State Capitol | 500 East Capitol Avenue | Pierre, South Dakota 57501 | sdsos@state.sd.us | sdsos.gov

### Board of Elections Minutes - Amended

The meeting was called to order by Secretary of State Jason M. Gant on November 29<sup>th</sup>, 2011 at 10:01 a.m. Board Members present were Secretary Gant, Linda Lea Viken, Matt McCaulley, Pam Lynde, Chris Madsen, Richard Casey, Cindy Shultz. Also present were Patty McGee, Sully County Auditor, Bob Litz, Minnehaha County Auditor, Aaron Lorenzen, Director of Elections, Andrew Pietrus, Secretary of States Office, Bob Mercer, Mike Severson, and Megan Luther.

Moved by Madsen and seconded by Casey to approve the minutes of the September 14<sup>th</sup>, 2011, meeting. Motion Carried.

Secretary Gant moved into the official rules hearing.

The Board of Elections convened at 10:02 a.m. on Tuesday, November 29, 2011, at Boyce, Greenfield, Pashby & Welk, LLP. Located at 101 N. Phillips Ave, Suite 600, Sioux Falls, South Dakota.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the Board numbered 5:02:17:14, 5:02:03:01, 5:02:10:01, 5:02:10:01:04, 5:02:03:25 proposed under the authority of 12-1-9 and 12-4-4.11.

Hearing Officer: Jason M. Gant, Secretary of State, Pierre, South Dakota.

Members of the Board in Attendance: Linda Lea Viken, Matt McCaulley, Pam Lynde, Chris Madsen, Richard Casey, Cindy Shultz.

Others in Attendance: Patty McGee, Sully County Auditor, Bob Litz, Minnehaha County Auditor, Aaron Lorenzen, Director of Elections, Andrew Pietrus, Secretary of State's Office, Bob Mercer, Mike Severson, and Megan Luther.

Secretary Gant opened the State Board of Elections Rules Hearing at 10:03 a.m.

Secretary Gant introduced ARSD 5:02:17:14, which would update the electronic poll book security.

Discussion was held on the security of the electronic poll book, and the measures that counties would be using to ensure security.

# There were no public comments or letters.

Casey moved to approve the administrative rule as presented and second by Madsen.

Secretary Gant called the voice vote.

Ayes: Casey, Viken, Shultz, Lynde, Madsen, McCaulley, Gant

Navs: Zero

Motion passes unanimously.

Secretary Gant introduced ARSD 5:02:03:01, which would change the voter registration card form.

Board members expressed concern in not allowing the form to be prescribed by rule but instead general requirements for what should be on the form.

Board members expressed desire to find a way to have the form in administrative rule, but not require the Board to be called in order to make stylistic changes to the form.

## There were no public comments or letters.

Secretary Gant deferred action on ARSD 5:02:03:01 until the next Board meeting.

Secretary Gant introduced ARSD 5:02:10:01, which would change the absentee ballot application form and include the military and overseas citizen voter information.

Board members expressed the same concern as with administrative rule change 5:02:03:01.

#### There were no public comments or letters.

Secretary Gant deferred action on ARSD 5:02:10:01 until the next Board meeting.

Secretary Gant introduced ARSD 5:02:10:01:04, which would delete the military and overseas citizen absentee ballot application.

Secretary Gant expressed desire to combine this form with the standard absentee ballot application, prescribed by ARSD 5:02:10:01.

## There were no public comments or letters.

Secretary Gant deferred action on ARSD 5:02:10:01:04 until the next Board meeting.

Secretary Gant introduced ARSD 5:02:03:25, which would have created a voter registration form for the adult children of overseas citizens.

Secretary Gant stated this was a rule change that was brought forth from legislation passed in 2011 (HB 1130).

Board members expressed concern that the SDCL requires the Board of Elections to prescribe the exact form in ARSD and not just basic parameters.

Board members discussed the ramifications of postponing the administrative rule to the next Board meeting.

## There were no public comments or letters.

Secretary Gant deferred action on ARSD 5:02:03:25 until the next Board meeting.

Secretary Gant closed the State Board of Elections Rules Hearing at 12:24 p.m.

The Board recessed for lunch at 12:25 p.m.

Board came out of recess at 12:53 p.m.

Secretary Gant moved to discussion on the Janis v Nelson lawsuit, and ACLU interactions with the office in recent months.

Secretary Gant asked for a motion to submit the proposed legislation to the LRC

Motion by Viken, second by McCaulley that pursuant to the action taken by the Board of Elections on May 12, 2010, settling the Janis v Nelson lawsuit, the Secretary of State is requested to introduce legislation on behalf of the Board of Elections to amend SDCL 12-18-10 consistent with the changes approved. Secretary Gant called the voice vote.

Ayes: Casey, Viken, Madsen, McCaulley, Shultz, Lynde, Gant

Nays: zero

Secretary Gant began discussing felon voting rights and the open invitation for the ACLU to come to Pierre and discuss the submitted felon legislation.

Secretary Gant moved to the next item on the agenda and discussing future legislation and future administrative rule changes.

Viken recommended that the Board of Elections be allowed to review legislation on election and related matters before introduction. (Added pursuant to January 19, 2012 motion.)

Viken recommended that applicable statutes be amended to require review of electronic poll book requirements by the Board of Elections.

Secretary Gant stated the next Board of Elections rules meeting will be held when time permits in order to have the proposed rules presented to the Legislative Rules Review Committee.

With no further business before the Board, McCaulley moved to adjourn and second by Viken.

The Board of Elections adjourned at 1:57 pm.

Jason M. Gant, Secretary of State

Aaron Lorenzen, Recorder