



Wisconsin Ethics Commission

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(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

Report From Agency

REPORT

OF

ETHICS COMMISSION

Clearinghouse Rule 17-036
ETH 6
Wisconsin Administrative Code

The Ethics Commission proposes an order to repeal ETH 6.05 (5) and (6); to renumber ETH 6.04 (1) (a); to amend ETH 6.02 (1) and (2), 6.03, 6.04 (1) (d), (2), (3) (a) and (b), and (4) to (6), and 6.05 (1) (a), (c) and (f) and (2); and to create ETH 6.04 (1) (ag), relating to campaign finance reporting procedures used by the Ethics Commission.

ANALYSIS

1. **Proposed rule:** see proposed order attached immediately following this report.
2. **Statutes interpreted:** ss. 11.0102, 11.0103, 11.0104, 11.0105, 11.0202, 11.0203, 11.0204, 11.0302, 11.0303, 11.0304, 11.0402, 11.0403, 11.0404, 11.0502, 11.0503, 11.0504, 11.0505, 11.0602, 11.0603, 11.0604, 11.0605, 11.0702, 11.0703, 11.0704, 11.0802, 11.0803, 11.0804, 11.0902, 11.0903, 11.0904, 11.1001, 11.1304, 19.46(2).
3. **Statutory authority:** The Ethics Commission has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 11.1304(17), Stats.:

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

Administrator
Brian M. Bell, MPA

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.

(2) Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

4. **Explanation of agency authority:** The Ethics Commission has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19. Each state agency 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.
5. **Related statute(s) or rule(s):** ETH 1.39.
6. **Plain language analysis:** Chapter ETH 6 was created and transferred to the Ethics Commission pursuant to the determination of the Secretary of Administration as directed by 2015 Wisconsin Act 118, Section 266(6). The purpose of this rulemaking is simply to update Chapter ETH 6 to remove language related to the subject matter now under the jurisdiction of the Elections Commission and add relevant statutory references that changed under 2015 Wisconsin Act 117.
7. **Summary of, and comparison with, existing or proposed federal regulations:** There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule. However, similar rules for the FEC require a committee to file all reports electronically if their total contributions or expenditures exceed \$50,000 in a calendar year. 11 CFR 104.18. The FEC does not permit filing by fax. All filings must either be filed electronically, by mail, or by hand-delivery.
8. **Comparison with similar rules in adjacent states:**

Illinois: The Campaign Disclosure Guide published in 2016 states that reports may be submitted facsimile so long as the original record of the document and transmission date are retained by the filer. Neither the Illinois Campaign Disclosure Act of 2016, nor rules of the Illinois State Board of Elections address informal advice given from staff to interested parties.

Iowa: All filing reports are permitted to be sent by facsimile transmission, electronic mail, United States postmark or by hand so long as they are received prior to the due date. IOWA CODE § 68.402(1). In practice the Board issues informal advice on a regular basis and issues declaratory orders when a formal petition is submitted to the Board regarding the applicability of statutes, policies decisions, or orders. IOWA ADMIN. CODE r. 351—12.7(1).

Michigan: State law requires committees that received or expended \$5,000 in the preceding calendar year to file all statements and reports electronically. MICH. COMP. LAWS § 169.218. Staff may issue advice within the parameters of declaratory rulings and interpretive statements already issued at the discretion of the Secretary of State. For matters outside of declaratory rulings, interested persons must submit a request for a new ruling. MICH. COMP. LAWS § 169.215(2).

Minnesota: All campaign finance filings are required electronically, unless a waiver is granted by the Campaign Finance and Public Disclosure Board. Filing electronically allows automatic rejection if filings, reports and registrations are incomplete or incorrect. MINN. STAT. § 10A.025 (2016). Filing by facsimile or electronic transmission has the same force as an original paper document, however the filer is required to maintain an original copy with the date of transmission. MINN. R. 4501.0500 (2006).

9. **Summary of factual data and analytical methodologies:** N/A

10. **Analysis and supporting documentation used to determine effect on small businesses:**
N/A

11. **Effect on small business:** N/A

12. **Agency contact person:**

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(608) 267-0951

13. **Place where comments are to be submitted and deadline for submission:**

Written comments on the proposed rule will be accepted and receive consideration if they are received by June 6, 2017. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; or by email to: eth.rulecomments@wi.gov.

14. **List of persons who appeared or registered for or against the proposed rule at any public hearing held by the agency:** No persons appeared for or against the proposed rule at the hearing held by the agency on June 7, 2017.

15. **Summary of public comments to the proposed rule and the agency's response to the comments:** No public comments were received by the agency.

16. **Explanations of modifications to the proposed rule as a result of the public comments or testimony received at public hearings:** N/A

17. **Legislative Council staff clearinghouse report:** See Clearinghouse report to Agency attached immediately following this report.

18. **Response to Legislative Council staff recommendations in the clearinghouse report:** The Ethics Commission agrees with and adopts the suggested changes presented in the Legislative Council report.