

State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board
Joint Committee on Finance Hearing Room, 412 East
State Capitol
Madison, Wisconsin
June 10, 2014
9:00 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved May 2014 Open Session Minutes	1
B. Approved 17 staff recommendations to grant and deny ballot access to candidates for the Partisan Primary	2
C. Approved three staff recommendations on compliance review appeals.	7
D. Approved staff report on ballot access issues.	8
E. Adopted campaign finance guidelines for lobbyists furnishing	9
F. Approved per-diem payments for meeting preparations	9

Present: Judge Thomas Barland, Judge Harold Froehlich, Judge Michael Brennan, Judge Elsa Lamelas, Judge Gerald C. Nichol, and Judge Timothy L. Vocke.

Staff Present: Kevin J. Kennedy, Jonathan Becker, Michael Haas, Ross Hein, Sharrie Hauge, Shane Falk, Nathan Judnic, Pauline Shoemaker, Diane Lowe, and Reid Magney

A. Call to Order

Chairperson Barland called the meeting to order at 9:01 a.m.

B. Director's Report of Appropriate Meeting Notice

Director Kevin J. Kennedy informed the Board that proper notice was given for the meeting.

C. Approval of Minutes of Previous Meeting

MOTION: Approve the minutes of the May 21, 2014 meeting of the Government Accountability Board. Moved by Judge Vocke, seconded by Judge Froehlich. Motion carried unanimously.

D. Ballot Access Challenges

Director Kennedy introduced Lead Elections Specialist Diane Lowe, who made an oral presentation based on a written memorandum titled “Ballot Access for the 2014 General Election” which was included in the June 2014 Board Meeting Materials.

Staff Counsels Shane Falk and Nathan Judnic and Legal Intern Pauline Shoemaker reviewed the complaints filed as challenges to ballot access for the following candidates and presented recommendations based upon the staff’s analysis of the complaints and the responses. Each matter was considered and decided separately by the Board after providing an opportunity for the parties to make oral presentations and reviewing the staff’s recommendations.

1. **G.A.B. Case No. EL 14-04 -- Frederick P. Kessler Complaint against Ollie Dombrow, Democratic Candidate for the 12th Assembly District**

There were no personal appearances.

MOTION: Accept staff recommendation to approve challenge to 178 signatures and dismiss the remainder of the complaint, verify 60 valid signatures, and deny ballot status for Candidate Dombrow and direct staff to prepare and issue a Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Lamelas. Motion carried. Judge Brennan abstained.

2. **G.A.B. Case No. EL 14-05 -- Joel Gratz Complaint against Russell Goodwin, Republican Candidate for 12th Assembly District**

Joel Gratz appeared on his own behalf. Candidate Russell Goodwin did not appear.

MOTION: Accept staff recommendation to deny challenges to 3 signatures at page 13, line 6, page 14, line 7, and a duplicate challenge to page 9, line 6, sustain challenges to 150 signatures identified in the Challenge Worksheet, verify a total of 156 valid signatures, deny ballot access, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Lamelas, seconded by Judge Vocke. Motion carried unanimously.

3. **G.A.B. Case No. EL 14-06 -- Joel Gratz Complaint against Steve Gulasky, Democratic Candidate for the 42nd Assembly District**

Joel Gratz appeared on his own behalf. Candidate Steve Gulasky did not appear.

MOTION: Accept staff recommendation to sustain challenges to 17 signatures on pages 1 and 17 missing election date and office title, deny challenge to incorrect election date on page 13 because the candidate substantially complied with the date requirement of Wis. Stat. § 8.15(5)(a), sustain challenge to 3 duplicate signatures on page 24, line 7, page 1, line 8, and page 12, line 1, deny challenge to circulation dates on pages 11, 13, 16, 19-21, 25, and 30 because the candidate substantially complied with the date requirement of Wis. Stat. § 8.15(4)(a), verify 187 signatures, deny ballot access, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Brennan. Motion carried unanimously.

4. G.A.B. Case No. EL 14-09 -- Jennifer Toftness Complaint against Justin Krueger, Democratic Candidate for the 3rd Assembly District

There were no personal appearances.

MOTION: Accept staff recommendation and verify a total of 197 signatures (209 original signatures minus 12 signature challenges accepted: 11 signatures outside of district and 1 duplicate signature), dismiss the remainder of the complaint, and deny ballot status to Candidate Krueger and direct staff to prepare and issue a Findings and Order consistent with this motion. Moved by Judge Lamelas, seconded by Judge Brennan. Motion carried unanimously

5. G.A.B. Case No. EL 14-10 -- RPW/Joe Fadness Complaint against William C. Thompkins III, Restoring Responsibility and Power Candidate for the 21st Senate District

There were no personal appearances.

MOTION: Accept staff recommendation to deny challenges to pages 2-22, 25-42, 44-54, 56, and 58-59 containing 357 signatures because the candidate substantially complied with the address requirements of Wis. Stat. § 8.15(a) and (b); sustain challenge to the total signature count for page 7 and affirm that page only contains 5 valid signatures but offset this with the one additional signature from page 17 leaving the initial determination of verified signatures at 401; deny challenges to signatures on page 50, line 9 and page 54 line 9 because the signature date may be determined by other dates on the page pursuant to Wis. Adm. Code GAB § 2.05(15)(a); sustain challenges to 3 signatures at page 15, line 10, page 22, line 4 and page 48, line 6 because the signatory address or municipality cannot be determined in violation of Wis. Stat. § 8.15(2) and Wis. Adm. Code GAB § 2.05(12); sustain challenges to 2 signatures at page 59, lines 9-10 because the electors reside outside the 21st State Senate District in violation of Wis. Stat. § 8.15(3); verify a total of 396 valid signatures; deny ballot access; and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Nichol, seconded by Judge Brennan. Motion carried unanimously.

6. G.A.B. Case No. EL 14-11 -- Jennifer Toftness Complaint against Mandela Barnes, Democratic Candidate for the 11th Assembly District

Jennifer Toftness appeared on her own behalf. Attorney Rebecca Mason appeared on behalf of Representative Barnes, who also appeared.

MOTION: Accept staff recommendation to sustain the challenge to Candidate Barnes' address on pages 1-6 and page 1 of the supplemental papers, striking 20 signatures, including the candidate's personal signature, deny challenge of missing circulator municipality, sustain challenge to 6 out-of-district signatures on page 13, lines 5-6, page 14, line 5, and page 21, line 6-8; sustain legibility challenge of 3 signatures at page 19, line 1, page 21, line 9, and page 28, line 2, deny 4 legibility challenges at page 14, line 4, page 15, line 2, page 17, line 1, and page 29, line 10, sustain challenge of signer with felony conviction; verify 204 signatures, grant ballot access for Candidate Barnes, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

7. **G.A.B. Case No. EL 14-12 -- Thad Nation Complaint against Sara Lee Johann, Democratic Candidate for the 10th Assembly District**

There were no personal appearances.

MOTION: Accept staff recommendation and verify a total of 211 signatures (238 original signatures plus 5 signatures that should have been deemed legibly printed by Board staff during 1st and 2nd review, plus 4 signatures that the date can be determined by other signatures on the page, plus 1 signature that the address can be determined by other signatures on the page, minus 37 signature challenges accepted: 33 signatures outside of district, 2 missing, incomplete or illegible addresses, and 2 signatures with P.O. Box numbers), dismiss the remainder of the complaint, and grant ballot status to Candidate Johann and direct staff to prepare and issue a Findings and Order consistent with this motion. Moved by Judge Nichol, seconded by Judge Brennan. Motion carried unanimously.

8. **G.A.B. Case No. EL 14-13 -- Joel Gratz Complaint against Kathy Bernier, Republican Candidate for the 68th Assembly District**

Joel Gratz appeared on his own behalf. Representative Bernier did not appear.

MOTION: Accept staff recommendation to deny challenges to pages 20 and 34 containing 11 total signatures because the challenger did not present evidence to meet the clear and convincing burden of proof pursuant to Wis. Adm. Code GAB § 2.07(3)(a) and (4); sustain challenges to the 4 signatures at page7, lines 7-10 because they are dated after the date of the circulator's certification in violation of Wis. Adm. Code GAB § 2.05(14); sustain challenges to 3 signatures at page6, lines 7-9 because the signatory address or municipality cannot be determined in violation of Wis. Stat. § 8.15(2) and Wis. Adm. Code GAB § 2.05(12); deny challenges to 4 signatures at page2, line 8, page5, lines 6 and 8 because an address is present and page5, line 9 because the P.O. Box is fully within the district as permitted by Wis. Adm. Code GAB §2.05(12); deny the challenges to 91 signatures because a legibly printed name is present and sustain the challenge to 1 signature at page 14, line 10 because the second name entry is not legibly printed in violation of 2013 Wisconsin Act 160; verify a total of 282 valid signatures; grant ballot access; and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

9. **G.A.B. Case No. EL 14-14 -- Sheila Cochran Complaint against Gary George, Democratic Candidate for the 4th Congressional District**

Sheila Cochran did not appear. Timothy John and Corey Daniels appeared on behalf of Candidate Gary George.

MOTION: Accept staff recommendation to deny challenges to 7 circulators with felony convictions, deny challenges to incorrect notary dates, deny challenges to circulator insufficiencies on pages 139-14-3, 146, and 150-152, verify 1391 signatures, grant ballot access for Candidate George, and direct staff to prepare and issue Findings and Order

consistent with this motion. Moved by Judge Brennan, seconded by Judge Lamelas. Motion carried unanimously.

10. G.A.B. Case No. EL 14-15 -- RPW/Joe Fadness Complaint against Jeremy Ryan, Republican Candidate for the 1st Congressional District

Lane Ruhland appeared on behalf of the Republican Party of Wisconsin./Joe Fadness. Candidate Jeremy Ryan appeared on his own behalf.

MOTION: Accept staff recommendation to deny challenges to all pages for alleged misrepresentation and fraud because the challenger has not presented sufficient evidence to meet the clear and convincing burden of proof; sustain challenges to the signatures found at page 2, line 1 (invalidating the duplicate signature at page 36, line 10), page 22, line 4, page 26, line 6, page 36, line 3, page 47, line 5, page 56, line 1, page 59, line 9, page 67, line 5, page 71, lines 4-5, page 77, line 6, page 79, line 1 for the reasons stated above; deny all other challenges; verify a total of 1,100 valid signatures; grant ballot access; and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried.

Judge Barland called a recess at 10:45 a.m., and the Board reconvened at 10:56 a.m.

11. G.A.B. Case No. EL 14-16 -- Jim Macken Complaint against Frank Lasee, Republican Candidate for the 1st Senate District

Attorney Rebecca Mason appeared on behalf of the Democratic Party of Wisconsin and Jim Macken. Attorney Eric McLeod appeared on behalf of Sen. Lasee.

MOTION: Accept staff recommendation to accept the declaration of candidacy filed by Candidate Lasee as valid, verify a total of 581 signatures, dismiss the complaint in its entirety, and grant ballot status to Candidate Lasee and direct staff to prepare and issue a Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Froehlich. Motion carried unanimously

12. G.A.B. Case No. EL 14-17 -- Joel Gratz Complaint against Isaac Weix, Republican Candidate for the 92nd Assembly District

Joel Gratz appeared on his own behalf. Candidate Isaac Weix did not appear.

MOTION: Accept staff recommendation to verify a total of 285 signatures, dismiss the complaint in its entirety, grant ballot status to Candidate Weix and direct staff to prepare and issue a Findings and Order consistent with this motion. Moved by Judge Nichol, seconded by Judge Vocke. Motion carried unanimously.

13. G.A.B. Case No. EL 14-18 -- Joel Gratz Complaint against Michael LaForest, Green Party Candidate for the 47th Assembly District

Joel Gratz appeared on his own behalf. Candidate Michael LaForest did not appear.

MOTION: Accept staff recommendation to deny challenges to the signatures on all 29 pages (containing 284 signatures) due to the designation of “Green Party” in the heading; sustain challenges to pages 6, 13-17 and 19-22 (containing 100 signatures) because the candidate did not substantially comply with the heading and certification of circulator legal requirements; sustain challenges to 9 signatures at page 1, lines 8 and 10, page 4, lines 1, 3, 5, page 12, line 3, page 15, lines 1-2, page 29, line 7 because the address is outside the 47th State Assembly District but deny challenges to the signature at page 11, line 10 because the address falls within the district; deny the duplicate challenge to the signature at page 29, line 7; deny the challenge to the signature at page 3, line 10 because the challenger has not met the clear and convincing burden of proof; deny the challenges to the 10 signatures at page 9, lines 1-10 because the circulator’s municipality of residence is known from the heading; verify a total of 175 valid signatures, deny ballot access, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

14. G.A.B. Case No. EL 14-19 -- Michael Basford Complaint against Brett Hulsey, Democratic Candidate for Governor

Michael Basford did not appear. Representative Hulsey appeared on his own behalf.

MOTION: Accept staff recommendation and sustain the challenge as to 57 signatures collected by 1 circulator with a felony conviction, dismiss the challenge to 3 other circulators with felony convictions, dismiss the challenge to the signers’ municipality entries, verify 2,074 signatures, grant ballot access for Candidate Hulsey, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Nichol, seconded by Judge Froehlich. Motion carried unanimously.

Judge Barland called a recess at 12:00 p.m., and the Board reconvened at 12:08 p.m.

15. G.A.B. Case No. EL 14-19 -- Shae Sortwell Complaint against Eric Wimberger, Republican Candidate for the 90th Assembly District

The Board delayed action on this item until after lunch.

16. G.A.B. Case No. EL 14-21 -- Joel Gratz Complaint against David Scott Espeseth, Republican Candidate for the 7th Assembly District

Joel Gratz appeared on his own behalf. Craig Summerfield appeared on behalf of Candidate Scott Espeseth..

MOTION: Accept staff recommendation to verify a total of 400 signatures and grant ballot status to Candidate Espeseth. Moved by Judge Lamelas, seconded by Judge Vocke. Motion carried unanimously.

17. G.A.B. Case No. EL 14-22 -- Laura Manriquez Complaint against Jocasta Zamarripa, Democratic Candidate for the 8th Assembly District

Laura Manriquez appeared on her own behalf. Joel Gratz appeared on behalf of Representative Zamarripa.

MOTION: Dismiss the complaint because the Board does not have a timely filed, signed verified complaint. Moved by Judge Vocke, seconded by Judge Brennan. Motion carried unanimously.

E. Personal Appearances from Members of the Public

(This item was taken out of order to accommodate members of the public in attendance.)

Ardis Cerny of Pewaukee appeared on her own behalf seeking clarification of Admin. Rule GAB Chapter 4 -Election Observers. She asked whether observers would be able to challenge a voter based on the form of proof of residence documentation provided during the Election Day registration process. She said observers need the ability to challenge a voter in real time without causing a disruption at the polls, and she wanted to know whether an observer could ask about the type of proof of residence document used and whether it has a number on it (in the same way an observer may ask that a voter repeat his or her name at the check-in table). She asked for direction prior to the August 12 Partisan Primary.

Mary Ann Hanson of Brookfield appeared on her own behalf and distributed to Board members an opinion article from the May 29, 2014 *Wall Street Journal* titled “Hack the Vote: The Perils of the Online Ballot Box.” She also commented on Admin. Rule GAB Chapter 4 Election Observers, saying the review process has been a positive and healthy thing. She expressed concern that a final rule needs to be in place prior to the August 12 Partisan Primary.

Judge Barland called a recess for lunch at 12:50 p.m. The Board resumed the meeting at 1:23 p.m.

D. Ballot Access Challenges (continued)

15. G.A.B. Case No. EL 14-19 -- Shae Sortwell Complaint against Eric Wimberger, Republican Candidate for the 90th Assembly District

There were no personal appearances.

MOTION: Accept staff recommendation to deny the challenges to the candidate’s address, office title, and circulated pages; deny the circulation sufficiency challenge to pages 16-18 and 25 and the circulator’s signature at page 11, line 8, sustain challenge to 6 duplicate signatures at page 14, lines 5 and 8, page 21, line 9, and page 24, lines 3-4 and 6, sustain challenge to 7 addresses outside the district at page 4, lines 2, 6, and 7, page 16, line 6, page 19, lines 4 and 6, and page 22, line 4, sustain the challenge to 3 addresses that appear not to exist at page 9, line 3, page 11, line 10, and page 21, line 1, sustain 4 challenges to signers with felony convictions, deny challenge to 12 remaining individuals with felony convictions, verify 216 signatures, grant ballot access, and direct staff to prepare and issue Findings and Order consistent with this motion. Moved by Judge Lamelas, seconded by Judge Nichol. Motion carried unanimously.

F. Staff Report on Ballot Access Procedures and Ballot Access Issues

Compliance Review Appeals

1. G.A.B. Case No. EL 14-03 -- Gary Kauther, Candidate for the 25th Senate District

Ms. Shoemaker made an oral presentation based on the written memo on Ballot Access for the 2014 General Election.

MOTION: Accept staff recommendation to find Candidate Kauther's nomination papers in substantial compliance, include 8 signatures originally struck, add 48 supplemental signatures, verify 415 valid signatures, and grant ballot access for Candidate Kauther. Moved by Judge Brennan, seconded by Judge Vocke. Motion carried unanimously.

2. G.A.B. Case No. EL 14-08 -- Marcia Mercedes Perkins, Candidate for Governor

Staff Counsel Falk made an oral presentation based on the written memo on Ballot Access for the 2014 General Election.

MOTION: Accept staff recommendation to dismiss Candidate Perkin's compliance review complaint in its entirety and deny ballot status to Candidate Perkins for her failure to comply with the requirement to include legible printed names of each signer of her nomination papers; however, even if this requirement was waived, the Board finds that Candidate Perkins nomination papers only contain 1,855 valid signatures and are insufficient in number for ballot access. Moved by Judge Vocke, seconded by Judge Brennan. Motion carried unanimously.

3. G.A.B. Case No. EL 14-07 -- Craig Krueger, Candidate for the 25th Assembly District

Staff Counsel Judnic made an oral presentation based on the written memo on Ballot Access for the 2014 General Election.

MOTION: Accept staff recommendation to dismiss Candidate Krueger's complaint in its entirety and deny ballot status to Candidate Krueger for the reasons referenced in the staff memorandum. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

With all ballot access challenges and compliance review appeals completed, Director Kennedy asked the Board to certify the August 2014 Partisan Primary ballot along with Independent candidates for the November 2014 General Election.

MOTION: Affirm ballot status for all those candidates listed in the memorandum on Ballot Access for the 2014 Partisan Primary along with Independent candidates for the General Election who have met or exceeded the minimum valid signatures and have filed all necessary ballot access documents, as well as those approved earlier in the meeting. Moved by Judge Vocke, seconded by Judge Nichol. Motion carried unanimously.

Judge Barland said the Board needs to discuss with the Legislature enlarging the working period the Board and staff have to approve or disapprove ballot access. He noted that staff worked through the weekend and until 3 a.m. the day of the meeting in preparation. He strongly urged the Board to consider proposing legislation to enlarge the time period, and said the present schedule is not reasonable.

Director Kennedy said staff has already raised the issue with key legislative staff members, and they have indicated it is a good time to consider such requests.

The Board and staff discussed the efforts that were required to receive and process more than 300 nomination papers in a short period of time, as well as to deal with challenges and compliance review appeals.

Judge Barland also noted the need to work through a better definition for the requirement that nomination paper signers must also “legibly print” their names for a signature to be considered valid. Director Kennedy said there has been a lot of give and take on that issue, and staff will continue its discussions with legislative staff.

G. Administrative Rules

Proposed Changes to GAB Chapter 4, Election Observers

Elections Division Administrator Michael Haas made an oral presentation based on a written report starting on page 21 of the June 2014 G.A.B. Meeting Materials. He discussed recent legislative committee hearings on the rule and said he hopes to have the rule in place in time for the August 12 Partisan Primary.

Director Kennedy said the Board may need to have a relatively short teleconference sometime in the coming month to finish work on the rule. No Board action is required.

H. Proposed Guidance on Lobbyists Furnishing

Ethics and Accountability Division Administrator Jonathan Becker made an oral presentation based on a written report starting on page 30 of the June 2014 G.A.B. Meeting Materials. He said staff has collected feedback on proposed guidelines from the regulated community and incorporated them where appropriate. One commenter requested legal citations within the guideline documents, and Mr. Becker agreed to provide legal citations within the guidelines along with providing a separate legal addendum with statutory citations. He asked the Board to adopt the guidelines and the frequently-asked-questions document with the understanding that the staff may make minor adjustments based on experience.

The Board and staff discussed staff providing the Board with any changes made, as well as the format of the legal addendum.

MOTION: Adopt the guidelines “Campaign Fundraising” and “Campaign Contributions and Activities by Lobbyists and Lobbying Principals” as well as a frequently-asked-questions document about lobbyist campaign contributions on pages 35 to 41 of the June 2014 G.A.B. Meeting Materials, with staff to report on any minor changes at the next Board meeting. Moved by Judge Froehlich, seconded by Judge Lamelas. Motion carried unanimously.

I. Board Member Per-Diems

Judge Vocke raised the issue of per-diem payments for Board members for time spent in preparation prior to the meeting. Members said they spent a great deal of time preparing for this meeting.

MOTION: Authorize payment of one day’s per-diem for meeting preparation in addition to the per-diem for today’s meeting. Moved by Judge Vocke, seconded by Judge Froehlich. Motion carried unanimously.

J. Closed Session

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.

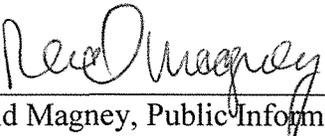
MOTION: Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; confer with counsel concerning pending litigation; and consider performance evaluation data of a public employee of the Board. Moved by Judge Brennan, seconded by Judge Froehlich.

Roll call vote: Barland:	Aye	Brennan:	Aye
Lamelas:	Aye	Froehlich:	Aye
Nichol:	Aye	Vocke:	Aye

Motion carried unanimously. The Board recessed at 2:27 p.m. and convened in closed session at 2:37 p.m. The Board adjourned in closed session at 4:21 p.m.

The next regular meeting of the Government Accountability Board is scheduled for Tuesday, August 26, 2014, at the Government Accountability Board offices, 212 East Washington Avenue, Third Floor, Madison, Wisconsin beginning at 9 a.m.

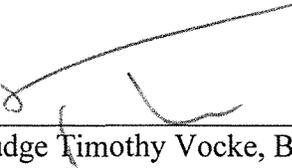
June 10, 2014 Government Accountability Board meeting minutes prepared by:



Reid Magney, Public Information Officer

June 12, 2014

June 10, 2014 Government Accountability Board meeting minutes certified by:



Judge Timothy Vocke, Board Secretary

September 4, 2014