

Clearinghouse Rule 17-042

PROPOSED ORDER ADOPTING RULE Wisconsin Elections Commission

The Wisconsin Elections Commission proposes an order to repeal EL Ch. 21.

FINDING OF EMERGENCY:

The Wisconsin Elections Commission proposes to repeal EL Ch. 21. EL Ch. 21 transferred to the Commission effective June 30, 2016 when the election responsibilities of the Government Accountability Board were transferred to the Commission. The procedures outlined in the rule are superseded by Wis. Stat. § 5.05(6a). A permanent repeal of this rule will be pursued by the Commission using the same Statement of Scope.

ANALYSIS PREPARED BY WISCONSIN ELECTIONS COMMISSION:

1. **Statutes interpreted:** ss. 5.05(6a), Stats.
2. **Statutory authority:** ss. 5.05(1)(f), 227.11(2)(a), Stats.
3. **Explanation of agency authority:** The Elections Commission has the responsibility for the administration of election laws and other law relating to elections and election campaigns, other than laws relating to campaign financing. s. 5.05 (1), Stats. Pursuant to such responsibility, the Elections Commission 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 election campaigns, other than campaign financing, or ensuring their proper administration.” s. 5.05(1)(f), Stats. The Elections Commission “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.
4. **Related statute(s) or rule(s):** Wisconsin Statutes s. 5.05(6a) outlines the process for the Commission and the Commission Administrator to provide formal and informal advisory opinions on subject matter covered by chs. 5 to 10 or 12, Stats.
5. **Plain language analysis:** Current EL Ch. 21 was originally a State Ethics Board rule that transferred to the Government Accountability Board and was then split out and placed in both the Ethics Commission and Ethics Commission’s chapters on June 30, 2016. The Elections Commission rarely issues formal or informal advisory opinions on its subject matter, but if it did, it would follow the procedures set forth in Wis. Stat. § 5.05(6a). There is nothing

in current EL Ch. 21 that is relevant to the process set forth in Wis. Stat. § 5.05(6a). Therefore EL Ch. 21 should be repealed.

6. **Summary of, and comparison with, existing or proposed federal regulations:** Not applicable, repealing rule in entirety.
7. **Comparison with rules in adjacent states:** Not applicable, repealing current rule in entirety.
8. **Summary of factual data and analytical methodologies:** Adoption of this rule was not predicated on any factual data or analytical methodologies. As part of the transition from the Government Accountability Board to the Wisconsin Elections Commission, the plan called for transferring GAB Ch. 21 in its entirety to the Wisconsin Elections Commission and rename it EL Ch. 21. Upon transfer, portions of the rule that no longer applied to the Wisconsin Elections Commission were to be removed. EL Ch. 21 should be repealed in its entirety.
9. **Analysis and supporting documentation used to determine effect on small businesses:** There will be no impact on small business.
10. **Effect on small business:** The creation of this rule does not affect small business.
11. **Agency contact person:** Nathan W. Judnic, Legal Counsel, Wisconsin Elections Commission, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 267-0953; nathan.judnic@wisconsin.gov
12. **Submission of written comments:** Comments may be submitted by mail or email to the above contact or to the Wisconsin Elections Commission generally, 212 E. Washington Ave., 3rd Floor, P.O. Box 2973, Madison, WI 53701-2973; or sent by email to elections@wi.gov. Comments may also be submitted to the Wisconsin Elections Commission using the Wisconsin Administrative Rules website at: <http://adminrules.wisconsin.gov>.

Comments on this rule will be accepted until close of business on June 19, 2017.

TEXT OF PROPOSED RULE:

SECTION 1. EL Ch. 21 is repealed.

SECTION 2. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22, Stats.

