

State of Wisconsin\Government Accountability Board

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JUDGE MICHAEL BRENNAN
Chair

KEVIN J. KENNEDY
Director and General Counsel

Wisconsin Election Administration Council Meeting

212 East Washington Avenue, Madison
Third Floor, Board Room

Tuesday, July 28, 2009

Meeting Notes

WI-EAC Members Present (13): Sue Ertmer (Winnebago County Clerk), Julee Helt (Waunakee Village Clerk), Diane Herman-Brown (Sun Prairie City Clerk), Marica Kelly (Dale Town Clerk), Sue Peck (Marshall Village Clerk), Audrey Rue (Brigham Town Clerk), Howard Seifert (WI Board of People with Developmental Disabilities), Alicia Boehme (Disability Rights of Wisconsin), Lisa Weiner (Executive Director, Milwaukee County Board of Election Commission), Sue Edman (Executive Director, City of Milwaukee Board of Election Commission), Andrea Kaminski (Executive Director, League of Women Voters of Wisconsin), Rick Stadleman (Executive Director, Wisconsin Towns Association, representing Marilyn Bhend), and Kevin Kennedy (Director and General Counsel, Government Accountability Board).

WI-EAC Members Absent (6): Sandra Wesolowski (Franklin City Clerk), Mike Hoppenrath (Watertown City Clerk), Nan Kottke (Marathon County Clerk), Kathy Nicholas (Waukesha County Clerk), Anita Johnson (Citizen Action of Wisconsin), Maureen Ryan (WI Coalition of Independent Living Centers).

Board Staff Members Present: Nathaniel E. Robinson, David Buerger, Michael Haas, Diane Lowe, Sharrie Hauge, David Meicher, Dotti Milner, Ann Oberle, Allison Coakley, Nathan Judnic, Angela Steinhauer, Edward Edney, and Steve Rossman.

A. Call to Order / Introductions

Nathaniel E. Robinson, Elections Division Administrator, called the meeting to order at 9:00a.m. A Roll Call indicated a quorum of the WI-EAC was present. Board staff introduced themselves.

B. Overview and Opening Remarks

Kevin J. Kennedy, Director and General Counsel for the Board, and Wisconsin's Chief Election Official, made opening remarks and presented the meeting objectives.

C. Public Comments

A one-hour segment (9:15-10:15 a.m.) was designated on the Agenda for public comment. The WI-EAC heard in-person comments from six speakers. Five of the six speakers either

had previously provided written comments, or written comments were made available during the meeting.

1. **Annette Kuglitsch** (Waukesha), appeared on behalf of herself. Ms. Kuglitsch commented on early voting, voter fraud and poll worker training. Written comments were included with the public comment documents.
2. **Ardis Cerny** (Pewaukee), appeared on behalf of herself. Ms. Cerny commented on voter fraud investigation, voter ID and early voting. Written comments were provided to be included with the public comment documents.
3. **Bryon Eagon** (Madison), appeared on behalf of himself. Mr. Eagon commented on online voter registration and efforts to involve young voters in elections. Mr. Eagon did not provide writing comments, only verbal ones.
4. **Paul Malischke** (Madison), appeared on behalf of himself. Mr. Malischke commented on online voter registration, and urged standardization of voting methods rather than uniform voting equipment. Written comments were included in with the public comment documents.
5. **Deborah Ann Speckmann** (Madison), appeared on behalf of herself. Ms. Speckmann commented on early voting, absentee balloting and DRE machines. Written comment were included with the public comment documents.
6. **Rick Stadleman** (Wisconsin Towns Association), is the Executive Director of the Wisconsin's Towns Association and appeared on behalf of the Association. Mr. Stadleman commented on maintaining municipal-based elections, and election worker and clerk training. Written comments were provided to be included with the public comment documents.

The in-person public comments concluded at 10:00 a.m. For the duration of this segment, members of the WI-EAC were given an opportunity to ask questions of those who spoke.

D. Amendment to the 2009-2014 Election Administration Draft Plan

(Presented by Kyle Brown, Legal Intern)

Kevin J. Kennedy, Director and General Counsel for the Government Accountability Board, submitted a Plan amendment to the Legislative Joint Committee on Finance (JFC). The amendment adds enabling language for implementing the expected soon-to-be-passed impending "Military and Overseas Voter Empowerment (MOVE) Act, S. 1415" Federal legislation that is under consideration by the U. S. Congress. The letter to the JCF and proposed amendment language was included in the WI-EAC meeting materials.

E. Review Legislative Feedback Received During Briefing Sessions

(Presented by Nathaniel E. Robinson)

Specific inquiries/requests provided by members of the Joint Committee on Finance during the briefing sessions, included, but not limited to the following summary:

- A detailed budget for spending only the \$3.9 million in FFY-2008 and FFY-2009 Requirements Payments was requested.
- A request that the Government Accountability Board assures that the Board will not use administrative rule-making authority to enact some or all of the reforms delineated in the Draft Plan.
- A request that the Government Accountability Board will ask Legislature to act on any “Early Voting” protocols, and that the Board will not use its administrative rule-making authority to usurp the Legislature.
- A request was made for the Government Accountability Board to delineate the specific initiatives and reforms in the Draft Plan to be reviewed, explored, examined and evaluated over the next five years that if pursued, will require Legislative action.
- Concern expressed about the Board’s ability to effectively and successfully accomplish the proposed initiatives and reforms in the Draft Plan that call for the application of technology.
- A request was made for the Government Accountability Board to identify the start-up and ongoing costs of initiatives and reforms in the Draft Plan.
- A request was made for the Government Accountability Board to provide a status of the Board’s efforts to complete retroactive “HAVA Check” assessments of voters who have been in the Statewide Voter Registration System since January 1, 2006.

F. Walk-Through of 2009-20014 Administration Draft Plan

(WI-EAC. Board staff served as a resource)

1. Review the WI-EAC Advice Provided During it’s June 17, 2009, Meeting

The WI-EAC reviewed and considered both written and in-person comments in the order they were received. After each comment was considered, by consensus or by formal action, the WI-EAC made a decision as to which comments they advised to be included in their recommendation to the Government Accountability Board.

[Note that references to specific sections of the version of the Draft Plan that the WI-EAC reviewed may not correspond to page numbers in the updated version of the Plan. The updated version contains the WI-EAC advice provided during their July 28, 2009, meeting.]

- The WI-EAC agreed to advise to clarify the language in bullet point one under 2. (A) on page 31 to read “directions to polling place.”
- The WI-EAC agreed to advise to create a new section for emerging issues.
- The WI-EAC agreed to advice that a specific section in the Plan focus on online voter registration.

- The WI-EAC agreed to advise that the Plan be amended to include enabling language for implementing the impending Federal legislation, the MOVE Act.
- The WI-EAC agreed to advise that the absentee section of the Plan be revised to emphasize that initiatives will be examined and explored.
- The WI-EAC agreed to advise that the statement “taking into consideration their impact on other voting procedures,” be inserted before the colon in Section 2. Absentee Voting on page 12.
- The WI-EAC agreed that Board staff counsel study and make recommendations on the “Re-evaluate Vote-Pad Certification as Accessible Device” section found on page 26 of the Draft Plan. (Note that the specific language specifically referring to the Vote Pad voting system has been revised in the update of the Draft Plan).

2. Review of Written and In-Person Comments

Six in-person comments were received by the WI-EAC. Twenty-eight written public comments were received by the Government Accountability Board (two public comments were received after the WI-EAC meeting had concluded). All comments before the WI-EAC were considered by the WI-EAC. Written comments were included in the meeting materials. After reviewing and considering the written comments, by consensus, the WI-EAC provided the following advice to the Government Accountability Board:

- The WI-EAC agreed to advise that “instant run off voting” not be included as part of the Draft Plan.
- The WI-EAC concurred with one of the written public comments that asked that the Government Accountability Board “hold Municipal Clerks accountable for performing their responsibilities.” The clerk members of the WI-EAC applauded this suggestion and want the WI-EAC to revisit this suggestion because in their opinion, this is a growing problem. The WI-EAC, however, did not think this matter was appropriate to include in the Draft Plan.
- The WI-EAC agreed to include in its advice to the Government Accountability Board that before new functionalities are turned-on in the Statewide Voter Registration System (SVRS), that the existing ones, especially SVRS performance, are working at full performance and that clerks are duly trained accordingly.
- The WI-EAC agreed to advise that a general statement about “recognizing the ancillary costs to municipalities,” be added to the Plan.
- The WI-EAC agreed to advise that putting certification for municipal clerks, special registration deputies, and chief inspectors on the same schedule, be explored.

- The WI-EAC agreed to advise the Board to add “examine a single method and protocol that multiple vendors could comply with” to the “Uniform Statewide Voting System” section.
- The WI-EAC agreed to advise that a statement be added to the Draft Plan about what the Board is doing to detect, combat, prevent, investigate and prosecute voter fraud.
- The WI-EAC agreed to advise that language be included stating that voting machine audit results will be reported to the Government Accountability Board in a timely fashion.
- The WI-EAC agreed to advise that language be added to page 13 to clarify that the Council is a non-partisan body.
- The WI-EAC agreed to advise to the extent that it is practical, that specific references and attributions to-and-with whom the Government Accountability Board proposes to collaborate and do business, be stricken.
- The WI-EAC concurs with written comments provided by the U. S. Election Assistance Commission, that all HAVA funding streams be identified in the budget section, including all known available funding for accessibility.
- The WI-EAC agreed to not include provisions in the Draft Plan that call for 1) the elimination of same day registration, and 2) repeal 2005 Wisconsin Act 451 that allows a qualified elector of Wisconsin to become a Special Registration Deputy. These suggestions were received in one of written comments, the WI-EAC considered but declined to include this suggestion as part of their advice to the Government Accountability Board.
- The WI-EAC agreed to not include in its advice to the Government Accountability Board, that a provision be inserted into the Draft Plan that give municipalities the option of purchasing voting machines that have the capability to scan driver’s licenses. On election day, the polling place would offer two options: One line would be “traditional” (no ID required), and another line would require the presentation of the voter’s driver’s license to be scanned and read by the special voting machine.
- With one member objecting, the WI-EAC agreed to advise that language to “study voter ID and review best practices from other states,” be inserted into the Draft Plan.

G. By a formal motion, the WI-EAC Recommended Adoption of 2009-2014 Election Administration Draft Plan by the Government Accountability Board

MOTION: Recommend to the Government Accountability Board that the Wisconsin 2009-2014 Election Administration Draft Plan be amended in accordance with the (aforementioned) advice provided.

Moved by Sue Edman, seconded by Marica Kelly. Motion passed by voice vote. However, Howard Seifert asked to have the minutes reflect that he voted in opposition. Mr. Seifert explained his “no” vote. Mr. Seifert said, he voted “no” because the WI-EAC recommendation contains language about revisiting the voter ID issue. Mr. Seifert stated that voter ID is not a new initiative as it has already been repeatedly dealt with by the Legislature and Governor.

H. Next Steps / Closing Remarks

Nathaniel E. Robinson summarized:

The WI-EAC advice will be shared with the Government Accountability Board. The Board will meet on Monday, August 10 to consider the advice and adopt the Plan. Since the WI-EAC is an advisory body, and the Board is the policy-making body designated by the Wisconsin Legislature to oversee election administration throughout the State, the Board has the authority to accept, amend, revise or reject in part or in whole the WI-EAC advice.

Following the Board’s action on August 10, the Plan will be considered by the Legislative Joint Committee on Finance (JCF) for approval. Following action by the JCF, the Plan will be submitted to the U. S. Election Assistance Commission for placing in the Federal Register for 30-days, after which, the Plan becomes effective.

I. Adjournment

The meeting adjourned at 4:48 p.m.