

ORDER OF STATE ELECTIONS BOARD

To amend ss.EIBd. 2.05 and 2.07 and to repeal 2.05(15), all relating to the filing of and challenges to nomination papers.

ANALYSIS:

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

Statutes interpreted: 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

The rule prescribes the standards for filing officers to determine whether nomination papers comply with the requirements of ch. 8 of the Wisconsin Statutes and provides 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 having changed the circulator's affidavit to a circulator's certificate. Nomination papers now are required to be numbered. Also, nomination paper errors that can be corrected must be corrected within three days of the filing of the nomination paper being corrected. Challenge complaints are now required to be delivered within 24 hours of the challenge and both challenge complainants and respondents are given three calendar days, not business days, in which to file their pleadings.

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 amends EIBd 2.05(2) and 2.07(2)(a) and (b) and creates Rule EIBd 2.05(16)(f), interpreting 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., as follows:

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

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 ElBd 2.05(15) is repealed and the following subsections are re-numbered:

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

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

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

SECTION 3. ElBd 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. ElBd 2.07(2)(a) and (2)(b) are amended to read:

ElBd 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. ElBd 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.

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(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.

This rule shall 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 July 20, 2001

Kevin J. Kennedy