

# State of Wisconsin\Government Accountability Board

Post Office Box 2973  
17 West Main Street, Suite 310  
Madison, WI 53701-2973  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: gab@wisconsin.gov  
http://gab.wi.gov



JUDGE THOMAS CANE  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

**WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD**  
**Risser Justice Building, Room 150**  
**120 Martin Luther King Jr., Boulevard**  
**Madison, Wisconsin**  
**January 15, 2009**  
**9:30 a.m.**

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Amended the minutes of the previous meeting to include reference to the blind trust of the husband of Justice Patience Roggensack in the first motion under Section I: Requests for Exemption from Filing Statement of Economic Interests.	2
B. Directed staff to meet with Wisconsin Eye staff regarding a request to help educate candidates about use of Wisconsin Eye content.	2
C. Amended and approved promulgation of GAB 1.28, regarding scope of campaign finance regulation.	3
D. Adopted GAB 6.05, regarding electronic filing of campaign finance reports.	3
E. Approved the 2009 Spring Election Ballot Access Report.	3
F. Adopted a HAVA Check statistical analysis study, its findings and conclusions, and protocol for conducting statewide retroactive "HAVA Checks."	3
G. Endorsed the 2009 Elections Division legislative initiatives.	4
H. Delegated authority to act on various items to the Director and General Counsel.	4
I. Reaffirmed eight guidelines and seven opinions of the former State Ethics Board.	4

**Present:** Judge Michael Brennan, Judge William Eich, Judge Gerald Nichol, Judge Thomas Cane, Judge Victor Manian (via telephone), and Judge Gordon Myse

**Staff present:** Kevin Kennedy, Jonathan Becker, Nat Robinson, David Buerger, Shane Falk, Michael Haas, Barbara Hansen, Sharrie Hauge, Diane Lowe, Dotti Milner, Kyle Richmond, Tommy Winkler, and Sarah Whitt.

**A. Call to order**

Chairman Cane called the meeting to order at 9:41 a.m.

**B. Director's Report of Appropriate Notice of Meeting**

The G.A.B. Director informed the Board that proper notice was given for the meeting.

**C. Selection of Board Officers**

Chairman Cane drew the name of Judge Brennan to be G.A.B Chairman for 2009, and then handed the gavel to Chairman Brennan.

Chairman Brennan then drew the names of Judge Eich to be G.A.B. Vice Chairman and Judge Nichol to be G.A.B. Secretary for 2009.

**D. Approval of Minutes of Previous Meeting**

**MOTION:** Amend the minutes of the December 17, 2008, Government Accountability Board meeting to include reference to the blind trust of the husband of Justice Patience Roggensack in the first motion under Section I: Requests for Exemption from Filing Statement of Economic Interests. Moved by Myse, seconded by Eich. Motion carried.

**MOTION:** Approve the minutes of the December 17, 2008, Government Accountability Board meeting as amended. Moved by Nichol, seconded by Brennan. Motion carried.

**E. Public Comment**

1. **Christopher Long**, president and CEO of Wisconsin Eye, appeared to comment about coverage of the 2008 fall election cycle, and unauthorized use of its program content.

**MOTION:** Direct staff to meet with Wisconsin Eye staff and discuss Mr. Long's request for the G.A.B. to help educate candidates about the use of Wisconsin Eye program content. Moved by Myse, seconded by Cane. Motion carried.

2. **Paul Malischke**, of Madison, appeared to comment about the Elections Division's legislative initiatives report. Materials related to this topic can be found on pages 52-7 of the G.A.B. meeting packet for the January 15, 2009 meeting.
3. **Mike Wittenwyler**, Association of Wisconsin Lobbyists, appeared to comment about the proposed G.A.B review of ethics and lobbying guidelines. Materials related to this topic can be found on pages 63-117 of the G.A.B. meeting packet for the January 15, 2009 meeting.

**F. Review of Proposed Administrative Rule GAB 1.28; Scope of Campaign Finance Regulation**

**MOTION:** Amend proposed text of rule in section (3) to offer the option of either section (3) (a) or section (3) (b). Moved by Myse, seconded by Eich. Motion carried.

**MOTION:** Adopt staff recommendations to approve Notice of Proposed Order Adopting Rule, Notice of Submittal to Legislative Council Clearinghouse, and Notice of Hearing, and to take all other steps necessary to complete promulgation of the amended rule. Moved by Myse, seconded by Eich. Motion carried.

The Chairman recessed the meeting at 11:08 a.m. and reconvened the meeting at 11:25 a.m.

**G. Review of Proposed Emergency Administrative Rule 6.05; Filing campaign finance reports in electronic format**

Jonathan Becker explained the proposed rule. The consensus of the Board was to hold a public hearing on the administrative rule before the next G.A.B. meeting.

**MOTION:** Adopt the proposed rule. Moved by Cane, seconded by Nichol. Motion carried.

**H. Consideration of support for legislative proposals for (1) adequate public financing of Supreme Court campaigns and (2) increased transparency of Government Accountability Board investigations**

Jonathan Becker discussed the topics with the Board. The Board took no action.

**I. Spring 2009, Election Ballot Access Report**

Nat Robinson and Diane Lowe presented the report.

**MOTION:** Approve the ballot access report. Moved by Cane, seconded by Eich. Motion carried.

**MOTION:** Deny request to place multi-jurisdictional municipal judge in Brown County on the ballot. Moved by Nichol, seconded by Eich. Motion carried.

The Chairman recessed the meeting for lunch at 12:14 p.m. and reconvened it at 12:51 p.m.

**J. Update: A Continuing Discussion on “HAVA Checks”**

Nat Robinson and Sarah Whitt presented a statistical study on “HAVA Check,” and a protocol for the G.A.B. staff to perform statewide retroactive HAVA Check procedures.

**MOTION:** Adopt HAVA Check statistical study, its findings, conclusions, and proposed protocol for the retroactive “HAVA Check” procedure.  
Moved by Myse, seconded by Nichol. Motion carried unanimously.

**K. Report on Elections Division Legislative Initiatives**

Mike Haas presented the report.

**MOTION:** Endorse the Elections Division legislative initiatives. Moved by Cane, seconded by Eich. Motion carried.

**L. Delegation of Certain Authority to Director and General Counsel**

**MOTION:** Delegate certain provisions of the Board’s authority to the Director and General Counsel as set out on page 59 of the G.A.B. meeting materials of January 15, 2009. Moved by Myse, seconded by Eich. Motion carried.

**M. Proposed Meeting Date January 2010**

The Chairman tabled this item until later in the meeting.

**N. Review of Select Former State Ethics Board Guidelines and Formal Opinions related to:**

- 1. Ethics Code for State Public Officials**
- 2. Ethics Code for Local Public Officials**
- 3. Lobbying Law**

**MOTION:** Reaffirm Guidelines 211, 231, 234, 237, 245, 250, 252 and 281, and Opinions 2002 Wis Eth Bd 06, 2007 Wis Eth Bd 06, 2007 Wis Eth Bd 14, 1992 Wis Eth Bd 31, 1993 Wis Eth Bd 08, 1196 Wis Eth Bd 10 and 2000 Wis Eth Bd 1, with the understanding that the Board will revisit 1992 Wis Eth Bd 31 in a comprehensive manner. Moved by Cane, seconded by Myse. Motion carried.

**MOTION:** Approve all remaining opinions and guidelines with the exception of 2003 Wis Eth Bd 14. Moved by Myse, seconded by Eich. Motion carried.

The Chairman returned to agenda item M. The consensus of the Board was to meet in January 2010 by teleconference, with the provision that the out-going Chairman be present to draw lots for selection of new Board officers.

**O. Director’s Report**

**Elections Division Report**

(Presented by Nat Robinson, David Buerger and Dotti Milner)

Elections Division Update, study on first year implementation of Statewide Special Registration Deputy Program, and presentation of finalized Accessibility Survey were received for information purposes only. The Board took no action.

**Ethics & Accountability Division Report**  
(Presented by Jonathan Becker)

Report received for information purposes only. The Board took no action.

**Office of the General Counsel Report**  
(Presented by Sharrie Hauge)

Report received for information purposes only. The Board took no action.

**P. Adjourn to closed session to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation.**

**MOTION:** Move to closed session pursuant to Sections 5.05(6a), 19.85(1) (c), (g), (h), and 19.851 Wis. Stats., to consider written requests for advisory opinions, the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation. Moved by Eich, seconded by Cane.

Roll call vote: Brennan:	Aye	Cane:	Aye
Eich:	Aye	Manian:	Aye
Myse:	Aye	Nichol:	Aye

Motion carried.

Hearing no objection, the Chairman called a recess at 3:33 p.m. The Board reconvened in closed session beginning at 3:46 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: None considered or closed.
- B. Investigations: One matter considered.

The meeting adjourned at 4:58 p.m.

###

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday and Tuesday, March 30 and 31, 2009 in the G.A.B. Conference Room, Third Floor, 212 East Washington Avenue, Madison, Wisconsin.

January 15, 2009 Government Accountability Board meeting minutes prepared by:



\_\_\_\_\_  
Kyle R. Richmond, Public Information Officer

January 21, 2009

\_\_\_\_\_  
Date

January 15, 2009 Government Accountability Board meeting minutes certified by:

\_\_\_\_\_  
Judge Gerald Nichol, Board Secretary

March 30, 2009

\_\_\_\_\_  
Date