

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
Room 150, Risser Justice Building
120 Martin Luther King, Jr. Boulevard.
Madison, Wisconsin
May 5, 2008
9:30 a.m.

Open Session Minutes

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A. <u>Summary of Significant Actions Taken</u>	
B. Adopted a policy regarding complaints and advice.	3
C. Consensus of the Board not to take action at this time regarding “salting” of contributor lists.	3
D. Consensus of Board to make no exception to the lobbying law regarding furnishing something of pecuniary value to a legislative employee.	3
E. Approved proceeding with promulgation of proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.	3
F. Reaffirmed two opinions and one administrative rule pertaining to non-resident committees.	4
G. Reaffirmed ten opinions and eleven administrative rules; modified three opinions; and declined to reaffirm one administrative rule pertaining to campaign finance recordkeeping and reporting.	4
H. Declined to reaffirm one opinion; reaffirmed two administrative rules and modified one administrative rule pertaining to campaign finance registration.	4
I. Reaffirmed four opinions and position articulated in one complaint; and declined to reaffirm four opinions pertaining to ballots.	5
J. Reaffirm five administrative rules and modify one administrative rule pertaining to challenging electors.	5
K. Declined to reaffirm one administrative rule and directed staff to commence development of administrative rules pertaining to polling place observers.	5
L. Reaffirmed three administrative rules and directed staff to commence revision of rules pertaining to voting equipment approval	5

Present: Judge Thomas Cane, Judge Michael Brennan, Judge William Eich, Judge Gerald Nichol

Staff present: Kevin Kennedy, Jonathan Becker, George Dunst, Barbara Hansen, Sharrie Hauge, Ross Hein, Helena Huddleston, Nate Judnic, Diane Lowe, Nat Robinson, Tommy Winkler

A. Call to order

Chairman Cane called the meeting to order at 9:35 a.m.

B. Director's report of appropriate notice of meeting

Kevin Kennedy reported that the meeting had been properly noticed.

C. Approval of minutes of the previous meeting

MOTION: Approve minutes of the March 26, 2008 meeting of the Government Accountability Board.

Moved by Eich, seconded by Brennan. Motion carried.

D. Sign canvass of the April 1, 2008 Spring Elections

Chairman Cane signed canvass of April 1, 2008 Spring Elections certifying the results of the vote on the Referendum on a Proposed Constitutional Amendment Limiting the Governor's Veto Power, Supreme Court, Court of Appeals, and Circuit Court elections.

E. Public Comment

1. **Rob Marchant**, Wisconsin Senate Chief Clerk, appeared to give an overview of the Senate's relationship with the Government Accountability Board.
2. **Paul Malischke**, appeared to comment on Section I – proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.
3. **John Washburn** appeared to comment on Section I – proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security.
4. **Bob Ohlsen**, Dane County Clerk, appeared to comment on ad hoc committee's work on the voting equipment security procedures and to ask the Board to adopt Administrative Rule Chapter 5 as proposed.
5. **Wendy Christensen**, Village of Caledonia appeared to comment on ad hoc committee's work on the voting equipment security procedures and to ask the Board to adopt Administrative Rule Chapter 5 as proposed.

6. **Paul Malischke**, appeared a second time to comment on his suggestions for consideration during the revision of the administrative rules related to Section K7 – Electronic Voting Equipment.

F. Confidentiality of complaints and informal disposition of investigative actions
(Presented by Jonathan Becker)

The unanimous consensus of the Board was to adopt the policy that staff may acknowledge receipt of a complaint when it has been made public to the news media and filed with us. Similarly, staff may acknowledge when we have not received a complaint. Staff may also continue to reflect in the open session of the Board’s minutes, the number of requests for advice and complaints taken up in the closed session.

G. “Salting” – Permitting a candidate to include false entries among reported contributors to help identify improper use of contributor lists (Presented by Jonathan Becker)

The unanimous consensus of the Board was to take no action at this time.

H. Lobbyists making contribution to legislative employee (Presented by Jonathan Becker)

By unanimous consensus, the Board decided that they would not make any exceptions to the rule that a lobbyist may not furnish anything of pecuniary value to a legislative employee and a legislative employee may not accept anything of pecuniary value from a lobbyist.

Hearing no objections, the Chairman called a 20 minute break and reconvened the meeting at 11:40 a.m.

I. Proposed Administrative Rule Chapter 5: Ballot and Electronic Voting Equipment System Security (Presented by Kevin Kennedy and Ross Hein)

MOTION: *The Board directed staff to proceed with promulgation of the proposed administrative rules establishing procedures to ensure the security of ballots and electronic voting systems in Wisconsin.*

Moved by Eich, seconded by Nichol. Motion carried unanimously.

J. Proposed Administrative Rule Chapter 3: Voter Registration (Presented by Kevin Kennedy and Nate Judnic)

Report was made for informational purposes only; the Board took no action.

Hearing no objections, the Chairman called a 30 minute lunch recess and reconvened the meeting at 1:23 p.m.

K. Review of select Elections Board operating procedures, opinions and/or rules:
(Presented by Kevin Kennedy)

K.1.) Non-Resident Committees

MOTION: Board adopted staff recommendation to:
Reaffirm opinions El.Bd. 74-7 and El Bd 75-3; and
Reaffirm administrative rule ElBd. 1.10 with title change.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.2.) Campaign Finance Recordkeeping and Reporting

MOTION: Adopt staff recommendations with regard to Opinion El.Bd. 74-16.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Adopt staff recommendations to modify Opinion El.Bd. 75-5.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Board adopted staff recommendations to:
Reaffirm opinions El.Bd. 74-9, El.Bd.. 74-10(Rev), El.Bd. 74-17, El.Bd. 76-01, El.Bd. 76-13, El.Bd. 77-9, El.Bd. 78-2, El.Bd. 88-3, El.Bd. 00-01, and El.Bd. 01-01; and
Modify opinion El.Bd. 76-4.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 1.05, ElBd 1.11, ElBd1.15, ElBd 1.20, ElBd 1.26, ElBd 1.30, ElBd 1.43, ElBd 1.46, ElBd 1.56, ElBd 1.60, and ElBd 1.65; and
Decline to reaffirm administrative rule ElBd 1.55.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.3.) Campaign Finance Registration

MOTION: Board adopted staff recommendations to:
Decline to reaffirm opinion El.Bd.74-3;
Reaffirm administrative rules ElBd 1.02, and ElBd 6.02; and
Modify administrative rule ElBd1.41.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.4.) Ballots

MOTION: Board adopted staff recommendations to:
Reaffirm opinions El.Bd. 76-09, El.Bd. 78-14, El.Bd. 79-1, El.Bd. 88-1 and
position articulated in ElBd. Cpt 2005-08; and
Decline to reaffirm opinion El.Bd. 78-16, El.Bd. 78-17, El.Bd. 80-2 and
El.Bd. 87-1.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.5.) Challenging Electors

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 9.01, ElBd 9.02, ElBd 9.04, ElBd 9.05
and ElBd 9.06; and
Modify administrative rule ElBd 9.03 to delete the reference to lever voting
machines.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

K.6.) Polling Place Observers

MOTION: Board adopted staff recommendations to:
Decline to reaffirm administrative rule ElBd 4.01

*Board directed staff to commence the development of administrative rules
that delineate the proper conduct of election observers at the polling place
and other locations where voting is conducted or ballots are processed.
Present to Board for review at their August meeting.*

Moved by Nichol, seconded by Eich. Motion carried unanimously.

K.7.) Voting Equipment Approval

MOTION: Board adopted staff recommendations to:
Reaffirm administrative rules ElBd 7.01, ElBd 7.02, and ElBd 7.03.

*Board directed staff to commence the revision of the administrative rules
relating to the approval of voting equipment to address the concerns raised
by local election officials, Mr. Malischke and the staff. Present to Board for
review at their August meeting.*

Moved by Nichol, seconded by Eich. Motion carried unanimously.

Hearing no objections, the Chairman called a 10 minute break and reconvened the meeting at 2:35 p.m.

L.) Director's Report

Elections Division Report

(Presented by Nathaniel E. Robinson)

Report was presented for informational purposes; the Board took no action.

Ethics and Accountability Division Report

(Presented by Jonathan Becker)

Report was presented for informational purposes; the Board took no action.

Agency Administrative Activities

(Presented by Kevin Kennedy and Sharrie Hauge)

Report was presented for informational purposes; the Board took no action.

M. Move to Closed Session

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; confer with counsel concerning pending litigation; and consider compensation and performance of Legal Counsel.

Moved by Nichol, seconded by Brennan. Motion carried unanimously.

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

Motion carried, 4-0.

The Board went into closed session at 3:15 p.m.

Summary of Significant Actions Taken in Closed Session Meeting

- A. Requests for Advice: Four items considered.
- B. Investigations: Eight items considered; three items closed.

MOTION: Adjourn the meeting.

Moved by Eich, seconded by Nichol. Motion carried unanimously.

The meeting was adjourned at 4:55 p.m.

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The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday, June 9, 2008, in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Boulevard, Madison, Wisconsin.

May 5, 2008 Government Accountability Board meeting minutes prepared by:



Helena Huddleston

May 7, 2008

Date

May 5, 2008 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

June 9, 2008

Date