

**Minutes of the Public Meeting
United States Election Assistance Commission**

1225 New York Avenue, NW
Suite 150
Washington, DC 20005

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission (“EAC”) held on Wednesday, February 4, 2009. The meeting convened at 10:00 a.m., EDT. The meeting was adjourned at 10:54 a.m., EDT.

PUBLIC MEETING

Call to Order:

Chair Rosemary Rodriguez called the meeting to order at 10:00 a.m.

Pledge of Allegiance:

Chair Rodriguez led all present in the recitation of the Pledge of Allegiance.

Roll Call:

EAC Commissioners:

Deputy General Counsel Gavin Gilmour called roll of the members of the Commission and found present: Chair Rosemary Rodriguez, Vice-Chair Donetta Davidson, Commissioner Gracia Hillman and Commissioner Gineen Bresso Beach. Four members were present for a quorum.

Senior Staff:

Executive Director Thomas Wilkey, and Deputy General Counsel Galvin Gilmour

Also Present:

Congressman Vernon J. Ehlers, and Hon. Lorraine Miller, Clerk of the House of Representatives

Presenter:

Brian Hancock, Director, EAC Testing and Certification Division

Welcoming remarks

Chair Rosemary Rodriguez extended her appreciation for the opportunity and the honor serving as EAC's Chair during 2008.

Adoption of the Agenda

Commissioner Donetta Davidson made a motion to adopt the agenda. Commissioner Gracia Hillman seconded the motion. The motion carried unanimously.

Old Business

Report from the Executive Director

Executive Director Thomas Wilkey extended a welcome to all in attendance, providing the following update on activities that occurred since the Commission's December 8, 2008, public meeting:

Under Voting System Testing and Certification, an initial certification was issued for the MicroVote EMS 4.0 voting system; a two-day meeting was recently held to discuss the Unified Testing Initiative; Avante International Technology's first voting system was submitted for testing; SysTest submitted version 10.0 of ES&S's Unity 4.0 voting system test plan; a test report for MicroVote's EMS 4.0 and Unisyn's request to terminate application of the EMS 3.0 were recently approved; ES&S's Unity 4.0 voting system test plans were received; draft test plans for the Sequoia, Premier Assure and Dominion systems have been posted; a decision on Ballot Marking Device/Scope of Testing was issued; correspondence regarding the reuse of prior testing between EAC and iBeta test lab was posted.

With respect to the lab accreditation program, SysTest's remedial action plan was approved and the expiration of InfoGuard's lab accreditation was reported on.

Under HAVA Funding, 2008 requirements payments have been disbursed to the following states: Colorado \$1.7 million; Georgia \$3.2 million; Idaho \$575,000; Iowa \$1.2 million; Minnesota \$1.9 million; Montana \$575,000; North Dakota \$575,000; Oregon \$1.4 million; Pennsylvania \$4.9 million; and, South Dakota \$575,000. \$98.5 million still remains to be disbursed.

Mr. Wilkey reported that the Commission held the following nine tally votes since the December 8, 2008, public meeting: Posting a Proposed Working Group Policy for Notice and Public Comment; Approving the appointment of a candidate to the post of EAC General Counsel; Appointing Gineen Beach as Chair and Gracia Hillman as Vice-Chair for 2009; Approving updates to the Minnesota State Instructions on the NVRA; Approving and filing the FACA Charter for EAC's Board of Advisors; Adoption of Executive Order Regarding Across the Board Pay Increase to Government Employees; Close the portion of the January 15, 2009, Commission meeting at which EAC discussed the appointment of a General Counsel; and, Close the February 2, 2009, meeting at which the EAC discussed the appointment of General Counsel.

Under Election Administration Resources and Research, Mr. Wilkey reported the following: Copies of 11 Election Management Guidelines chapters, covering topics such as pre-election testing, absentee voting, vote by mail and contingency planning, were recently mailed to 5,200 officials; members of EAC's research team will be speaking at meetings later in the month hosted by NASED, NASS and the Election Center to discuss progress of the 2008 Election Day Survey and other EAC research. To receive a copy of the 11 Election Management Guidelines chapters, contact Karen Lynn-Dyson at (202) 566-3100.

With respect to EAC's Operations, Mr. Wilkey reported that the deadline for submission of applications for the positions of a supervisory grants management specialist and a chief financial officer is February 6, 2009, and the Inspector General's semi-annual report to Congress that was recently issued has been posted under the "Inspector General" section on EAC's Web site.

Regarding Policies and Proposals, Mr. Wilkey reported that the public comment period for Commissioner Davidson's Maintenance of Effort policy closed and that all comments can be reviewed on EAC's Web site. Comments are being accepted with regard to the following: A proposed Working Group Policy submitted by Commissioner Hillman, a Maintenance of Effort funding policy submitted by former Commissioner Hunter and resubmitted by Chair Rodriguez, and regulations that would implement the Common Rule, in addition to regulations covering nondiscrimination on the basis of age, race, color or national origin.

Installation of New Officers

Chair Rodriguez welcomed and introduced Congressman Vernon J. Ehlers. Congressman Ehlers expressed his appreciation for having the opportunity to take part in the installation ceremony, commended Commissioner Beach for the outstanding job she did while serving on the House Administration Committee, and voiced his confidence in her duties as Chair of the EAC. The oath of office of Chairwoman of the EAC was administered by Congressman Vernon J. Ehlers to Commissioner Gineen Beach.

Chair Beach expressed her appreciation to Congressman Ehlers for his friendship, supporting her career, and taking time out of his busy schedule to participate in the installation ceremony.

Commissioner Rodriguez introduced and welcomed Lorraine Miller, Clerk of the House of Representatives. The oath of office of Vice-Chair of the EAC was administered by Ms. Miller to Commissioner Gracia Hillman.

Vice-Chair Hillman expressed her appreciation to both Congressman Ehlers and Ms. Miller for taking part in the installation ceremony. Vice-Chair Hillman noted that she would be completing her sixth year and final term on the EAC, extending her appreciation to both former and present colleagues and EAC staff.

Chair Beach presented Commissioner Rodriguez with a gavel commemorating her service as EAC's Chair during 2008.

Remarks from the Chair

Chair Beach expressed her appreciation for both the honor and privilege it will be to carry out her duties during 2009, after which she pointed out that the goals/focus during the upcoming year will be directed to the following: Analyzing data, identifying areas of election administration that were successful during 2008, identifying areas that need improvement or additional guidance, ensuring the certification of voting systems, improving EAC's clearinghouse, continued assistance at the polls, internal initiatives to improve efficiency, collecting and sharing information with stakeholders regarding existing pilot programs and projects and utilizing cost-efficient practices such as forming working groups to provide comments and information on the various policies, guidance and projects that will be considered by the Commission during the coming year.

Old Business (Cont'd)

Approval of the minutes from the previous meeting

Chair Beach asked for a motion to approve the minutes from the December 8, 2008, public meeting. Commissioner Rodriguez moved to accept the minutes. Commissioner Davidson seconded the motion. The motion carried unanimously.

Report from the Executive Director (Cont'd) - Questions and Answers

In response to questions by the Commissioners:

Mr. Wilkey clarified that the acronym he used earlier during this report with regard to FACA was referring to the Federal Advisory Committee Act. Mr. Wilkey also noted that the purchase/utilization of voting systems certified during 2009 for the 2010 election cycle will depend on the availability of each state's resources. Mr. Wilkey further clarified that EAC's decision on how to proceed with establishing/implementing its testing and certification program was not predicated on whether states would buy systems, but rather because of the time that states are taking to select a system that will meet both their jurisdictional and demographic needs. Brian Hancock, Director, Testing and Certification Division, concurred with Mr. Wilkey's comments regarding the purchase of voting systems, pointing out that there are states that are awaiting EAC certification of their systems, and it is his belief that EAC certifications will have some effect on those states that have HAVA funds, or are waiting for funds in order to purchase systems in the near future.

New Business

Update on the EAC Certification Program

Presenter: Brian Hancock, Director, EAC Testing and Certification Program

Mr. Hancock addressed the Commission to report on the recent Unified Testing Initiative and Cost of Testing Meeting that was held January 29-30, 2009, in Miami, Florida, which was attended by approximately 90 participants, including election officials from approximately 40 states and several jurisdictions, representatives from EAC's voting system test laboratories, voting system manufacturers, advocacy groups and the National Institute of Standards and Technology (NIST).

Mr. Hancock reported that a communications working group was established that will be working with EAC staff for the purpose of identifying additional/effective ways of communicating information about the certification program to constituents, in addition to determining what information is the most critical that needs to be communicated in a timely fashion. The working group will be comprised of the following: State election officials will be represented by Nick Handy from the State of Washington, Wes Taylor from the State of Georgia and Doug Kellner from the State of New York as an alternate. Voting system test laboratories will be represented by Mr. Frank Padilla of Wyle Laboratories. The voting system manufacturers will be represented by Mr. James Hoover of Dominion Voting, David Beirne of The Election Technology Council, and Bernie Hirsch of MicroVote as an alternate. The advocacy community will be represented by Ms. Pam Smith of Verified Voting. And local election officials will be represented by Mr. Keith Cunningham of Allen County, Ohio.

The following six states have agreed to participate in a pilot program that will be exploring ways to look at shortening the timeline for product certification, save the cost of redundant federal and state testing, in addition to assisting states with their costly/unique state testing: California, Georgia, New York, North Carolina, Ohio and Pennsylvania. A seventh state that is potentially interested in taking part in the pilot program is discussing the matter with their director's office, and will be informing Mr. Hancock shortly regarding their decision.

Mr. Hancock provided additional details regarding the meeting that included exploring ways to reduce cost of testing, which was addressed by Merle S. King, Executive Director, Center for Election Systems, Kennesaw State University, along with three breakout

breakout sessions exploring: (1) Potentials for controlling testing cost, (2) How states and the EAC can better balance the cost of testing with quality testing, (3) How states and the EAC can better process and evaluate engineering change orders. All handouts, PowerPoint presentations and transcripts, both verbatim and minute versions, from the meeting are in the process of being posted on EAC's Web site.

Mr. Hancock was pleased to announce that the certification division will be sending a memo to Executive Director Wilkey within the next several days, recommending full EAC certification for the MicroVote EMS 4.0 voting system to the 2005 Voluntary Voting System Guidelines (VVSG), and to further announce that EAC is working with voting system test labs towards the certification of additional systems within the next 120 days.

Questions and Answers

In response to questions by the Commissioners:

Mr. Hancock reported that feedback is still being received regarding the meeting in Miami and that the overall verbal feedback has been very positive.

Chair Beach, along with Commissioners Rodriguez and Davidson, expressed their appreciation for the meeting, noting that it was both productive and well received. Mr. Hancock expressed his personal thanks to Emily Jones, Robin Sergeant, Laiza Otero and Matt Masteron for making the meeting possible.

In response to additional questions, Mr. Hancock noted that the Executive Director has the final decision-making authority with respect to initial certifications of voting systems, with the Commissioners serving as an appeal body. Mr. Hancock concurred with Commissioner Rodriguez's suggestion regarding arranging a meeting/hearing after two or three systems have been certified, in order to receive feedback from the manufacturers on EAC's certification process. In response to Chair Beach's question, Mr. Hancock also explained that the meeting was originally to be held in August but was rescheduled due to the hurricane. The agency had only 6 months in which to reschedule, so a date in January was chosen.

Commissioner's Closing Remarks

Vice-Chair Hillman expressed her appreciation to Commissioner Rodriguez, former Commissioner Caroline Hunter and Commissioner Davidson for their guidance during 2008. Vice-Chair Hillman also recommended exploring ways to ensure that the information posted on EAC's Web site is accessible, user-friendly and easily digestible, in order to help individuals fully understand what EAC is accomplishing, seeks to accomplish, and how it is serving the voter. Executive Director Wilkey concurred with Vice-Chair Hillman's suggestion, noting that a contract for a new Web service is in the process of being put out for bid.

Chair Beach concluded by expressing her anticipation for the coming year, once again, reiterating, the focus will be ensuring that both the information and tools are made available to election officials, advocacy groups, and most importantly voters for future elections.

Commissioner Davidson made a motion to adjourn the meeting. Vice-Chair Hillman seconded the motion.

Meeting was adjourned at 10:54 a.m.