

# State of Wisconsin\Government Accountability Board

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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**  
**December 17, 2008**  
**9:30 a.m.**

## Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Granted a request from a public official for an exemption from the requirement to disclose assets contained in a blind trust and denied a request from a second official for an exemption.	2
B. Authorized G.A.B. staff to conduct the four-year voter records maintenance on behalf of Wisconsin municipalities.	3
C. Accepted an interim report on a proposed "HAVA Check" protocol.	3
D. Authorized G.A.B. staff to send a memo to local election officials recommending one of four procedures for maintaining electronic voting equipment records.	3
E. Adopted a procedure for conducting on-site monitoring of electronic voting system security.	4
F. Extended the Board's schedule for review of administrative rules, formal opinions, and internal operating procedures by three months.	4
G. Reaffirmed four formal opinions of the former Elections Board; declined to reaffirm three formal opinions of the former Elections Board; reaffirmed administrative rule GAB 1.39; reaffirmed the reformatted Recall Manual.	4

**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, David Buerger, Shane Falk, Michael Haas, Barbara Hansen, Sharrie Hauge, Ross Hein, Ann Oberle, Kyle Richmond, Sarah Whitt, and Tommy Winkler.

**A. Call to order**

Chairman Cane called the meeting to order at 9:47 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.

**Approval of Minutes of Previous Meeting**

**MOTION:** Approve the minutes of the November 11, 2008, Government Accountability Board meeting. Moved by Nichol, seconded by Eich. Motion carried.

**D. Public Comment**

1. **Donald K. Schott**, representing Justice Patience Roggensack, appeared to comment about the use of blind trusts. Materials related to this topic can be found on pages 35-50 of the G.A.B. meeting packet for the December 17, 2008 meeting.

Board members discussed the issue of blind trusts with Mr. Schott.

Hearing no objection, the Chairman took up Item I out of order.

**I. Requests for Exemption from Filing Statement of Economic Interests**

**MOTION:** Grant an exemption for Justice Patience Roggensack from the requirement that she disclose assets contained in her husband's blind trust and her blind trust on the condition that she disclose the one remaining, unchanged asset currently contained in the trust. This motion was made with the following rationale: 1) The Justice acted in good faith on the advice of the former Ethics Board in setting up the blind trusts; 2) She created truly blind trusts and attempted to comply with related federal requirements; and 3) those trusts have been in existence for more than 10 years and the assets have changed significantly in character.

Moved by Myse, seconded by Eich.

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

Motion carried, 5-1.

**MOTION:** Deny an exemption for Justice Annette Ziegler from the requirement that she disclose her blind trust. This motion was made with the following rationale: 1) The Justice did not seek or rely on advice from the former Ethic Board; 2) Her trust has not existed for an extended period; and 3) She has not complied with related federal requirements.

Moved by Myse, seconded by Eich.

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

Motion carried, 5-1.

Hearing no objections, the Chairman called a recess at 10:54 a.m. and reconvened the meeting at 11:10 a.m.

**E. Elections Administration Voter Record Policies**  
(presented by Nat Robinson, Ann Oberle and Sarah Whitt)

- 1. Voter Registration Record Management Background**
- 2. Principles and Values Statements**

Nat Robinson summarized the issues for Board members.

**3. Proposed Four-Year Voter Record Maintenance**

Ann Oberle explained the proposed procedure.

**MOTION:** Authorize the G.A.B. staff to perform the four-year voter records maintenance function on behalf of all municipalities, in accordance with the standards and procedures summarized in the recommended protocol.

Moved by Brennan, seconded by Nichol. Motion carried.

**4. Report on Status of HAVA Check Protocol**

Sarah Whitt explained the proposed “HAVA Check” protocol, and Wisconsin Municipal Clerks Association President and City of Milton Clerk Nancy Zastrow also spoke to the Board on behalf of the Association and supported the Board’s intent to assume statewide responsibility for both the Four-Year Voter Records Maintenance and the proposed retroactive “HAVA Checks.”

**MOTION:** Accept the interim report on the “HAVA Check” protocol.

Moved by Manian, seconded by Nichol. Motion carried.

The Chairman called a break for lunch at 12:20 p.m. and reconvened the meeting at 12:50 p.m.

**F. Report on Recount Manual**

David Buerger and Shane Falk presented the report for information purposes only. The Board took no action.

**G. Report on Maintenance of Electronic Voting Equipment Records**

Ross Hein explained the proposed recommendations.

**MOTION:** Send a memo to local election officials to tell them that in accordance with Wis. Stats. 7.23 (1) (g), the Board recommends that they adopt one of the four procedures outlined on pages 31 & 32 of the G.A.B. meeting materials for December 17, 2008.

Moved by Myse, seconded by Manian. Motion carried.

**H. Protocol for Conducting On-Site Monitoring of Electronic Voting System Security**

**MOTION:** Adopt the monitoring procedure set out on page 34 of G.A.B. meeting materials for the December 17, 2008 meeting.  
Moved by Nichol, seconded by Eich. Motion carried.

**I. Requests for Exemption from Filing Statement of Economic Interests**

(Dealt with previously.)

**J. Proposed Three-Month Extension of Review Schedule**

**MOTION:** Extend Board's review schedule by three months.  
Moved by Myse, seconded by Eich. Motion carried.

**K. Review of Select Former State Elections Board Administrative Rules, Operating Procedures, and Formal Opinions related to:**

**1. Federal Campaigns**

**MOTION:** Decline to reaffirm Opinions El.Bd. 74-3, El.Bd. 77-2 and ElBd. 00-3.  
Moved by Nichol, seconded by Eich. Motion carried.

**MOTION:** Reaffirm Opinion El.Bd. 77-3.  
Moved by Eich, seconded by Nichol. Motion carried.

**MOTION:** Reaffirm rule GAB 1.39.  
Moved by Myse, seconded by Nichol. Motion carried.

**2. Vacancies**

**MOTION:** Reaffirm Opinions El.Bd. 89-2, El.Bd. 95-1 and ElBd. 05-01.  
Moved by Nichol, seconded by Eich. Motion carried.

**3. Recall Manual**

**MOTION:** Reaffirm the Recall Manual with formatting changes.  
Moved by Nichol, seconded by Eich. Motion carried.

**L. Director's Report**

**Elections Division Report**

(Presented by Nathaniel E. Robinson and Barbara Hansen)

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

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

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.

In other business, by consensus, the Board changed its May 2009 meeting date from May 11 and 12 to May 6 and 7.

**M. 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 Nichol, seconded by Brennan.

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 3:35 p.m. The Board reconvened in closed session beginning at 3:50 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: Two considered and closed.
- B. Investigations: Three matters considered; one matter closed.

The meeting adjourned at 4:52 p.m.

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The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Thursday, January 15, 2008, in Room 150, Risser Justice Building, 120 Martin Luther King, Jr. Boulevard, Madison, Wisconsin.

December 17, 2008 Government Accountability Board meeting minutes prepared by:



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Kyle R. Richmond, Public Information Officer

December 22, 2008

\_\_\_\_\_  
Date

December 17, 2008 Government Accountability Board meeting minutes certified by:

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

January 15, 2008

\_\_\_\_\_  
Date