

State of Wisconsin\Government Accountability Board

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JUDGE GORDON MYSE
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Government Accountability Board

212 East Washington Avenue, Third Floor
Madison, Wisconsin
September 13, 2010
9:30 a.m.

Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved guideline regarding Independent Disbursement Organizations	2
B. Approved emergency and permanent rule regarding election observers	3
C. Approved 2011-1013 Biennial Budget request	3

Present: Judge Gordon Myse, Judge Thomas Barland, Judge Gerald Nichol, Judge Michael Brennan, Judge Thomas Cane, and Judge David Deininger

Staff present: Kevin Kennedy, Jonathan Becker, Nathaniel E. Robinson, Shane Falk, Michael Haas, Sharrie Hauge, Tommy Winkler, and Reid Magney

A. Call to Order

Chairperson Myse called the meeting to order at 9:35 a.m.

B. Director's Report of Appropriate Meeting Notice

Director and General Counsel Kevin Kennedy informed the Board that proper notice was given for the meeting.

BB. Public Comment

- 1. Deborah Speckmann of Madison** appeared on her own behalf to speak about the Brennan Center request regarding voter intimidation.

2. **Bob Spindell of Milwaukee** appeared on his own behalf to express concerns about the non-matches from the retroactive HAVA Check ping letters. He also said there are very few problems with voter challenges at polling places.
3. **Andrea Kaminski of Madison** appeared on behalf of the League of Women Voters of Wisconsin to support adoption of election observer rules. She also requested that the rules on challenges be revised to include a specific provision that you do not proceed with the challenge if there is an insufficient supporting basis.
4. **Jon Waclawski** appeared on behalf of the Republican Party of Wisconsin to ask about the timetable for resolving HAVA Check non-matches. He also supported the election observer rules.
5. **Joel Gratz of Madison** appeared on behalf of America Votes to speak about the Brennan Center request regarding voter intimidation, and to thank the Board for its work training election officials.
6. **Debbie Morin of West Allis** appeared on her own behalf to express concerns about the Statewide Voter Registration System.

Chairperson Myse called a recess at 10:31 a.m. The Board reconvened at 10:42 a.m.

C. Proposed Campaign Finance guidelines

1. Independent Disbursement Organizations

Staff Counsel Michael Haas presented a proposed guideline about independent disbursement organizations, which was considered at the August 30, 2010 meeting. Staff met with attorney Mike Wittenwyler, and he helped improve the clarity of the guideline.

Discussion. Judge Barland expressed concern that the guideline could make better use of plain language.

MOTION: Adopt the proposed guideline on independent disbursement organizations. Ask staff to redraft guideline to make it easier to understand. Moved by Judge Deininger, seconded by Judge Cane. Motion carried.

2. Individual Political Activity

Staff Counsel Michael Haas reported that staff is recommending the Board take no action at this time on the draft guideline pertaining to personal political activity because current statutes do not specifically address regulation of blogging and other electronic communications. In the interim, staff will handle questions on a case-by-case basis.

D. Brennan Center Request to Issue Guidance on Elector Challenge Procedures and Voter Intimidation

Director and General Counsel Kevin Kennedy presented an oral and written report regarding a request from the Brennan Center for Justice for the Board to issue clarifying guidance or instructions relating to elector challenges. He said current agency practices address the issues raised by the Brennan Center, but the staff can develop additional informational literature for clerks and prosecutors prior to the November election.

Discussion.

The Board took no action on the Brennan Center request and directed staff to continue its outreach efforts to the public, local election officials and prosecutors.

E. Proposed Emergency and Permanent Rule Related to GAB Chapter 4 - Election Observers 1:11

Staff Counsel Michael Haas presented an oral and written report regarding the proposed emergency and permanent rule related to election observers. An emergency rule in place for the 2008 General Election expired in 2009. Staff recommends that the Board again enact an emergency rule to be in effect during the 2010 General Election, and also authorize a public hearing for both the emergency rule and permanent rule revisions to Chapter GAB 4.

Discussion.

MOTION: Pursuant to §§5.05(1)(f), 227.11(2)(a) and 227.24, Wis. Stats., the Board approves the proposed Notice of Order to Repeal and Recreate Chapter GAB 4, Wis. Adm. Code as an emergency rule and directs the staff to publish the Order.

MOTION: Pursuant to § 227.24(4), Stats., the Board approves the proposed Notice of Hearing and directs staff to schedule a public hearing regarding the adoption of the emergency rule and permanent rule repealing and recreating Chapter GAB 4 and to proceed with all other steps necessary to promulgate the permanent rule. Also, to have the Director and General Counsel submit a memo to clerks regarding concerns about poll workers closing doors to the public after the polls close. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

F. Government Accountability Board – Proposed Agency Budget

Director and General Counsel Kevin Kennedy and Chief Administrative Officer Sharrie Hauge made an oral and written presentation to the Board of the agency's proposed 2011-2013 Biennial Budget. At its August 30, 2010, meeting, the Board previously approved two initiatives, Decision Item 4007 – Authorize a Study with the Department of

Transportation on Integrating Motor Vehicle and Voter Registration Services, and Decision Item 4008 – Request Statutory Changes to Permit Implementation of Online Voter Registration and Interstate Data Sharing.

Staff requested approval of 10 additional program decision items, which are described in Board materials distributed at the meeting.

MOTION: Approve Decision Item 4001 – Convert 19 Federal-Funded Project Positions to Federal-Funded Permanent Positions. Moved by Judge Deininger, seconded by Judge Barland. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4002 – Increase Lobby Program Revenue Spending Authority. Moved by Judge Nichol, seconded by Judge Barland. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4003 – Restore Government Accountability Board Meeting Costs. Moved by Judge Nichol, seconded by Judge Deininger. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4004 – Restore Campaign Finance Information System Master Lease Payments. Approve Decision Item 4010 – Restore Campaign Finance Information System Maintenance Funds to Base Budget. Moved by Judge Barland, seconded by Judge Deininger. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4005 – Authorize Evaluation of Contract Sunshine Application. Moved by Judge Nichol, seconded by Judge Barland. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4006 – Convert One Federal-Funded Project Position to a Permanent Position Funded with Federal Funds and Program Revenue Funds. Moved by Judge Nichol, seconded by Judge Barland. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4009 – Decrease Spending Authority in Materials, Services and Seminar Program Revenue Account. Moved by Judge Nichol, seconded by Judge Barland. Discussion. Motion carried unanimously.

MOTION: Approve Decision Item 4011 – Decrease Wisconsin Election Campaign Fund Spending Authority. Discussion. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

MOTION: Approve Decision Item 4012 – Upgrade Help Desk Communication Resources. Moved by Judge Cane, seconded by Judge Brennan. Discussion. Motion carried unanimously.

MOTION: Authorize staff to submit the proposed Government Accountability Board 2011-2013 Biennial Budget to the Department of Administration for inclusion in the executive budget. Moved by Judge Nichol, seconded by Judge Barland. Motion carried unanimously.

G. 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; and confer with counsel concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Cane, seconded by Judge Deininger.

Roll call vote: Brennan:	Aye	Cane:	Aye
Deininger:	Aye	Myse:	Aye
Nichol:	Aye	Barland:	Aye

Motion carried.

Hearing no objection, Chairperson Myse called a recess at 12:00 p.m. The Board reconvened in closed session beginning at 12:18 p.m.

Summary of Significant Actions Taken in Closed Session:

- A. Requests for Advice: One matter considered.
- B. Investigations and Enforcement: Three lawsuits authorized. Twenty-two pending matter considered; no investigations authorized.
- C. Litigation: Nine pending matters considered.

P. Reconvene into Open Session

The Board reconvened in open session at 2:10 p.m.

MOTION: To adjourn. Moved by Judge Cane, seconded by Judge Barland. Motion carried unanimously.

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The next meeting of the Government Accountability Board is scheduled for Monday, October 11, 2010, at the G.A.B. offices located at 212 East Washington Avenue, Third Floor, in Madison, Wisconsin beginning at 9:30 a.m. The location for the meeting has not been determined.

September 13, 2010 Government Accountability Board meeting minutes prepared by:

Reid Magney, Public Information Officer

September 24, 2010

September 13, 2010 Government Accountability Board meeting minutes certified by:

Judge Gerald Nichol, Board Secretary

October 11, 2010