

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
July 15 and 16, 2008
9:30 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Amended staff advice to state senate candidate regarding give-aways to voters	2
B. Reaffirmed two former Elections Board opinions regarding counting votes and election costs.	3
C. Reaffirmed three elections manuals, and instructed staff to consider future changes for those manuals.	3
D. Reaffirmed 1997 Wis Eth Bd 18 with a further restriction from the Board, and 2006 Wis Eth Bd 6.	3
E. Withdrew a tabled motion to approve a proposed emergency administrative rule permitting certain voters to cast a provisional ballot.	5
F. Approved two staff recommendations to grant, and deny, ballot access to various candidates for the fall ballot.	5
G. Failed to pass a motion granting ballot status to Assembly Candidate John Kimmel.	8

Present: Judge Thomas Cane, Judge Michael Brennan, Judge William Eich, Judge Victor Manian, Judge Gordon Myse, Judge Gerald Nichol

Staff present: Kevin Kennedy, Jonathan Becker, Nat Robinson, Sharrie Hauge, Nathan Judnic and Tommy Winkler

A. Call to order.

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

B. Director's confirmation of appropriate notice of meeting.

The G.A.B. Director informed the Board that a proper notice of meeting was given for the two-day Board meeting. He further indicated the agenda for Wednesday was primarily ballot access issues.

C. Selection of Officers

The Director asked the Chairman to draw by lot the name of a Board member to serve as Secretary. Judge Brennan was chosen as Secretary for the Government Accountability Board.

D. Approval of Minutes of Previous Meeting.

MOTION: Approve the minutes of the June 9, 2008 Government Accountability Board meeting. Moved by Nichol, seconded by Brennan. Motion carried.

E. Public Comment

1. **Brian Kind**, Republican Party of Wisconsin, appeared to comment about public inspection of new voter registrations.
2. **Dan Fields** appeared to request a reversal of G.A.B. staff advice given to Chad Fradette, a 20th State Senate candidate, regarding his giving money to residents in the district related to gas purchases.

MOTION: Instruct to staff to amend advice given to candidate Chad Fradette, requestor of the advice, to inform him that the conduct discussed is improper and may be prosecuted by the District Attorney. Moved by Myse, seconded by Eich. Motion carried.

3. **Paul Malischke**, appeared to comment on Item H on the Board's agenda, the proposed emergency administrative rule relating to provisional ballots, which begins on page 39 of the G.A.B. meeting materials for July 15 and 16, 2008 meeting.
4. **Robert Marchant**, Wisconsin Senate Chief Clerk, appeared to comment on issues related to former Ethics Board opinions and guidelines that arise in the context of Senate operations.
5. **Mike Wittenwyler**, Association of Wisconsin Lobbyists, appeared to comment on a memorandum from Jonathan Becker to Mr. Wittenwyler regarding items of value given to officials, and on the Board's review of previous opinions and guidelines.

Hearing no objections, the Chairman called a lunch break at 11:32 a.m. and reconvened the meeting at 12:05 p.m.

F. Review of select former Elections Board operating procedures, opinions and/or rules related to:

- 1) **Counting Votes**

2) Election Costs

MOTION: Reaffirm two former Elections Board opinions set out on pages 7-8 of the G.A.B. meeting materials. Moved by Myse, seconded by Eich. Motion carried.

3) Election Administration Manuals

MOTION: Reaffirm three elections manuals and instruct staff to consider future additions or changes to pre-election testing and post-election canvassing to be covered in the manuals. Moved by Myse, seconded by Nichol. Motion carried.

G. Review of select former Ethics Board opinions and/or guidelines related to:

- 1) Opinions & guidelines related to campaign activities and contributions (from last meeting)
- 2) Opinions related to soliciting and accepting items and services of substantial value
- 3) Opinions related to improper use of state resources
- 4) Post employment restrictions
- 5) Opinions related to Statements of Economic Interests
- 6) Guidelines related to: office management issues, special considerations for judges and district attorneys, changing jobs and leaving state service, statements of economic interests, general principles and other matters)

The Board came to a consensus that it should receive a list of suggested statutory changes from staff that it can recommend to the Legislature.

MOTION: Modify 1997 Wis Eth Bd18 with the additional restriction that a lobbyist may not ask another or use an agent to transmit or deliver a campaign contribution at a time during which the lobbyist is prohibited from furnishing a contribution.
Moved by Myse, seconded by Eich. Motion carried.

MOTION: Reaffirm 2004 Wis Eth Bd 6, as explained in a memorandum to the Board dated June 18, 2008. Moved by Myse, seconded by Nichol. Motion carried.

MOTION: Adopt staff recommendation for the remaining opinions from the June 9, 2008 G.A.B. meeting. Moved by Nichol, seconded by Eich. Motion carried.

By consensus, the Board decided to postpone action on the opinions presented at the July 15, 2008 Board meeting to the August 28, 2008 Board meeting.

H. Proposed Emergency Administrative Rule Related to Permitting Certain Voters to Cast a Provisional Ballot

(Presented by Nathan Judnic)

MOTION: Approve the proposed emergency administrative rule. Motion by Nichol, second by Manian. After discussion, by consensus the Board tabled the motion and

deferred action until the following day, and asked staff to bring the rule back with proposed amendments.

Hearing no objections, the Chairman called a break at 3:00 p.m. and reconvened the meeting at 3:15 p.m.

I. Director's Report

Elections Division Update – Election administration and SVRS
(Presented by Nat Robinson)

The report was presented for informational purposes only, the Board took no action.

Ethics and Accountability Division Update – Campaign finance, state official financial disclosure, lobbying registration and reporting, contract sunshine.
(Report presented by Jonathan Becker)

The report was presented for informational purposes only; the Board took no action.

Agency Administration and Legal Issues – General administration and orders.
(Report presented by Kevin Kennedy and Sharrie Hauge)

The report was presented for informational purposes only; the Board took no action.

J. Proposed 2009 Meeting Dates

The Board discussed and approved by consensus a draft 2009 meeting calendar

K. 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; confer with counsel concerning pending litigation; and consider compensation and performance of Legal Counsel.
Moved by Eich, seconded by Nichol.

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

Motion carried. The Board convened in closed session beginning at 4:25 p.m.

Summary of Significant Actions Taken in Closed Session

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

The meeting adjourned at 5:44 p.m. until the next day.

Wednesday, July 16, 2008

Return to Open Session

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

Absent: Judge Gordon Myse

Staff Present: Kevin Kennedy, Nat Robinson, Sharrie Hauge, Kyle Brown, David Buerger, George Dunst, , Nate Judnic, Diane Lowe, and Tommy Winkler.

L. Call to Order

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

M. Elections Division Staff Report on Ballot Access Issues for the Fall Election

Prior to the ballot access discussion, Kevin Kennedy, Nat Robinson and Nate Judnic proposed an alternative course to the Board for handling the proposed emergency administrative rule related to permitting certain voters to cast a provisional ballot, discussed the previous day. Staff recommended that action on the proposed rule be postponed until after the November 4, 2008, election. By consensus of the Board, staff is directed turn on the data interface functionality as soon as DOA finishes work on it and report back to the Board about the performance of the "HAVA Check" function during the fall.

MOTION: Withdraw tabled motion to approve staff recommendation for approval of proposed rule. Moved by Nichol, seconded by Eich. Motion carried.

Nat Robinson and Diane Lowe presented a memo on ballot access issues. Staff asked the Board to certify for ballot access those candidates identified as having ballot access status and not to certify those candidates identified as not meeting the requirements for ballot access. (*Memo distributed to Board members at the meeting.*)

MOTION: To approve the list of certified candidates for ballot access status presented by staff. Moved by Nichol, seconded by Eich. Motion carried.

MOTION: To approve a partial list of candidates staff recommends be denied ballot access (Jake Wesenberg, Amy Rapoport, and Andrew McKenzie), on page 3 of the ballot access memo presented to the Board. Moved by Eich, seconded by Brennan. Motion carried.

MOTION: Place candidate Justin Krueger on ballot. Moved by Eich, seconded by Manian. Motion carried.

N. Nomination Paper Challenges
(presented by George Dunst)

- **Fred Risser challenge to the nomination papers of Dennis Denure**

MOTION: Adopt staff recommendation to deny ballot access to Mr. DeNure. Moved by Eich, seconded by Nichol. Motion carried.

- **Jason Fields challenge to the nomination papers of Deion Price**

Attorney Michael Maistelman representing Jason Fields, and Jason Fields, appeared to ask the Board to adopt the staff recommendation.

MOTION: Adopt staff recommendation to deny ballot access to Mr. Price. Moved by Nichol, seconded by Manian. Motion carried.

- **Katie Saarinen challenge to the nomination papers of Nicholas Cosey**

Attorney Michael Maistelman representing Spencer Coggs, and Katie Saarinen of the Democratic Party of Wisconsin, appeared to ask the Board to adopt the staff recommendation.

MOTION: Adopt staff recommendation to deny ballot access to Mr. Cosey. Moved by Eich, seconded by Brennan. Motion carried.

- **Unknown Complainant challenge to the nomination papers of Spencer Coggs**

Attorney Michael Maistelman representing Spencer Coggs, and Spencer Coggs, appeared to ask the Board to rule the complaint frivolous.

MOTION: Adopt staff recommendation to disregard the complaint and place Spencer Coggs' name on ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Laura Manriquez challenge to the nomination papers of Pedro Colon**

Attorney Narciso Aleman representing Laura Manriquez, and Ms. Manriquez, appeared to ask the Board to reject the staff recommendation to place Pedro Colon's name on the ballot.

Attorney David Halbrooks representing Pedro Colon, and Pedro. Colon, appeared to ask the Board to affirm the staff recommendation to place Pedro Colon's name on the ballot.

MOTION: Deny challenge and confirm ballot access for Pedro Colon. Moved by Eich, seconded by Manian. Motion carried.

- **Laura Manriquez challenge to the nomination papers of Jose Guzman**

After discussion with the Board, G.A.B. Attorney George Dunst recommended the complaint be dismissed.

MOTION: Adopt staff recommendation to dismiss the complaint and place Jose Guzman on ballot. Moved by Eich, seconded by Nichol. Motion carried.

The Chairman called a 10 minute recess.

- **Mark Jefferson challenge to the nomination papers of Scott Matthew**

Staff informed the Board that the complaint was withdrawn and recommended Mr. Matthew be placed on the ballot.

MOTION: Place Mr. Matthew on the ballot. Moved by Nichol, seconded by Eich. Motion carried.

- **John Fox challenge to the nomination papers of Jeffery Mursau**

MOTION: Adopt staff recommendation to place Mr. Mursau on ballot. Moved by Nichol, seconded by Manian. Motion carried.

- **Mark Jefferson challenge to the nomination papers of Aaron Onsrud**

Attorney Juston Johnson, representing the Republican Party of Wisconsin, appeared to ask the Board to deny ballot access to Mr. Onsrud.

Aaron Onsrud appeared to ask the Board to dismiss the challenge and place him on the ballot.

MOTION: Dismiss the challenge and place Mr. Onsrud on the ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Christopher Sodergren-Barr challenge to the nomination papers of Mike Hebert**

Christopher Sodergren-Barr appeared to ask the Board to accept the complaint and deny Mr. Hebert ballot access due to the heading on his nomination papers.

Bill Hebert appeared to ask the Board to dismiss the complaint and allow Mike Hebert to appear on the ballot.

MOTION: To dismiss the complaint and allow Mike Hebert to appear on the ballot. Moved by Eich, seconded by Nichol. Motion carried.

- **Corrine Wiesmuller challenge to the nomination papers of Brad Sponholz**

Corrine Wiesmuller appeared to ask the Board to affirm the complaint and deny Mr. Sponholz ballot access.

Brad Sponholz appeared to ask the Board to affirm the staff recommendation to place him on the ballot.

MOTION: To adopt staff recommendation to place Mr. Sponholz on the ballot. Moved by Nichol, seconded by Eich. Motion carried.

- **Judy Reas challenge to the nomination papers of J. Suzanne Murphy**

Jim Smith, representing Judy Reas, appeared to ask the Board to affirm the challenge and deny Ms. Murphy ballot access.

MOTION: To dismiss the complaint and place Ms. Murphy on the ballot. Moved by Eich, seconded by Brennan. Motion carried.

Brian Kind, Republican Party of Wisconsin, appeared to ask the Board to reconsider its decision to table until after the 2008 fall election the emergency administrative rule related to requiring certain voters to cast a provisional ballot.

- **John Kimmel**

The Board reviewed the nomination papers John Kimmel submitted to the G.A.B. Staff presented a statement submitted by Kimmel saying he filed a complete and accurate nomination form, despite omitting the election date.

MOTION: Grant Mr. Kimmel ballot access because the heading of his nomination papers substantially complied with Section 8.15 (5)(a), Wis. Stats. Moved by Eich, seconded by Nichol.

Roll call vote:	Brennan:	No	Cane:	Aye
	Eich:	Aye	Manian:	No
	Nichol:	Aye		

Motion failed, 3-2. (*Actions of the Board require an affirmative vote of at least 4 members. §5.05 (1e), Wis. Stats.*)

O. Certification of Candidates for Fall Election

This item previously dealt with by the Board under section M.

P. Staff Memo, Davis v. FEC

The report was presented for informational purposes only; the Board took no action.

The Board decided by consensus to conduct a two-day meeting on August 27 and 28, 2008.

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	Manian:	Aye
	Nichol:	Aye		

Motion carried, 5-0.

The Board went into closed session at 1:06 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: No items considered.
- B. Investigations: Four items considered; three items closed.

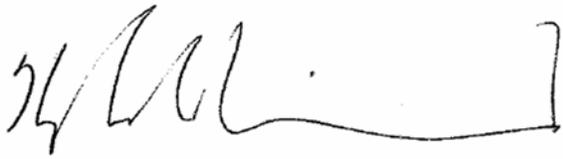
MOTION: Adjourn the meeting.

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

The meeting was adjourned at 2:15 p.m.

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Wednesday, August 27, 2008, and 9:00 a.m Thursday, August 28, 2008 in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Boulevard, Madison, Wisconsin.

July 15 and 16, 2008 Government Accountability Board meeting minutes prepared by:

A handwritten signature in black ink, appearing to read "K. Richmond", written over a horizontal line.

Kyle R. Richmond, Public Information Officer

July 15 and 16, 2008 Government Accountability Board meeting minutes certified by:

Judge Michael Brennan, Board Secretary