

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: gab@wisconsin.gov  
http://gab.wi.gov



JUDGE MICHAEL BRENNAN  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

## WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD

212 East Washington Avenue, Third Floor

Madison, Wisconsin

June 22, 2009

9:30 a.m.

**DRAFT**

Not yet approved  
by the Board

### Open Session Minutes

Monday, June 22, 2009

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Approved Wisconsin's Draft 2009-2014 Election Administration Plan for submission to Joint Committee on Finance and public comment, and authorized staff to apply for the FFY-2009 Requirements Payments.	3
B. Approved Manuals outlining procedures for recall elections.	3
C. Approved recall of GAB 1.28 (Issue Ad Regulation) from Legislature.	3
D. Directed staff to initiate rulemaking to amend GAB 6.02 – Registration Statement Sufficiency and GAB 6.04 – Filing Agency Documents Electronically.	4

**Present:** Judge Michael Brennan, Judge William Eich, Judge Gerald Nichol, Judge Thomas Cane, Judge Thomas Barland, and Judge Gordon Myse

**Staff present:** Kevin Kennedy, Jonathan Becker, Nat Robinson, Kyle Brown, Shane Falk, Michael Haas, Barbara Hansen, David Buerger, Sharrie Hauge, and Tommy Winkler.

#### **A. Call to order**

Chairperson Brennan called the meeting to order at 9:40 a.m.

Chairperson Brennan welcomed new Board member Judge Thomas Barland

#### **B. Director's Report of Appropriate Notice of Meeting**

G.A.B. Director Kevin 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 5, 2009, Government Accountability Board meeting. Moved by Judge Myse, seconded by Judge Cane. Motion carried 6-0.

**D. Public Comment**

1. **Charlotte Rasmussen**, appeared on behalf of the Wisconsin Federation of Republican Women to request that the number of registered special registration deputies (SRD) for the previous election be provided to her via e-mail or mail.
2. **Ardis Cerny**, Pewaukee, appeared on behalf of the Wisconsin Federation of Republican Women to comment about residency requirements to become an eligible voter in Wisconsin and her desire to increase the length of residency from 10 days to at least 30 days in order to maintain the integrity of our elections.
3. **Barbara Burton**, appeared on behalf of the Wisconsin Federation of Republican Women to comment about early voting in Wisconsin and where the state is going with regards to implementing an early voting system. She questioned whether implementing early voting in Wisconsin will do away with absentee voting. She raised concerns about voting security, the integrity of same day voter registration, and costs of implementing early voting locations.
4. **Jane Carpenter**, appeared on behalf of the Wisconsin Federation of Republican Women to comment about voter fraud. She asked the Board if sufficient mechanisms are in place to prevent voter fraud while still allowing a positive voting experience for the voter. She commented about the need for clarifying what residency means and expressed concern about online, over the phone and by mail voting methods. She stated that voters can trust the system if it is made simple and clear.
5. **Deborah Ann Speakman**, Madison, appeared to comment about poll worker training and the election manual. Ms. Speakman suggested that at least once a year before a person becomes a chief inspector that the person completes a test to become certified as a chief election inspector. She feels there is a wealth of knowledge that the inspector needs to know to properly run a poll and a test is the only way to ensure the people working at the polls know the rules and regulations related to polling place procedures.
6. **Paul Malischke**, appeared to comment about the draft of Wisconsin's Election Administration Plan. He commented on concerns about ensuring the integrity of the overall voting process. He provided suggestions on how to improve the integrity of the voting process and election results. He requested that the Board have a Technical Advisory Committee advising it on technical issues for voting equipment and software.
7. **Andrea Kaminski**, Madison, appeared on behalf of the League of Women Voters to comment about the early voting work being done by the G.A.B. and to praise the

work being done by the Wisconsin Election Administration Council (WI-EAC) and staff regarding the development of the State's 2009-2014 Draft Election Administration Plan. She thanked the Board for the opportunity to serve on the WI-EAC.

The Chairman called a recess at 10:45 a.m. and the meeting reconvened at 11:04 a.m.

**H. Administrative Rules**  
(Presented by Shane Falk)

**1. Recall Proposed Modification to Administrative Rule Defining Scope of Regulated Activity, GAB 1.28 (Issue Add Regulation)**

**MOTION:** Pursuant to §227.19(4)(b)3m, Wis. Stats., direct staff to recall GAB 1.28 from the Legislature. Moved by Judge Myse, seconded by Judge Nichol. Motion carried unanimously.

**MOTION:** Board members decline to accept the per diem payment for a Board meeting in fiscal year 2010 in recognition of the state's economically strained financial situation. Moved by Judge Myse and seconded by Judge Eich. Motion carried unanimously.

**E. Proposed State Election Administration Plan**  
(Presented by Nathaniel E. Robinson and David Buerger)

Nathaniel E. Robinson made a presentation to the Board on the Draft 2009-2014 Wisconsin Election Administration Plan. The Plan provides a vision for election administration in Wisconsin over the next five years. Administrator Robinson and David Buerger answered questions pertaining to the Plan. Board members noted that the Plan should clarify the ideas presented are for future examination, exploration and study before any implementation decisions are considered.

**MOTION:** To approve the Draft Wisconsin 2009-2014 Election Administration Plan for submission to the Joint Committee on Finance, and to seek public comment, and to authorize staff to apply for the FFY-2009 Requirements Payments. Moved by Judge Myse, seconded by Judge Cane. Motion carried unanimously.

The Chairman called a recess for lunch at 12:20 p.m. and the meeting reconvened at 12:48 p.m.

**F. Revised Recall Manuals**  
(Presented by Shane Falk)

Shane Falk made a presentation to the Board of a draft of two revised recall election manuals, and answered questions pertaining to the content and format of each manual.

**MOTION:** To approve the two election recall manuals pending modifications to make clear the specific offices to which each manual applies and to make mutual references to

the companion manuals more prominent. Moved by Judge Nichol, seconded by Judge Eich. Motion carried unanimously.

**G. Legislative Status Report**  
(Presented by Kevin Kennedy)

Kevin Kennedy led a discussion related to the State Senate's proposed budget that removes the sum sufficient funding source for G.A.B. investigations.

**MOTION:** To authorize staff to prepare a letter for the Board Members' signatures to send to all members of the Legislature and the Governor asking them to restore the sum sufficient funding source for G.A.B. investigations. Moved by Judge Cane, seconded by Judge Myse. Motion carried unanimously.

The Legislative Status Report was received for information, with discussion led by Kevin Kennedy and Jonathan Becker. No action was taken by the Board.

**H. Administrative Rules**  
(Presented by Shane Falk and Michael Haas)

**2. Proposed Scope Statement, GAB 6.02 – Registration Statement Sufficiency**

**MOTION:** Pursuant to §§5.05(1)(f) and (c), and 227.11(2)(a), Wis. Stats., approve the Statement of Scope, and direct staff to proceed with promulgation of amendments to G.A.B. 6.02. Moved by Judge Brennan, seconded by Judge Eich. Motion carried unanimously.

**3. Proposed Scope Statement, GAB 6.04 – Filing Agency Documents Electronically**

**MOTION:** Pursuant to §§5.05(1)(f) and (c), and 227.11(2)(a), Wis. Stats., approve the proposed Statement of Scope, and direct staff to proceed with promulgation to amendments to G.A.B. 6.04. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

**4. Status Report on Pending Administrative Rules**

This Status Report was presented for informational purposes. No action was taken by the Board.

**I. Director's Report**

**1. Elections Division Report**  
(Presented by Nathaniel E. Robinson)

The report was presented for informational purposes. No Board action was taken.

**2. Ethics and Accountability Division Report**  
(Presented by Jonathan Becker)

The report was presented for informational purposes. No Board action was taken.

**3. Office of the Director and General Counsel Report**  
(Presented by Kevin Kennedy and Sharrie Hauge)

The report was presented for informational purposes. No Board action was taken.

**J. 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), and 19.851, Wis. Stats., to consider written requests for advisory opinions, and to deliberate concerning the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and ethics law. Moved by Judge Eich, seconded by Judge Cane.

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

Motion carried.

**MOTION:** Move to closed session pursuant to §19.85(1)(g) Wis. Stats.,to confer with legal counsel concerning litigation strategy. Moved by Judge Eich, seconded by Judge Nichol.

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

Motion carried.

**MOTION:** Move to closed session pursuant to §19.85(1)(c) Wis. Stats.,to consider performance evaluation data of a public employee of the Board. Moved by Judge Eich, seconded by Judge Nichol.

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

Motion carried.

Hearing no objection, the Chairman called a recess at 2:30 p.m. The Board reconvened in closed session beginning at 2:50 p.m.

Summary of Significant Actions Taken in Closed Session

- A. Requests for Advice: Two matters considered; one formal opinion issued.
- B. Investigations:  
  
Eight pending matters considered; two closed: Holperin for Senate, and Jim Holperin.  
Four new matters considered; three investigations authorized.
- C. Eight campaign finance matters considered and lawsuits authorized by Board.

###

The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Monday, August 10, 2009 in the G.A.B. Conference Room, Third Floor, 212 East Washington Avenue, Madison, Wisconsin.

June 22, 2009 Government Accountability Board meeting minutes prepared by:



June 24, 2009

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Tommy Winkler Jr., Ethics Specialist

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Date

June 22, 2009 Government Accountability Board meeting minutes certified by:

August 10, 2009

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Judge Gerald Nichol, Board Secretary

\_\_\_\_\_  
Date