

ORDER
OF
STATE ELECTIONS BOARD

The Wisconsin State Elections Board proposes an order to create Chapter EIBd 11, relating to the training and certification of election inspectors.

ANALYSIS PREPARED BY THE STATE ELECTIONS BOARD:

1. Statutory authority: ss.5.05(1)(f), s.5.93, and 227.11(2)(a)
2. Statutes interpreted: ss.7.30, 7.31, 7.33, 7.36, and 7.37, Stats.
3. Explanation of agency authority: The rule implements s.7.31, Stats., which requires the Elections Board to develop and implement a training and certification program for the chief election inspectors who are responsible for the conduct of elections at Wisconsin polling places.

In Wisconsin, 2001 Wisconsin Act 16 requires the Elections Board to develop and implement a training and certification program for the chief election inspectors who are responsible for the conduct of elections at Wisconsin polling places. To implement the training program, the Elections Board's staff has drafted a set of administrative rules regarding qualification and certification as a chief election inspector. Although the rule is required to be in place immediately, the state's fiscal crisis has delayed the Board's ability to implement the training and certification of the estimated 5000 chief inspectors. Adoption of the rules regarding training and certification is one of the steps in implementation of the statute's command. Training of chief inspectors has already commenced in 2004. Further training and certification continues.

4. Related statute or rule: The rule interprets ss.7.30, 7.31, 7.33, 7.36, and 7.37, Stats., all of which relate to election inspectors or election officials and the training thereof.
5. Plain language analysis: The rule establishes the procedure for, and the method by which, chief election inspectors are certified to preside at polling places throughout Wisconsin.

Elections in the State of Wisconsin are conducted at an estimated 2800 polling places. Supervision of voting at each polling place is under the direction of the election inspectors and, particularly, the chief election inspector, appointed to serve that polling place.

6. Summary of, and comparison with, existing or proposed federal regulations: Although federal law does not have a comparable provision for the training of poll workers, federal law - the Help America Vote Act of 2002 or "HAVA," (Public Law 107-252, Oct. 29, 2002) – has mandated the training of election officials and poll workers in each of the 50 states. Under HAVA, each state receiving federal funds to improve the administration of elections in the state has to develop a plan that includes "programs for election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III" (of the Act). The State of Wisconsin has developed and is implementing such a plan.

7. Comparison with rules in adjacent states: The States of Illinois, Iowa, Michigan and Minnesota each has a statute that requires that persons who conduct elections at polling places (election judges, election inspectors or precinct officials) must receive training on a regular basis. Although Illinois requires certification, the other states only require attendance. Each state accepting federal money under the Help America Vote Act is required to provide, in its state plan, for training and educating the persons who conduct voting at polling places in the state.

8. Summary of factual data and analytical methodologies: Adoption of the rule was predicated on federal and state mandate rather than on any factual data or analytical methodology.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Preparation of an economic impact report is not required. The Elections Board does not anticipate adoption of rules that will have an economic impact.

10. Effect on small business: The creation of this rule does not affect business.

11. Agency contact person (including e-mail and telephone): George A. Dunst
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12. Place where comments are to be submitted and deadline for submission: State Elections Board, 17 West Main Street, P.O. Box 2973, Madison, WI 53701-2973; (elections.state.wi.us)

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss.5.05(1)(f), 5.93 and 227.(11)(2)(a), Stats., the Elections Board proposes to create chapter ELBd 11, interpreting ss. 7.30, 7.31, 7.33, 7.36, and 7.37, Stats., as follows:

SECTION 1. Chapter ELBd 11 is created to read:

CHAPTER ELBD 11
TRAINING AND CERTIFICATION OF ELECTION INSPECTORS

ElBd 11.01 Certification requirement (1) At each polling place in each municipality in Wisconsin, there shall be a chief election inspector, under s.7.30(6)(b), Stats., who shall be certified by the elections board pursuant to s.7.31, Stats.

(2) Certification and maintenance of certification of chief election inspectors shall follow the standards set forth in this chapter.

(3) A record of each individual that has been certified by the elections board as a chief election inspector for a municipality, under the standards established by this chapter, shall be maintained by the municipality's clerk or board of election commissioners.

ElBd 11.02 Qualification (1) Individuals who have been, or will be, appointed chief election inspector, pursuant to s.7.30(6)(b), Stats., shall be certified by the elections board.

(2) Before they may be certified as a chief election inspector, applicants shall complete an initial training course conducted under the direction of the elections board staff.

(3) Each chief election inspector's certificate shall expire at the end of the term for which that inspector has been appointed unless the certificate has been renewed before expiration. A chief election inspector's certificate may be revoked by the municipal clerk when the inspector is removed from office pursuant to the provisions of s.7.30(6)(c), Stats.

ElBd 11.03 Certification maintenance. (1) To maintain certification as a chief election inspector, an individual shall, during the individual's term of office, attend at least six (6) hours of training approved for certification by the elections board's executive director.

(2) Compliance with the approved training required by sub.(1) may consist of attendance at any combination of the following chief election inspector certification-training courses that have been approved by the elections board's executive director:

(a) An approved training course for chief election inspectors conducted under the direction of the elections board's staff.

(b) An approved training course for chief election inspectors conducted by the elections board's staff at a meeting of the Wisconsin County Clerks Association, Wisconsin Municipal Clerks Association, Wisconsin Towns Association or the League of Wisconsin Municipalities.

- (c) An approved training course for chief election inspectors conducted by the elections board's staff through the University of Wisconsin Extension Local Government Center WISLINE Series.
- (d) An approved training course for chief election inspectors conducted by a municipal clerk or municipal board of election commissioners pursuant to s.7.15(1)(e), Stats.
- (e) An approved training course for chief election inspectors at a regional or national conference of a professional organization that serves election officials.
- (f) Any other chief election inspector certification-training course that has been approved by the elections board's executive director.

(3) To maintain certification, an individual shall provide to the municipal clerk or municipal board of election commissioners satisfactory proof of completion of an approved certification-training course for chief election inspectors, listing a description of the approved training event, including the date and location of the approved training.

(4) If an individual demonstrates to the clerk or municipal board of election commissioners that he or she has met the maintenance of certification requirements of sub.(1), the clerk or board of election commissioners may renew the certification for the individual's succeeding term.

ElBd 11.04 Election day responsibilities. (1) On election day, the chief election inspector shall state on the inspectors' statement, Form EB-104, that the chief election inspector holds a current certification.

(2) Immediately following each election, the municipal clerk or director of the municipal board of election commissioners shall deliver a copy of the inspectors' statement, Form EB-104, pursuant to the provisions of s.7.51, Stats.

(3) Immediately following each election, the municipal clerk or director of the municipal board of election commissioners shall review each inspectors' statement to ensure compliance with sub.(1) and compliance with s.7.51, Stats.

ElBd 11.05 Certification waiver. In the event of an emergency, after notice to, and approval by, the elections board, the municipal clerk or director of a municipal board of election commissioners may use a non-certified chief inspector at a specified polling place, for that election only, if, because of the emergency, a certified chief election inspector is not available to serve that polling place.

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 May 30, 2007

KEVIN J. KENNEDY
Executive Director