rule.

3. Explanations of modifications to the proposed rule:

The State Elections Board makes no substantive modifications to this rule.

4. List of persons appearing at the public hearing:

No public hearing was held. The rule was submitted pursuant to the 30-day notice procedure of s.227.16(2)(e), Stats. No person who will be affected by the rule filed a petition for a public hearing within the 30-day period provided by that statute.

5. Response to Legislative Council staff report:

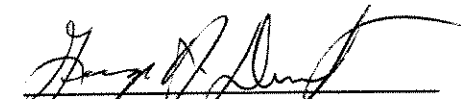
The State Elections Board adopts the Legislative Council's staff's comments and has incorporated the suggested changes in the rule with the following exception:

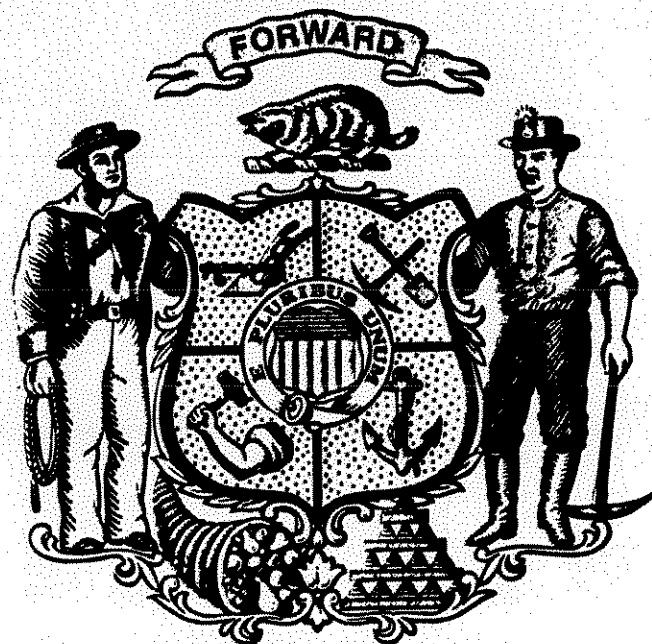
The proposed rule has been amended to require that a challenge complainant shall certify to the filing officer that a copy of the challenge complaint will be delivered to the respondent within 24 hours of the filing of the complaint. The rule proposes to define the term delivery as receipt by the respondent or the respondent's agent and proposes that timely delivery is receipt by the respondent, or the respondent's agent, within 24 hours of the filing of the complaint.

Respectfully submitted,

January 19, 2001

**STATE ELECTIONS BOARD**

  
George A. Dunst  
Legal Counsel





Settled  
to this good.  
Travis wants hrg.  
on this rule

Notice for  
March 1<sup>st</sup>  
out before 2/24