

Minutes
State Board of Elections Meeting
July 17, 2008

10:00 a.m. Central Time at the following DDN locations: State Capitol, 500 East Capitol, Room B12, Pierre, SD 57501; South Dakota School of Mines & Technology, 501 E Saint Joseph Street, Room 110, Rapid City, SD 57701; University of South Dakota State University, 2205 Career Place, University Center Building Room 282, Sioux Falls, SD 57107; Huron Middle School, 1045 18th St SW, Huron, SD 57350; Yankton High School, 1801 Summit Street, Yankton, SD 57078; Milbank High School, 1001 E Park Ave, Milbank, SD 57252.

The meeting was called to order by chair Chris Nelson at 10:05 a.m. Central Time on July 17, 2008 with the following members responding:

Present

Chris Nelson
Paula Jones
Karen Layher

Gail Brock
Linda Lea Viken
Dick Casey

Absent

Christopher Madsen

Kea Warne, Election Supervisor; Teresa Bray, Deputy Secretary of State, Jennifer Headlee, HAVA Coordinator; Sue Roust, Minnehaha County Auditor; Rich Petersen, Brown and Saenger; Heather Irwin, Minnehaha County Auditor staff; Robert Kean, South Dakota Advocacy Services; Patty McGee, Sully County Auditor and Sherri Wald, Attorney General's Office.

Moved by Layher and seconded to approve the minutes of the November 28, 2007 meeting. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

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

Moved by Brock and seconded to amend the filing deadline for county sheriff certification to the last Tuesday of March for partisan candidates and the second Tuesday in August for an independent candidate (SDCL 23-3-43.1). The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken to allow the poll list to be in paper or computer format and add the type of ballot voted to that list (SDCL 12-18-5). The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Layher and seconded to require a municipal governing body to finalize the date of their annual election no later than January 14 of the election year (SDCL 9-13-1). The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to add to the prohibited activities at a polling place to include petition signature gathering and campaigning on any future ballot question or candidate and remove the exit poll and public opinion poll prohibition (SDCL 12-18-3). The roll being called:

Yeas 5, Nays 1, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Casey
Nays: Viken
Absent: Madsen
Motion Passed.

Moved by Layher and seconded to add the deadline date of January 1 of the year in which the primary is conducted for political parties to change their constitution or bylaws to allow persons who are registered with no party affiliation to vote in their party's primary election (SDCL 12-6-26). The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to add a new section to 12-12 to require a notice of filing deadline to be published for the vacancy of an unexpired term to be filled by election. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve changes to the South Dakota Help America Vote Act State Plan. January 1, 2008 the State credited \$4,000 from the state election fund to each county's state-held balance. The State received another payment in the amount of \$575,000 and the counties are given the opportunity to put up a \$458.53 match and in return the county's state-held account will receive \$8,712.12. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

A rules hearing was declared open at 11:00 a.m. Central Time.

Moved by Casey and seconded to amend ARSD 5:02:03:01 to change the maintaining my home language in the oath to "I actually live at and have no present intention of leaving the above address". Moved by Brock and seconded for a substitute motion to change the penalty of perjury to 2 years and \$4,000 now and amend the language in the oath at a later date. The roll being called:

Yeas 3, Nays 3, Absent 1
Yeas: Jones; Layher; Brock
Nays: Viken, Casey, Nelson

Absent: Madsen
Motion Failed.

Moved by Viken and seconded to amend by placing a delayed implementation date of January 1, 2009 on the changes to ARSD 5:02:03:01. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to approve the amended changes to ARSD 5:02:03:01 to change the maintaining my home language in the oath to "I actually live at and have no present intention of leaving the above address". The penalty of perjury was changed to 2 years and \$4,000 fine. A delayed implementation date of January 1, 2009 was set. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to defer the changes to ARSD 5:02:03:19 to the next rules hearing. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Layher and seconded to approve the changes to ARSD 5:02:04:09 to add county to the form for the notice of special election. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve the changes to ARSD 5:02:05:25 to amend the penalty of perjury to 2 years and \$4,000 fine. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to approve the changes to ARSD 5:02:06:01 to amend the format of the general election ballot by adding shaded boxes for the instructions to voters and bolding the candidate names. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Casey and seconded to approve the changes to ARSD 5:02:06:10 to allow the primary ballot to be in paper or optical scan ballot form. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen

Motion Passed.

Moved by Layher and seconded to repeal ARSD 5:02:06:10.02. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve the changes to ARSD 5:02:08:00 to remove the wording in section (3) "Dates may be in numbers, but must include month, day and year." The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to approve the changes to ARSD 5:02:08:00.01 to add section 1(d) The circulator's verification was signed by more than one circulator. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve the changes to ARSD 5:02:08:01 to add county commission residency requirement in the declaration of candidacy. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve the changes to ARSD 5:02:08:05 to add county commission residency requirement in the declaration of candidacy. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to approve the changes to ARSD 5:02:08:24 to add the term length to the petition form. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Casey and seconded to approve the changes to ARSD 5:02:08:35 to amend the nomination petition used for road or sanitary district trustees to be used for all special district trustees. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Casey and seconded to add to ARSD 5:02:08:42 to create a nominating petition for consumer power district directors. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Viken and seconded to defer ARSD 5:02:16:38 to next rules hearing. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Moved by Brock and seconded to add 5:02:19:11 for an oath of recount board. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Rules hearing concluded 12:45 p.m. Central Time.

Moved by Viken and seconded to adjourn at 12:50 p.m. The roll being called:

Yeas 6, Nays 0, Absent 1
Yeas: Nelson; Jones; Layher; Brock; Viken; Casey
Absent: Madsen
Motion Passed.

Chris Nelson, Secretary of State

Kea Warne, Recorder