

Approved September 5, 2008

**Minutes of the New York State Board of Elections
August 4, 2008**

The meeting of the Commissioners of the New York State Board of Elections held at the offices of the New York State Board of Elections, 40 Steuben Street, Albany, New York in the 4th Floor Conference Room and was called to order at 12:00 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were James Walsh and Gregory Peterson. Staff members present were: Stanley Zalen, Todd Valentine, Kim Galvin, Paul Collins, Elizabeth Hogan, Anna Svizzero, Pat Tracey, William McCann, George Stanton, Patrick Campion and Robert Brehm. The guest list is attached.

Unit Updates:

Executive – Stanley Zalen spoke about the Governor’s order to cut another 7% from our budget. Once the internal controls report is completed, it would be clearer as to the options available for possible reduction from our budget.

Legal – Kim Galvin reported that there were petition rulings, prima facie rulings, and authorization and acceptance rulings, but no other legal cases to discuss. Commissioner Kellner asked about the Barron case in New York City which was followed by a discussion and a consensus that the State Board not become involved at this time.

Paul Collins identified several issues relating to the HAVA supplemental remedial order: Nassau County Board of Elections acceptance of new ballot marking machines; the Board of Elections in New York City related to the McFeeley HAVA complaint and NYC financial issues related to implementing a ballot marking device in every polling place. There was agreement to discuss these issues in Executive Session.

Election Operations – Anna Svizzero reported that the Election Operations unit is working on several ongoing issues including:

- A summary of petition filing and related activity was provided.
- An update was given on the delivery of the BMD voting machines to the counties.
 - ES&S completed full delivery of 2,559 AutoMARK ballot marking devices to county boards of elections selecting such equipment.
 - Work continues with the Sequoia/Dominion Imagecast with 517 additional devices to be received, acceptance tested by the NYSBOE and delivered to county boards of elections. To date, 3,989 Imagecast devices have been delivered to county boards of elections offices.

- There was a discussion regarding the Ulster County Board of Elections proposed participation in a pilot program to utilize the Imagecast scanner in this year's elections. Ulster County to provide the State Board with a specific plan including the election districts to be included in the pilot program.
- The EAC is interested in the Board's certification documents to post on their web site. The Election Operations Unit will provide NYSBOE appropriate certification test materials to the EAC for publication.
- An update was given on the status of voting system certification test activities.
- The Commissioners passed a Resolution to approve additional escrow deposits by voting system vendors. **The vote was 3-0 to approve.**

NVRA/PIO – Pat Campion reported on several ongoing projects in the NVRA/PIO unit.

Campaign Finance - Elizabeth Hogan reported on several ongoing projects in Campaign Finance and Enforcement.

ITU - George Stanton outlined several projects that the unit is still working on including:

- Continue to work on the NYSVoter duplicating resolutions and identification verification issues with the Board of Elections in New York City.

Old Business:

- Commissioner Kellner discussed the voting procedures for ballot marking devices. A discussion followed on developing updated procedures. The Board should have a draft on our web site for the public to comment on.
- Kim Galvin reported on the status of Part 6210 of the regulations. After a discussion about where it stands and what part there was agreement on, it was decided to bring it up again at the next board meeting.

New Business:

- The Commissioners voted to approve a resolution for fund the 2008 Public Service Announcement program related to voter education efforts for the new ballot marking devices. **The Commissioners approved the resolution 3-0.**
- The Commissioners also voted to Certify a Ballot Proposition for the 2008 General Election Ballot – concerning an Amendment to the NYS Constitution re: civil service credit for members of the armed forces of the United States. **The Commissioners approved the resolution 3-0.**
- The Commissioners next took action on several petition-related rulings which have been categorized into three segments: prima facie rulings; missing acceptance or authorization rulings; and, rulings on specific objections to petitions.

- Prima facie: The Commissioners voted to accept the staff recommendations provided in the report containing prima facie issues (copy attached). **The Commissioners approved the resolution 3-0.**
- Missing acceptance or authorization: The Commissioners next voted to rule void for failure to have a required authorization or acceptance based upon the staff recommendation report (copy attached). **The vote was 3-0 to approve.**
- Specific objections: The Commissioners next voted to accept the hearing officers recommendation to rule on specific objections received concerning the following petitions:
 - 5th Congressional District (CD) – **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Elizabeth Berney, Republican Party – HO recommendation is valid;
 - Gary Ackerman, Independence Party and Working Families Party – HO recommendations are both valid;
 - Jun Policarpio, Republican Party – HO recommendation is invalid.
 - Jun Policarpio, Conservative Party – HO recommendation is valid.
 - 20th CD – **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Michael Rocque, Republican Party – HO recommendation is invalid;
 - 22nd CD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Bruce Layman, Republican Party and Conservative Party – HO recommendations are both invalid.
 - 25th CD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Thomas Connelly and substituted candidate John Ciampoli, Independence Party – HO recommendations are both invalid.
 - 36th State Senate District (SD) - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Crystal Wade, Democratic Party – HO recommendation is invalid.
 - 43rd SD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Christopher Consuello, Working Families Party – HO recommendation is valid.
 - 43rd SD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Joanne Yepsen, Democratic Party – HO recommendation is invalid.
 - 60th SD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**

- Mark Grisanti, Democratic Party – HO recommendation is valid.
 - 61st SD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Michael Razenhofer, Independence Party – HO recommendation is valid;
 - Opportunity to Ballot (ORB), Conservative Party – HO recommendation is invalid.
 - 99th Assembly District (AD) - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - OTB, Independence Party – HO recommendation is valid.
 - 112th (AD) - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Christopher Laing, Republican Party – HO recommendation is valid.
 - 4th Judicial District - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - G. Douglas, Conservative Party – HO recommendation is valid.
 - 21st CD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Joseph Sullivan, Democratic Party – HO recommendation is valid.
- **The Commissioners at this time voted 3-0 to go into Executive Session to discuss litigation matters.**

The Commissioners voted to return from Executive Session. **The vote was 3-0 to approve.**

- The Commissioners next voted to accept the hearing officers recommendation to rule on specific objections received concerning the following petitions:
 - 43rd SD - **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Joanne Yepsen, Democratic Party – HO recommendation is invalid.
 - 20th CD – **The vote was 3-0 to approve hearing officer (HO) recommendation.**
 - Michael Rocque, Conservative Party – HO recommendation is invalid;
 - John Wallace, Republican Party – HO recommendation is invalid.

A copy of the Specific Objection Hearing Officer Report is attached.

The next board meeting was scheduled for August 19th.

The meeting was adjourned at 5:00pm.

The next board meeting was scheduled for August 19, 2008 at noon in Albany.