

Minutes

State Board of Elections Meeting

State Capitol, Pierre

December 14, 2004

The meeting was called to order by chair Chris Nelson at 8:30a.m.on December 14, 2004 with the following members responding:

Present

Chris Nelson

Linda Lea Viken

Karen Layher

Gail Brock

Carol Klumper

Absent

Dick Casey

Beth Benning (resigned)

Kea Warne, Jennifer Jacobson and Chad Heinrich, Secretary of State's staff; Julie Pearson, Pennington County; Sue Roust, Minnehaha County; Shelly Pfaff, SD Coalition of Citizens with Disabilities; Pam Lynde, Deuel County Auditor; Robert Kean, SD Advocacy Services; Kay Schmidt, Lake County Auditor; Rich Petersen, Brown and Saenger; Adele Enright, Dewey County Auditor; Shirley Finkbeine, Deputy Dewey County Auditor; Sherri Sundem Wald, Attorney General's Office; Patty McGee, Sully County Auditor; Bret Healy, Four Directions; Jason Schulte, SD Democratic Party; Dave Henderson and Sanford Morganstein, Populex.

Moved by Viken and seconded to approve the amended minutes of the August 24, 2004 meeting. Passed.

Chris Nelson submitted the proposed statute change from the State Tribal Relations Committee to determine if the board wanted to place the proposal on the agenda. Moved by Viken and seconded to add the proposal to the agenda after the discussion on issues from the August 24, 2004 BOE meeting. Passed.

Nelson thanked Carol Klumper for her years of service on the board of elections and also noted that Gail Brock is interested in serving another term. Both of their terms expire in January, 2005. Beth Benning submitted her resignation from the board. Appointments will be made by legislative leadership.

Dave Henderson and Sanford Morganstein were present from Populex seeking certification for the Populex Digital Paper Ballot System. December 13, 2004 they demonstrated the tabulation process with Kea Warne and met all the automated tabulating system requirements. December 14, 2004 they demonstrated the digital paper ballot system including the opening/closing of the polls, voting process, voter key vs pollworker key, printing unit, card stock and the bar code method that this system uses. This system has the software that the auditors and/or Secretary of State can program the ballot. Dave Henderson provided documents stating how their system meets each certification criteria for an automated tabulating system. South Dakota does not have a certification category for a ballot marking device. This system has been tested against the new 2002 standards and Populex should be receiving their NASED number shortly. Board members and members of the audience test voted on the digital paper ballot system.

Moved by Viken and seconded to certify the automated tabulating portion of the Populex digital paper ballot system, pending receipt of a NASED number and recommend that the Secretary of State introduce legislation to create a third category of voting machines that will include ballot marking device machines. Passed.

Moved by Brock and seconded to approve for certification the minor change in the process of using one smart card and one password for the Avante VoteTrakker DRE, version 4.7.5. Passed

Nelson discussed the 2004 changes in the absentee process. Presentations regarding county experiences by Sue Roust, Minnehaha County Auditor, Julie Pearson, Pennington County Auditor, Carol Klumper, Union County Auditor and Karen Layher, Grant County Auditor followed.

Jason Schulte, SD Democratic Party thanked the auditors, Office of Secretary of State and the Board of Elections members for all the hard work put into the election process. The party would like to see the absentee process be as open and easy as possible for the voters.

Nelson stated that a letter submitted by Dorothy Pence was received and she would like to see another step be added to the absentee process. Addition of a second envelope for the voter to put the voted ballot into before inserting into the absentee envelope. No action taken.

Discussion and action was taken on recommendations to the Secretary of State on several legislative proposals as follows:

Moved by Layher and seconded to amend the proposed changes to SDCI 12-19-2.1 to read "In the event of confinement because of sickness or disability" to define what is a confined voter. Passed.

Moved by Viken and seconded to add a new section in 12-19 to allow a voter to file a second absentee ballot request in person or by mail to an updated address if the voter has not voted or returned an absentee ballot. Passed.

Moved by Viken and seconded to allow a second absentee ballot to be sent if a person notifies the auditor that their first ballot wasn't received. Passed.

Moved by Brock and seconded to adopt the proposed new section of 12-19-2.1 referring to the submission of absentee ballot application by facsimile from a UOCAVA voter. Passed.

No action taken on amendments to SDCL 12-1-12.

Moved by Viken and seconded to define a polling place instead of amending SDCL 12-1-12. Passed

Moved by Brock and seconded to amend proposed changes to SDCL 12-19-43 to include notifying the parties and requiring a resolution board to be present if ballots are processed by an automatic tabulating machine prior to the closing of the polls. Passed.

No action taken on amendments to SDCL 12-7-7. Board would like Chris to look into removing the requirement of listing the elector's names on the ballot.

Moved by Viken and seconded to approve the proposed changes to SDCL 12-4-1.1, 12-4-5.5 and 12-4-6.1. Passed.

Moved by Brock and seconded to approve the proposed changes to SDCL 13-12A-15.1. Passed.

The board reviewed the Minority Language Opt Out certificates submitted by Day, Lyman, Marshall and Meade Counties.

Discussion on follow up issues from August 24, 2004 meeting as follows:

Nelson gave a report on the Voter ID Implementation and how well that went during the general election.

Viken would like the Secretary of State's Office to educate the parties on SDCL 12-15-1 to make them aware of this opportunity to supply a list of names to the county auditor to appoint as election workers.

Viken would like the Secretary of State's Office to inquire from the auditors about provisional ballots that were not counted. What was the reason they weren't counted and where did the voter state that they registered?

Warne discussed the provisional ballot count procedure used in other states.

Viken discussed the issue that not all county auditors attend the election training. No action taken on making the training mandatory.

Discussed the voter ID bill from the State Tribal Relations Committee. No action taken.

Jacobson updated the state plan as required by HAVA. The updates to the state plan included the following:

Changed the term of "Direct Recording Electronic (DRE) voting machine" to "voter assist terminal". References to punch card ballots were removed because we no longer have any counties using punch cards. The 2004 election changes were listed in the plan. The procedure for the 5% match requirement for Title II funds was added to the plan. The HAVA requirements that South Dakota has met to date, were changed to reference as being met. The process for the verification of last four digits of SSN was listed to be pending due to delays by the SSA. How we met each performance goal was listed in the plan.

Moved by Viken and seconded to approve that updates to the State Plan. Passed.

Moved by Layher and seconded to adjourn at 5:43. Passed

Adjourned.

Chris Nelson, Secretary of State

Kea Warne, Recorder