



South Dakota Secretary of State
SHANTEL KREBS

State Board of Elections Meeting

Minutes

Monday, June 15, 2015

SD Association of County Officials Building
211 East Prospect, Pierre SD

Conference Call Dial-in Information:

Dial-in Number is 866.410.8397

Conference Code is 2178377981

Secretary Shantel Krebs called the meeting to order at 8:32 am.

Board of Elections members present via conference call: Linda Lea Viken, Dick Casey, Pam Lynde, Cindy Brugman, Drew Duncan and Mitch LeFleur.

Motion to approve the minutes of the June 4, 2015 meeting by Cindy Brugman, second by Pam Lynde. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Review of HAVA fund balances and annual expenses:

Brandon Johnson, HAVA Coordinator, reviewed the County-held HAVA balances, the Election Assistance Commission (EAC) amounts awarded and disbursed, and the Health and Human Services (HHS) polling place accessibility grant funding.

Since 2003, the EAC has disbursed funds to states (see attached spreadsheet). Fund disbursements have decreased since 2003. The Secretary of State's office has been conservative with these funds. Overall the State has received \$18 million in HAVA funds since 2003. There is a little over \$9 million left in HAVA funds; \$2.5 million of that is in county held funds (see spreadsheet of what each county has left in their HAVA funds) and \$6.9 million is state held funds. Annual interest earned on these funds is very low.

Three annual maintenance agreements are paid or anticipated to be paid by HAVA funds. Revenue generated from the sales of voter lists have paid for the annual maintenance costs (\$49,500 is the annual contract amount) of TotalVote so no HAVA funds have had to be used to date. The iOASIS maintenance agreement (\$50,000 for a two year contract) is currently paid for by a Federal Voter Assistance Program (FVAP) grant awarded in 2011. But once these grant funds are used, HAVA funds (if allowed) may need to be used to pay for this maintenance agreement. The Vote605 mobile application currently uses HAVA funds to pay for the \$20,000 maintenance agreement (2 year contract).

Linda Lea Viken asked if we are able to track how many people used the Vote605 mobile app. Brandon Johnson stated we will be able to provide that information from the present forward (unfortunately Apple changed settings and the old data is no longer available). Linda Lea Viken appreciates the information that has been put together for this meeting.

Secretary Krebs clarified that TotalVote is the voter registration master file and that when the Secretary of State's office sells a list, the cost to purchase the full database is \$2,500 and an absentee list is \$3,000 (state statute dictates that voter file lists cannot be resold for commercial purposes). With iOASIS, military servicemen and women can apply online for an absentee ballot. The Vote605 mobile app tells people where they are registered to vote and the office is very interested in tracking this to make sure it's worth the continued maintenance investment.

Linda Lea Viken asked what Davison County is getting reimbursed for as their amount is very high compared to other counties. Brandon Johnson stated they purchased a DS850 machine.

Linda Lea Viken then asked if there was a revolving election equipment replacement fund and what the status of this fund was. Brandon Johnson is not aware of this fund but said he can look into this to see if it's an option for the future. Linda Lea Viken thought this fund was in the 2014 State HAVA plan and will review that and share with the BOE members and Secretary of State's office.

Secretary Krebs introduced those present in the room: Shelly Pfaff (SD Coalition of People with Disabilities), Secretary Steve Emery (SD Department of Tribal Relations), David Reiss (Legal Counsel, SD Department of Tribal Relations), Secretary Shantel Krebs (Chair, Board of Elections), Kea Warne (Deputy Secretary of State, Election Services), Tom Deadrick (Deputy Secretary of State, Business Services), Brandon Johnson (HAVA Coordinator), Kristin Kellar (Election Coordinator), Christine Lehrkamp (State Election Coordinator).

Brandon Johnson outlined the HHS grant fund. Since 2011, the Secretary of State's office has not received any more of these grant funds (see attachment for examples of what funds can and have been used for). In the grant requirements, if funds from five years ago aren't spent by September 2015 they will revert back to the Federal Government. The purpose of these funds is to improve accessibility to those with disabilities. This year there are six counties that have applied for grant funding (Brown, Stanley, Walworth, Lake, Marshall and Harding). The process to receive grant funding is outlined in an attached document.

Linda Lea Viken asked who approves the grant. Brandon Johnson stated he does and explained the three items he needs to approve: he verifies that all documentation is provided, pictures of before and after need to be provided and any vendors for the project cannot be on list of non-approved vendors from on the System for Award Management (SAM).

Shelly Pfaff commented that much work has been done by counties with the HHS grant funds to address physical access for individuals and that concerns with access are better understood now. Hopefully a better understanding of those with other disabilities will be addressed.

Brandon Johnson stated that when the Secretary of State's office looks at county funds that are available, we need to keep in mind that county voting equipment is getting older and there will be a future concern of funding for upgrades. This is an issue across the country also. The ExpressVote Universal Voting Device v. 1.4.0.0 was certified earlier this month and is an option to replace the AutoMARK Voter Assist Terminal and counties will be looking at the costs to upgrade from the AutoMARK which is almost 10 years old.

Kea Warne mentioned that the UOCAVA program was put together in 2010 and has been used since. iOASIS, which was created and funded by the \$668,831 FVAP grant ran into a bug with security clearances for military personnel trying to use their Common Access Card (CAC) and the iOASIS program. In 2014, only 24 voters were able to use iOASIS which amounted to the per voter expense being very high. All military and overseas citizens can use UOCAVA but just military personnel can use iOASIS. iOASIS does allow military individuals to also register to vote electronically but the UOCAVA system does not include that option. In the future, the Secretary of State's office will review the cost of this as the \$50,000 maintenance fee will need to be paid for as the FVAP grant funds will run out.

Linda Lea Viken asked if we will continue to use UOCAVA and iOASIS. Kea Warne stated yes through the 2016 General Election but after that we will review the costs of the maintenance fee for iOASIS and determine if the expense is justified.

No further comments or questions.

Review of proposed board members to serve on the HAVA grant board (listed on attachment):

Secretary Krebs reviewed the proposal sheet attached.

Discussion on the proposed Grant Board members ensued. The HAVA state plan says that the Grant Board is to be made up of four auditors (two Democrats and two Republicans), HAVA Coordinator, a member of the disability community and an interested member for the Department of Tribal Relations.

The two Democrat County Auditors that volunteered are: Jerry Schwarting, Mellette County and Bobbi Janke, Lake County

Secretary Krebs asked for discussion on the Republican County Auditors that wish to be appointed to the HAVA Grant Board. No comments.

Linda Lea Viken commented that Auditor Jerry Schwarting is on the EAC Standards Board (made up representatives across the country) and that he was also selected for the Executive Committee of this national board.

Motion by Cindy Brugman to appoint Auditors Jerry Schwarting and Bobbi Janke to the HAVA Grant Board, second by Linda Lea Viken. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Motion by Pam Lynde to appoint Bob Litz, Minnehaha County Auditor (Republican) for the HAVA Grant Board, second by Mitch LeFleur. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugmanaye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Motion by Drew Duncan to appoint Sheila Hagemann, Turner County Auditor (Republican) for the HAVA Grant Board, second by Pam Lynde. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebsaye. Approved.

Motion by Linda Lea Viken to appoint Denise DeJong, as the representative from the disability community, for the HAVA Grant Board, second by Cindy Brugman. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Motion by Cindy Brugman to appoint Brandon Johnson, HAVA Coordinator, to the HAVA Grant Board, second by Mitch LeFleur second. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugmanaye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Motion by Linda Lea Viken, to appoint David Reiss, General Counsel for the SD Office of Tribal Relations, to the HAVA Grant Board as a tribal relations representative, second by Dick Casey. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Secretary Krebs asked if there were any additional comments. No comments.

Review of proposed HAVA grant funding parameters (outlined on attachment):

Linda Lea Viken asked where the \$300,000 annual figure came from. Secretary Krebs stated the interest earned annually is around \$100,000 and along with the long term needs of upgrading equipment statewide our office felt that \$300,000 annually was the right number to propose. The Secretary of State's office estimates that for most counties \$9,000 would be spent per election cycle (average Primary and General

election expenses every two years). \$9,000 times 66 counties equals \$594,000. \$200,000 would come from interest earned and approximately \$400,000 from HAVA.

Linda Lea Viken stated that if the BOE is modifying the 2014 HAVA state plan then it has to go to the Federal Registry. And she felt the original 2014 HAVA state plan didn't have a cap of \$300,000 in it. Kea Warne stated that the 2014 HAVA state plan gave the HAVA Grant Board the authority to set up parameters and that language in the state plan isn't being changed.

Linda Lea Viken asked what the following sentence means within the proposed parameters for the HAVA Grant Board: *"This administration wants to ensure there is HAVA funding available for South Dakota's 66 counties for future federal election expenses."*

Kea Warne stated that seven counties were allowed to purchase e-pollbooks at the cost of over \$1 million which came out of HAVA state held funds and in the future the Secretary of State's office hopes to make HAVA funds more equally disbursed to all counties along with having future funding for statewide equipment upgrades.

Kea Warne addressed the revolving loan fund question. Initially statewide voting equipment for counties was purchased by state funds and at that time a state law was established to clarify that HAVA funds could be used in the future for upgrades to this equipment but that no actual fund was established or required to be established.

Linda Lea Viken stated she didn't necessarily feel that HAVA funds need to be utilized to provide equipment upgrades for the counties. Kea Warne stated that if HAVA funds weren't available for use then counties may not have the budgets to upgrade their voting equipment and would have to request funding from their County Commissions and/or the State Legislature. Linda Lea Viken understands her concern may not be popular but wants BOE and HAVA Grant Board to be thinking about this.

Linda Lea Viken also noted she is concerned about making counties spend down their balances before getting any HAVA grant funding as proposed in the HAVA Grant Board parameters. Secretary Krebs noted that on page 3, last paragraph, of the 2014 HAVA state plan that this had already been established. The HAVA grant board parameters allow for the Secretary of State to review funding and authorize additional funding in extraordinary cases.

Linda Lea Viken asked if the \$4,500 is per election and would the county have to spend that in the same year and spend it all. Brandon Johnson explained the reimbursement process: the county would submit receipts and the reimbursement form; it would be \$9,000 for an election cycle and yes the county would have to spend it all before receiving additional grant funding.

Secretary Krebs asked if there were additional comments from the BOE. No comments.

Secretary Krebs asked if there were any comments from the public. No comments. Kea Warne clarified an earlier comment regarding funding for satellite voting locations and that language is listed under *maximum grant amount per year...* in the parameters for the HAVA Grant Board.

Motion by Linda Lea Viken to approve the proposed HAVA Grant Board parameters, second by Mitch LeFleur. Comments none. *Motion* by Mitch LeFleur to amend the parameters with the following language:

- Maximum grant amount per year that will be open for the HAVA Grant - \$300,000
 - Grant award per county per year \$4,500 except in extraordinary cases such as satellite absentee voting locations, as defined in the HAVA State Plan
 - county must spend down their county held funds prior to being awarded HAVA Grants except as in extraordinary cases such as absentee voting locations, as defined in the HAVA State Plan

Second by Linda Lea Viken. No further comments. Roll call vote: Linda Lea Vikenaye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Roll call vote on *original motion* as amended to approve HAVA Grant Board parameters. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Caseyaye, Pam Lynde- aye, Cindy Brugman- aye, Drew Duncan- aye, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.

Secretary Krebs asked if there were any further comments from the public. No comments.

Secretary Krebs noted that the next BOE meeting will be in the Fall. There will be several trainings later this year for County Auditors (Nov. 4-6) and Municipal Finance Officers (Nov. 18-20) and School Business Managers (Nov. 18-20).

Linda Lea Viken thanked the Secretary of State's office for the courtesy holding this additional meeting.

Motion by Pam Lynde to adjourn at 9:52am, second by Dick Casey. No further comments. Roll call vote: Linda Lea Viken- aye, Dick Casey- aye, Pam Lynde- aye, Cindy Brugmanaye, Drew Duncan- absent, Mitch LeFleur- aye and Secretary Krebs- aye. Approved.