STATE ELECTION COMMISSION
AGENDA
July 15, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Approval of Minutes: June 12, 2020 (SBC), June 17, 2020 (SEC) and June 26, 2020 (SBC)

New Business:
Covid-19 Impact on Statewide Primaries/Runoffs
County Compliance – Richland County
Planning for General Election

Old Business:
Election Systems and Software (ES&S) Certification of EVS 6.1.1.0 Voting System
Charleston County Consolidation of Polling Places
Information Technology Security Update
Legal Update

Next Meeting(s):
Friday, August 14, 2020 at 3:00 p.m. (SBC)
Wednesday, August 19, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
July 15, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: 
Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: 
Marci Andino, Executive Director; Howard Knapp, Director of Voter Services; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator, and a member of the public

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Approval of Minutes

The first item of business was the approval of the minutes for the meetings of June 12, 2020 (SBC), June 17, 2020 (SEC) and June 26, 2020 (SBC). A motion was made by Ms. McCall to approve the June 12, 2020 minutes, seconded by Mr. Mosley. The minutes were approved unanimously. Ms. Day made a motion to approve the June 17, 2020 meeting minutes, seconded by Mr. Edler. The minutes were approved unanimously. The motion to approve the June 26, 2020 meeting minutes was made by Mr. Edler, seconded by Ms. McCall. The vote to approve the minutes was unanimous.

New Business

The first item of new business was the impact of COVID-19 on the statewide primaries and runoffs. Ms. Andino informed the commissioners not all county reimbursements have been processed, but about two and half million dollars have been spent on personal protective equipment, disinfectant supplies, and additional poll worker incentive pay as well as COVID-19 specific training pay. She advised a full report will be issued once all county reimbursements are processed.

Ms. Andino reported 23% turnout for the election with approximately 770,000 voters participating. She reminded the board that the General Assembly added the State of Emergency reason for voting absentee in June elections, and that the federal court removed the witness requirement for the June elections only. She also reported a 213% increase in absentee voting as compared to the 2016 primaries with approximately 174,000 absentee ballots cast. She explained that a dramatic shift in the method of casting absentee ballots
occurred. While the majority of absentee voters have historically cast their ballots in-person, approximately 66% cast their ballots by mail.

Ms. Andino also informed the Commission that there were poll worker and polling place shortages. She explained some established polling places declined to continue being available for use which caused some precincts to use consolidated polling places. This lead to some instances of voter confusion and long lines in many counties through the state. Lines also formed for curbside voting at many polling places as voters other than those with disabilities or over the age of 65 mistakenly tried to use this as a form of “drive-thru” voting.

Ms. Andino cautioned that all of these issues would be magnified in a general election which historically sees around 75% turnout. Chairman Wells stated that while he is hopeful circumstances will improve before the General Election, there is no indication things will get better at this time. Ms. Andino stated the SEC has not received any guidance from the courts or the General Assembly on conducting the General Election during the pandemic at this time.

The next item was county compliance in Richland County. Ms. Andino reported there were leadership issues during the primaries, and Richland County has now hired a new director whom the SEC will be providing training to very soon. She explained that during the primaries, Richland County experienced poll worker shortages. It has been reported that Richland County neglected to contact some poll workers to help with the primaries as well as individuals who submitted applications to serve at the polls. The county also had the longest lines in the state, with the last voter casting their ballot at 12:45 am Wednesday morning.

Ms. Andino advised that the SEC was heavily involved in assisting Richland County during the runoffs. Many SEC staffers were assigned to work with Richland County, and one staff member filed in for the county interim director when he was out sick. In addition, other county directors who did not have runoff elections were recruited to work in Richland during the runoff election. She reported there were overall no issues during the runoff. A formal compliance report is being prepared on the conduct of the primaries and will be shared with the Commission members when finalized.

Planning for the general election was the next item. Ms. Andino stated this will be a very different election and the issues experienced during the primaries and runoffs will be magnified. There could be an estimated 1.6 million total absentee votes cast, with an estimated 1 million absentee ballots being cast by mail, an amount significantly higher than the previous record of 150,000 absentee ballots cast by mail. She advised high speed scanners have been purchased for counties and the SEC is in the process of purchasing inbound mail processing equipment. Ms. Andino also advised additional time will be needed to process the large volume of absentee envelopes which, under current state law, cannot be opened until 9am on election day. Chairman Wells commented counties could be scanning ballots as late as Wednesday or Thursday and results may not be available quickly.
Ms. Andino informed us that ten days after the General Election to certify, but counties have less time. Chairman Wells expressed the need to ask the General Assembly to extend the deadline. Ms. Andino stated this was requested for the primaries. Ultimately, the General Assembly allowed the opening of the outer envelope the day before the elections.

Ms. Andino also advised that the SEC is encouraging medium and large size counties to open satellite offices four to five weeks in advance in order to promote in-person absentee voting. Chairman Wells noted that such efforts would help reduce the Election Day workload for poll workers and election officials, but they will still face difficulties processing such a large number of absentee ballots in a short time-span. He added counties will also continue to face difficulties recruiting poll workers. Ms. Andino responded that the shortage of poll workers and polling locations will be greater during the General Election. Chairman Walls noted rural areas where there are few structures suitable for voting will be impacted, and that the larger facilities traditionally used in urban areas such as community centers, recreation centers, churches, and schools may continue to become unavailable in greater numbers.

Ms. Day asked about the availability of drop boxes for by-mail ballots at satellite absentee offices. Ms. Andino explained that current law does not expressly allow for this and requires that by-mail absentee ballots be returned to county election headquarters. Chairman Walls suggested that the SEC ask the General Assembly to consider allowing drop boxes.

Ms. Andino advised that the General Assembly is expected to return on September 14th. She noted that based on the issues discussed, the measures in place and the steps taken to successfully conduct the primaries will not meet the demands of the General Election. She stated the SEC will request that the General Assembly consider taking some action on the issues discussed for the General Election.

Old Business

The first item of old business was the Elections Systems and Software (ES&S) Certification of EVS 6.1.1.0 Voting System. Ms. Andino advised this version is almost ready. She explained it has gone through testing but has not yet received EAC certification, the report is not ready. Ms. Andino stated she will forward the report once ready and a special meeting will need to be scheduled to certify once report is finalized.

The next item of old business was the deconsolidation of polling places in Charleston County. Ms. Andino advised no progress is expected to be made with the current COVID 19 situation and the shortages resulting from it.

Information technology security update was the next item. Ms. Andino reported the scvotes website has been moved to a .gov domain, an official government website. She advised all visitors to scvotes.org will be redirected to scvotes.gov. She also advised the SEC is
continuing to work with its security partners. She also reported updates have been made to the office’s security access system.

The last item was legal updates. Mr. Brant stated there are no updates at this time on any of the cases listed. The two federal court cases, Middleton and Thomas, are currently in the discovery phase.

Mr. Wells reminded the members there may be a special meeting scheduled to certify the ES&S update and there will be a State Board of Canvassers meeting on Friday, August 14, 2020 at 3:00 p.m. and the next State Election Commission meeting will be held on Wednesday, August 19, 2020 at 10:00 a.m.

A motion to adjourn the meeting was made by Ms. McCall and seconded by Mr. Moseley. The motion passed unanimously.

Respectfully submitted,

[Signature]

Daylin Silber, Administrative Coordinator
STATE ELECTION COMMISSION
AGENDA
July 20, 2020
2:00 p.m.
1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:
Candidate Withdrawal – State House District 107

Old Business:
Election Systems and Software (ES&S) Certification of EVS 6.1.1.0 Voting System

Next Meeting(s):
Friday, August 14, 2020 at 3:00 p.m. (SBC)
Wednesday, August 19, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
July 20, 2020
3:00 p.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Howard Knapp, Director of Voter Services; Harrison Brant, General Counsel; Chris Whitmire, Director of Public Information; Daylin Silber, Administrative Coordinator

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

New Business

Chairman Wells stated the only item of new business was the withdrawal of Representative Clemmons as a candidate from State House District 107 race. Ms. Andino advised the SEC was in receipt of a sworn affidavit from Representative Clemmons stating he was withdrawing for a legitimate nonpolitical reason. She also stated the SEC has 10 days to consider and make a decision on whether the withdrawal is for a legitimate nonpolitical reason, in accordance with S.C. Code § 7-11-55. If so, candidate filing for a special primary to nominate substitute candidates will open in two weeks. After further discussion, a motion was made by Mr. Moseley to find the withdrawal is for a legitimate, nonpolitical reason. Ms. McCall seconded the motion. The vote was unanimous.

Old Business

The first item of old business was the Elections Systems and Software (ES&S) Certification of EVS 6.1.1.0 Voting System. Ms. Andino advised this version has been certified by the EAC. She also stated it has been tested by SEC staff and the SEC recommends approval. Mr. Moseley asked if this version would be used in the upcoming General Election. Ms. Andino explained this would require every ballot marking device and scanner, approximately 13,000 of them, to be updated. She expressed doubt it can be done in time for the General Election.

A motion to certify the update was made by Ms. Day and seconded by Mr. Moseley. The motion passed unanimously.
With no other business to discuss, a motion to adjourn the meeting was made by Ms. McCall and seconded by Mr. Moseley. The motion passed unanimously.

Respectfully submitted,

[Signature]

Daylin Silber, Administrative Coordinator
STATE BOARD OF CANVASSERS
AGENDA
August 14, 2020
3:00 pm

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:

Certification of the results of the State House District 115 Special Election held on Tuesday, August 11, 2020.

Items may be added as necessary.

COMMISSIONERS

JOHN WELLS
Chairperson

JOANNE DAY

CLIFFORD J. EDLER

LINDA MCCAL

SCOTT MOSELEY

MARCIA ANDINO
Executive Director

1122 Lady Street
Suite 500
Columbia, SC 29201

P.O. Box 5987
Columbia, SC 29250

803.734.9060
Fax: 803.734.9366
www.scvotes.gov
STATE BOARD OF CANVASSERS
MEETING MINUTES
August 14, 2020
3:00 p.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference)

Others Present: Marci Andino, Executive Director; Daylin Silber, Administrative Coordinator

Chairman Wells called the meeting of the State Board of Canvassers (SBC) to order. Ms. Andino advised that all notices of the meeting had been posted as required by the Freedom of Information Act.

Mr. Wells stated that the purpose of the meeting was the certification of the results of the State House District 115 Special Election held on Tuesday, August 11, 2020 in Charleston County. A motion was made by Ms. Day to certify the results, seconded by Mr. Edler. The motion passed unanimously.

Without further business to discuss, a motion was made by Ms. McCall to adjourn the meeting, seconded by Ms. Day. The motion was unanimously approved. The meeting was adjourned.

Respectfully submitted,

[Signature]

Daylin Silber
OATH OF STATE BOARD OF CANVASSERS

We, the State Board of Canvassers, hereby certify the following as the whole number of votes cast in the State House District 115 Special Election held in Charleston County on August 11, 2020.

<table>
<thead>
<tr>
<th>Candidate</th>
<th>TOTAL</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spencer Wetmore, Democratic WINNER</td>
<td>3,699</td>
<td>59.5%</td>
</tr>
<tr>
<td>Eugene Platt, Green</td>
<td>71</td>
<td>1.1%</td>
</tr>
<tr>
<td>John Stokes, Republican</td>
<td>2,444</td>
<td>39.3%</td>
</tr>
<tr>
<td>Write in</td>
<td>6</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

John Wells, Chairman

Joanne Day

Cliff Edler

Linda McCall

Scott Moseley

STATE BOARD OF CANVASSERS

Dated this 14th day of August 2020.
STATE ELECTION COMMISSION
AGENDA
August 19, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Approval of Minutes:  July 15, 2020 (SEC), July 20, 2020 (SEC) and August 14, 2020 (SBC)

New Business:
Post Primary Survey Results

Old Business:
Preparations for the General Election
Charleston County Consolidation of Polling Places
Information Technology Security Update
Legal Update

Next Meeting(s):
Friday, August 21, 2020 at 10:00 a.m. (SBC)
Wednesday, September 16, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
August 19, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman; Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Howard Knapp, Director of Voter Services; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator, and a member of the public

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Approval of Minutes

The first item of business was the approval of the minutes for the meetings of July 15, 2020 (SEC), July 20, 2020 (SEC) and August 14, 2020 (SBC). A motion to approve the minutes was made by Mr. Moseley, seconded by Mr. Edler. The minutes were approved unanimously.

New Business

Ms. Andino reported the results of a post primary voter survey conducted by the agency’s voter education services contractor. Of the voters surveyed, 93% said the process of registering to vote is either very easy or somewhat easy, 85% said they are either very confident or somewhat confident in the accuracy of South Carolina elections, and 82% said they are either very comfortable or somewhat comfortable with the new voting system. Voters surveyed also indicated they feel voter fraud occurs less often in South Carolina elections than in national elections. Chairman Wells asked that congratulations be conveyed to the staff of the SEC, and commented that such favorable results are commendable and difficult to achieve. Ms. Day inquired whether those results will be shared with the media, and the Commission members agreed that it should be left to the SEC’s director of public information to disseminate as he deems appropriate.

Old Business

The first item of old business was preparations for the General Election. Ms. Andino stated PPE has been ordered for all counties, and orders were placed early to avoid supply delays experienced during the primaries. She advised the agency is also trying to procure items or
equipment to assist counties with the increased volume of absentee voting including drop boxes, ballot envelope sorting equipment for larger counties, high speed envelope openers, secure voting equipment carts, and electronic signature pads for in-person absentee voting applications. She noted, however, the agency is facing some hurdles in trying to procure these items in advance of the November election in the face of diminishing supplies and increased demand from other election officials across the country. The agency is working with attorneys to ensure compliance with procurement laws and regulations.

Ms. Andino stated training materials for poll managers and counties are being updated and a meeting has been scheduled with county board chairs to prepare them for conducting elections during a pandemic. She advised the SEC is also Inquiring into the possibility of adding a module which allows voters to make an appointment to vote absentee in person while still accommodating voters who appear without an appointment.

Ms. Andino informed the Commission that county boards have been asked to open in-person absentee voting, including satellite locations, a week earlier than usual on Monday, September 28. She explained in-person absentee usually opens 30 days before the election.

Ms. Day inquired about the location of drop boxes. Ms. Andino stated some counties already have drop boxes and most counties want to use them. She explained drop boxes, if used, must be located at the county board’s main office and could also be placed at satellite office locations; drop boxes could not be placed at various locations throughout each county. She added the U. S. Postal Service has stated they will be able to handle the mail relating to ballots.

Ms. Andino advised that approximately 240,000 absentee ballots have already been requested with the election still 76 days away. She stated the previous record for absentee ballot applications was 150,000 in 2016. She also added the counties are receiving applications with “COVID” as the reason. She explained those applications are being held aside. If the legislature adds a state of emergency reason to the absentee ballot application, these applications will then be processed. She advised ballots to military and overseas citizens will be mailed the third week of September and the first wave of absentee ballots to all others who have requested them will be mailed around October 1.

The next item of old business was the deconsolidation of polling places in Charleston County. Ms. Andino reported Mr. Brant reached out to Charleston County for an update and will try to report back soon.

Information technology security update was the next item. Ms. Andino stated the SEC continues to work with its state and federal partners. She also stated work continues with the SEC’s private security firm, which is currently reviewing the SEC’s policies and procedures and fine tuning its documentation. She reported the SEC’s participation in a tabletop exercise, the National Election Cyber Exercise, with county officials. She also informed the Commission that a request for a CISA assessment has been submitted. This would be a
routine, annual assessment of our system conducted by an outside entity for the purpose of detecting system vulnerabilities.

The last item was legal updates. In Raten, Mr. Brant advised the Fourth Circuit issued a ruling in favor of the State and upheld the winner-takes-all electoral college system. In Thomas, a summary judgment hearing is scheduled for August 31. The Middleton case has been scheduled for trial in the spring. The Duggins case will be heard by the State Supreme Court.

Mr. Wells proposed that a meeting be scheduled in the near future between the Commission members and the outside attorneys representing the SEC in these various lawsuits. He explained the Commission members should all be on the same page as to the SEC's positions on the various claims and have the opportunity to instruct counsel as to how these cases should be settled, opposed, or otherwise handled going forward. Mr. Brant responded it may be possible to schedule such a meeting for this coming Friday, August 21, to occur immediately after the State Board of Canvassers meeting scheduled that day at 10:00 a.m. He also advised the Commission members to be aware that the SEC's authority to settle legal matters is limited in cases against the state such as those involving constitutional challenges to current state law, and that any proposed settlement would likely require the approval of the Attorney General's Office. The Commission members agreed that Mr. Brant should schedule the meeting.

A motion to adjourn the meeting was made by Ms. Day and seconded by Ms. McCall. The motion passed unanimously.

Respectfully submitted,

[Signature]

Daylin Silber,
Administrative Coordinator
STATE BOARD OF CANVASSERS
AGENDA
August 21, 2020
10:00 am

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:

Certification of the results of the State House District 107 Republican Primary held on Tuesday, August 18, 2020.

Order mandatory recount, if necessary.
Order runoff, if necessary.
STATE BOARD OF CANVASSERS
MEETING MINUTES
August 21, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference); Mr. Scott Moseley

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator

Chairman Wells called the meeting of the State Board of Canvassers (SBC) to order. Ms. Andino advised that all notices of the meeting had been posted as required by the Freedom of Information Act.

Mr. Wells stated that the purpose of the meeting was the certification of the results of the State House District 107 Republican Primary held on Tuesday, August 18, 2020 in Horry County. A motion was made by Ms. Day to certify the results, seconded by Mr. Edler. The motion passed unanimously.

Without further business to discuss, a motion was made by Ms. McCall to adjourn the meeting, seconded by Mr. Edler. The motion was unanimously approved. The meeting was adjourned.

Respectfully submitted,

Daylin Silber
OATH OF STATE BOARD OF CANVASSERS

We, the State Board of Canvassers, hereby certify the following as the whole number of votes cast in the State House District 107 Republican Primary held in Horry County on August 18, 2020.

<table>
<thead>
<tr>
<th>Candidate</th>
<th>TOTAL</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Brittain WINNER</td>
<td>1,980</td>
<td>70.4%</td>
</tr>
<tr>
<td>Mark McBride</td>
<td>832</td>
<td>29.6%</td>
</tr>
</tbody>
</table>

John Wells, Chairman

Joanne Day

Cliff Edler

Linda McCall

Scott Moseley

STATE BOARD OF CANVASSERS

Dated this 21st day of August 2020.
STATE ELECTION COMMISSION
AGENDA
August 21, 2020
Immediately following adjournment of the
10:00 a.m. State Board of Canvassers Meeting

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Old Business:

Litigation Update
Executive Session to discuss pending litigation

Next Meeting(s):

Wednesday, September 16, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
August 21, 2020
Immediately following adjournment of the
10:00 a.m. State Board of Canvassers Meeting

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator, Alyson Stuckey, Fiscal Analyst

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Old Business

A motion to enter executive session for the purpose of discussing pending litigation against the SEC was made by Mr. Edler, seconded by Ms. McCall. The motion passed unanimously, and the Commission entered into executive session.

The Commission subsequently came out of executive session, and Chairman Wells noted that no action was taken other than a vote on the motion to leave executive session.

A motion was made by Mr. Moseley to adopt an external communications policy which states: "During the pendency of current lawsuits challenging provisions of South Carolina Election Laws, the State Election Commission must approve by majority vote any legislative recommendations regarding general election laws, which recommendations have been requested by the South Carolina Legislature." The motion was second by Mr. Edler, and passed unanimously.

With no other business to be discussed, Mr. Moseley motioned to adjourn the meeting, seconded by Ms. Day. The vote was unanimous.

Respectfully submitted,

Alyson Stuckey,
Fiscal Analyst
State Election Commission

POLICY 2020-01

POLICY ON EXTERNAL COMMUNICATIONS

During the pendency of current lawsuits challenging provisions of South Carolina Election Laws, the State Election Commission must approve by majority vote any legislative recommendations regarding general election laws, which recommendations have been requested by the South Carolina Legislature.

Adopted by vote of the State Election Commission on August 21, 2020.

John Wells, Chairman
STATE ELECTION COMMISSION
AGENDA
August 24, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:
External Communication Policy
Executive Session to receive legal advice and discuss pending litigation

Next Meeting(s):
Tuesday, August 25, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
August 24, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Old Business

A motion was made by Mr. Edler to enter executive session for the purpose of discussing ongoing litigation and receiving legal advice concerning the Commission’s External Communication Policy. The motion was seconded by Ms. McCall. The motion passed by unanimous vote, and the Commission entered to executive session.

The Commission subsequently came out of executive session, and Chairman Wells noted that no action was taken other than a vote on the motion to leave executive session.

With no other business to be discussed, Ms. Day motioned to adjourn the meeting, seconded by Ms. McCall. The vote was unanimous.

Respectfully submitted,

Daylin Silber,
Administrative Coordinator
STATE ELECTION COMMISSION
AGENDA
August 25, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

CANCELLED

Old Business:
External Communication Policy
Executive Session to receive legal advice and discuss pending litigation

Next Meeting(s):
TBD

COMMISSIONERS
JOHN WELLS
Chairperson
JOANNE DAY
CLIFFORD J. EDDIE
LINDA MCDONALD
SCOTT MOSELEY

MARCI ANDINO
Executive Director

1122 Lady Street
Suite 500
Columbia, SC 29201

P.O. Box 5987
Columbia, SC 29220

803.734.9060
Fax: 803.734.9366
www.scvotes.gov

EVERY VOTE MATTERS.
EVERY VOTE COUNTS.
STATE ELECTION COMMISSION
AGENDA
September 9, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Old Business:

Litigation Update
Executive Session to receive legal advice and discuss pending litigation

Next Meeting(s):

Wednesday, September 16, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
September 9, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Old Business

A motion to enter executive session for the purpose of receiving legal advice and to discuss pending litigation was made by Mr. Moseley and seconded by Ms. McCall. The motion passed unanimously, and the Commission entered into executive session.

The Commission subsequently came out of executive session, and Chairman Wells noted that no action was taken other than a vote on the motion to leave executive session.

With no other business to be discussed, Ms. Day motioned to adjourn the meeting, seconded by Ms. McCall. The vote was unanimous.

Respectfully submitted,

[Signature]

Daylin Silber,
Administrative Coordinator
STATE ELECTION COMMISSION
AGENDA
September 16, 2020
10:00 a.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Approval of Minutes: August 19, 2020 (SEC), August 21, 2020 (SBC & SEC), August 24, 2020 (SEC) and September 9, 2020 (SEC)

New Business:
Agency Accountability Report
COVID-19 Response Reserve Funding Request

Old Business:
Preparations for the General Election
Charleston County Consolidation of Polling Places
Information Technology Security Update
Legal Update

Next Meeting(s):
Wednesday, October 21, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
September 16, 2020
10:00 a.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman; Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley (via teleconference)

Others Present: Marci Andino, Executive Director; Howard Knapp, Director of Voter Services; Harrison Brant, General Counsel; Barbara Pittelli, Fiscal Tech

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Approval of Minutes

The first item of business was the approval of minutes for the meetings of August 19, 2020 (SEC), August 21, 2020 (SBC & SEC), August 24, 2020 (SEC) and September 9, 2020 (SEC). A motion to approve the minutes of the August 19, 2020 SEC meeting was made by Ms. McCall, seconded by Ms. Day. The motion was approved by unanimous vote. Ms. Day moved to approve the minutes of the August 21, 2020 SBC meeting, seconded by McCall. The minutes were approved unanimously. Mr. Edler moved to approve the minutes of the SEC meeting held on August 21, 2020. The motion was seconded by Ms. Day, and approved unanimously. Ms. McCall moved to approve the minutes of the August 24, 2020 SEC meeting, seconced by Ms. Day. The motion passed by unanimous vote. Ms. Day moved approve the minutes of the September 9, 2020 SEC meeting, seconded by Ms. McCall. It was approved by unanimous vote.

New Business

The first item of new business was the Agency Accountability Report. Ms. Andino explained this annual report is a summary of the last fiscal year. She stated it includes expenditures, goals, strategies and measures to move the agency forward. Ms. Andino advised it will be sent to Chairman Wells for his signature before submission to the State Budget Office. It will also be made available on the SEC’s website.
The next item of business was the COVID-19 Response Reserve funding request. Ms. Andino reminded the Commission that the General Assembly passed a bill allocating $15 million for the primary and general elections. She stated a funding request was submitted this week for General Election funds to cover items like postage, absentee ballot mailing service, inbound mail processing equipment, personal protective equipment and supplies for polling places, high speed scanners, signature pads, voter education campaigns, and attorneys’ fees for litigation related to COVID-19. Ms. Andino advised she expects a quick response, adding the budget request for the primary was done in four days. Ms. Andino stated the equipment needed by the counties includes high speed scanners and precinct scanners. She also explained an outside media firm is assisting with voter education and outreach and that expense was included in the budget request.

Old Business

The first item of old business was preparations for the General Election. Ms. Andino advised the staff is working with counties to implement the special rules for the General Election passed by the General Assembly in H.5305. She stated the training for county directors for the General election will be done via WebEx instead of in person. Voting system databases for the General Election have been sent to counties for review and approval. She stated UOCAVA ballots are on schedule to be mailed by the September 19, 2020 deadline. Ms. Andino reported more than 375,000 applications for absentee ballots have been received.

The Charleston County consolidation of polling places was the next item of old business. Ms. Andino advised Charleston County has been looking for suitable locations. She advised the commission three of the heaviest polling places have all been divided and relocated and Charleston County has gone from 90 polling places to 100. She added they still have work to do.

Information technology security update was the next item. Ms. Andino stated the SEC continues to work with its state and federal partners. She advised there was a secret level briefing in which the SEC was informed of ongoing threats. She also stated steps are being taken to further secure the SEC’s Intranet sites which include two factor authentication for all SEC and county users. Ms. Andino stated all counties will have to connect their endpoint computers to the network to receive updates and policies prior to the General Election.

The last item was legal updates. Mr. Brant advised that the plaintiffs in Baten filed a petition for rehearing with the Fourth Circuit, and the case could be appealed to the U.S. Supreme Court. The Thomas case is scheduled for trial beginning on September 22. In Middleton, the federal district held a motion hearing on Friday, September 11 on the plaintiffs’ request for a preliminary injunction, and it is anticipated a ruling will be issued soon. In Duggins, arguments before the S.C. Supreme Court are scheduled for Friday, September 18.
Chairman Wells informed the next SEC meeting will be on October 21, 2020. With no other business to discuss, a motion was made by Mr. Mosely to adjourn. It was seconded by Mr. Edler and approved unanimously. The meeting was adjourned.

Respectfully submitted,

Barbara Pittelli,
Fiscal Tech
STATE ELECTION COMMISSION
AGENDA
September 17, 2020
4:30 p.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

Approval of Minutes: August 19, 2020 (SEC), August 21, 2020 (SBC & SEC), August 24, 2020 (SEC) and September 5, 2020 (SEC)

New Business:
Executive session to receive legal advice concerning H5305/R149.
Discussion of H5305/R149 and any necessary action.

Next Meeting(s):
Wednesday, October 21, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
September 17, 2020
4:30 p.m.
1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference)

Others Present: Marci Andino, Executive Director; Chris Whitmire, Director of Public Information; Howard Knapp, Director of Voter Services; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator; M. Elizabeth Crum; Wm. Grayson Lambert; Karl S. Bowers, Jr.

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

New Business

A motion to enter executive session for the purpose of receiving legal advice concerning H5305/R149 was made by Ms. McCall and seconded by Mr. Edler. The motion passed unanimously, and the Commission entered into executive session.

Upon reconvening in open session, Chairman Wells asked for a motion interpreting Section 3 of R149/H5305 as still permitting applications for absentee ballots to be returned by fax and email, and as treating faxed or emailed applications as the equivalent of mailed applications. Ms. McCall so moved, seconded by Ms. Day. The motion passed unanimously.

Chairman Wells asked for a motion to interpret Section 3 – which sets a deadline of 5:00 p.m. on Friday, October 30, 2020, for the return of applications for absentee ballots “if submitted in-person, or by the qualified elector’s authorized representative” – as expanding the role of an authorized representative under permanent state law to returning an application on behalf of a voter, but as requiring the ballot to be mailed directly to the voter in such cases as the voter’s ballot should not be handed to the authorized representative. Ms. Day so moved, seconded by Mr. Edler. The motion passed unanimously.

Chairman Wells asked for a motion treating the reference in Section 4 of R149/H5305 to an “authorized representative” as a scrivener’s error which should instead be treated as an “authorized returnee.” Ms. McCall so moved, seconded by Mr. Edler. The motion passed unanimously.
Chairman Wells asked for a motion interpreting Section 5 — which states that “[b]eginning on October 5, 2020, each county board of elections and voter registration must provide for in-office absentee voting” — as requiring in-person absentee voting to begin by October 5, 2020, but permitting in-person absentee to voting to begin prior to this date at the discretion of county election boards. Ms. Day so moved, seconded by Ms. McCall. The motion passed unanimously.

With no further business to discuss, Ms. McCall moved to adjourn the meeting. Ms. Day seconded the motion. The motion passed unanimously, and the meeting adjourned.

Respectfully submitted,

[Signature]
Barbara Pittelli
STATE ELECTION COMMISSION
AGENDA
September 21, 2020
4:00 p.m.
1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:

1) Discussion on 9/18/2020 Order issued by the Honorable J. Michelle Childs in Middleton and whether to appeal
   - Executive session to receive legal advice and discuss ongoing litigation

2) Discussion on R149/H5305 and legislative intent as to the October 5, 2020 start date for in-person absentee voting
   - Executive session to receive legal advice

Next Meeting(s):

   Wednesday, October 21, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
September 21, 2020
4:00 p.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference); Ms. Linda McCall (via teleconference); Mr. Scott Moseley (via teleconference)

Others Present: Marcia Andino, Executive Director; Harrison Brant, General Counsel; Howard Knapp, Director of Voter Services, Barbara Pittelli, Fiscal Tech

Chairman Wells called the meeting to order. He noted this is an emergency meeting called to discuss the two items on the agenda with less than twenty-four hours' notice. Thus, a determination needs to be made by two-thirds vote of the Commission vote as to whether emergency or exigent circumstances exist which warrant a meeting or discussion on each of the two agenda items without twenty-four hours’ notice to the public.

The first item on the agenda is a discussion of the September 18, 2020 Order issued by the Honorable J. Michelle Childs in the Middleton case and whether to appeal. The Chairman noted the Order sets aside the witness requirement for by-mail absentee ballots and also requires the SEC to “immediately and publicly inform South Carolina voters about the elimination of the witness requirement . . . .” He then stated that by complying with the Order, the Commission might be giving the public bad advice or information if it also files an appeal seeking a stay of the order. M. Elizabeth Crum and Grayson Lambert, outside counsel for commission, addressed the commission on these matters. Ms. Crum advised that the Speaker of the House, President of the Senate, and the Republican Party have all indicated they will file an appeal. This leaves the Commission in a position of having to notify voters the witness requirement is not in effect, only to have this ruling potentially stayed several days to a week later and confusing voters. She explained the Commission needs to decide quickly whether to participate and have a say in the appeal. She also explained that the plaintiffs in Middleton and Thomas have asked for attorneys’ fees, and the Thomas plaintiffs moved this afternoon to consolidate the two cases. Thus, a determination as to whether to participate in the Middleton case would allow the Commission to participate in the motion to consolidate and address any request for attorneys’ fees. Mr. Lambert
explained that emergency appeals in election matters typically move very quickly, sometimes a matter of days. Chairman Wells asked if the Commission will be confusing or misleading voters by telling the public there is no witness requirement only to have the witness requirement reinstated on appeal, potentially resulting in voters' ballots not being counted that are submitted without a signature. Ms. Day moved to hold an emergency meeting on this matter, seconded by Ms. McCall. The motion passed unanimously.

The second item on the agenda is a discussion on R149/H5305 and the legislative intent as to the October 5, 2020 start date for in-person absentee voting. Ms. Crum explained there has been some additional investigation into this issue since the Commission meeting last Thursday, September 17. She explained that the sooner the Commission addresses the question, the sooner it can advise county election boards and the public about the start date and avoid confusion. Mr. Moseley moved to hold an emergency meeting on this issue, seconded by Ms. McCall. The motion passed unanimously.

Ms. Day moved to go into executive session to receive legal advice on these two agenda items and discuss ongoing litigation, seconded by Ms. McCall. The motion passed unanimously.

Upon reconvening in open session, Chairman Wells asked for a motion to instruct the Commission's attorneys to file an appeal in the Middleton case and request a stay of Judge Childs' Order. Ms. McCall so moved, and Mr. Mosely seconded the motion. In discussion, Chairman Wells stated he thinks the Commission needs a seat at the table, the appeal will happen one or another, and he prefers to file an appeal and be a party to the briefing with some control over scheduling. He also prefers to remain involved in the litigation to have a say on the issue of the plaintiffs' request for attorneys' fees in Middleton and Thomas. The motion passed by a 3-1 vote with Chairman Wells, Ms. McCall, and Mr. Moseley voting in favor. Ms. Day voted against the motion.

Chairman Wells then asked whether anyone had a motion to change the Commission's September 17, 2020 interpretation of Section 5 of R.149/H5305 and as to when in-person absentee voting may begin. Ms. McCall so moved, seconded by Mr. Moseley. In discussion, Ms. McCall explained she thinks the language in Section 5 stating, "[b]eginning on October 5, 2020, each county board of elections and voter registration must provide for in-office absentee voting" means what it says. Chairman Wells stated it is unclear what the Legislature meant and he is disappointed in the Senate for not being more clear in the language used. However, he also does not want to be in a position of interpreting this contrary to a majority of the Senate. Chairman Wells stated he thinks the Commission will cause more confusion for voters if the interpretation is not changed. Ms. McCall amended her motion to state that in-person absentee cannot begin prior to October 5, 2020. Mr. Moseley seconded the motion. The motion passed by a 3-1 vote with Chairman Wells, Ms. McCall, and Mr. Moseley voting in favor. Ms. Day voted against the motion.
Ms. Crum asked if the Commission intended to address whether to file a motion for reconsideration in the Thomas case which was stayed by Order issued by Judge Childs. The purpose of the motion to be filed would be to ask Judge Childs to allow the case to go proceed with a trial as scheduled. Chairman Wells asked for a motion to authorize the Commission's attorneys to file a motion to reconsider in Thomas and proceed with trial. Mr. Moseley so moved, seconded by Ms. McCall. The motion passed unanimously.

Mr. Mosely made a motion to adjourn the meeting, seconded by Ms. McCall. The motion passed unanimously, and meeting adjourned.

Respectfully submitted,

Barbara Pittelli,
Fiscal Tech
STATE ELECTION COMMISSION
AGENDA
September 28, 2020
4:00 p.m.

1122 Lady Street, Suite 500
Columbia, South Carolina 29201

New Business:

   - Executive session to receive legal advice.

2) Discussion of who can return an application for absentee ballot under H5305/R149.
   - Executive session to receive legal advice.

Next Meeting(s):

   Wednesday, October 21, 2020 at 10:00 a.m. (SEC)
STATE ELECTION COMMISSION
MEETING MINUTES
September 28, 2020
4:00 p.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference)

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Howard Knapp, Director of Voter Services; Chris Whitmire, Director of Public Information; Daylin Silber, Administrative Coordinator and a member of the public

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Old Business

The first item on the agenda was a discussion on the impact of federal court rulings in Kyon Middleton, et al. v. Marci Andino, et al. on absentee voting. Chairman Wells explained that recent decisions by the Fourth Circuit created "gaps" during which witness requirement has been in effect. This has created confusion and concern among voters and county election officials who need guidance.

A motion to enter executive session for the purpose of receiving legal advice was made by Mr. Edler and seconded by Ms. McCall. The motion passed unanimously, and the Commission entered into executive session.

Upon reconvening in open session, Chairman Wells stated the record should show the Commission received legal advice, and no action was taken in executive session. He also stated the SEC's attorneys are authorized to continue with the appeal consistent with the Commission's vote on September 21, 2020.

The next item was a discussion regarding who can return an application for absentee ballot under H5305/R149.

A motion to enter executive session for the purpose of receiving legal advice was made by Ms. McCall and seconded by Ms. Day. The motion passed unanimously, and the Commission entered into executive session.
Upon reconvening in open session, Chairman Wells stated the record should show the Commission received legal advice and no decisions were made. He also stated we need to give guidance to the counties. Ms. McCall made a motion to interpret Section 3 of R149/H5305 as allowing a voter’s application for an absentee ballot to be returned in person only if submitted by the voter personally or the voter’s authorized representative along with the Request for Absentee Ballot Application By Authorized Returnee form. The motion was seconded by Mr. Edler. Upon discussion, it was clarified that this limitation does not apply to applications returned by mail. Thus, it is acceptable for more than one application to be returned in a single envelope that is mailed to a county election office. The motion passed by unanimous vote.

With no other business to be discussed, Mr. Edler moved to adjourn the meeting, seconded by Ms. Day. The vote in favor was unanimous, and the meeting adjourned.

Respectfully submitted,

[Signature]

Daylin Silber,
Administrative Coordinator
STATE ELECTION COMMISSION
MEETING MINUTES
October 7, 2020
5:00 p.m.

1122 Lady Street, 5th Floor
Columbia, SC 29201

Present: Mr. John Wells, Chairman (via teleconference); Ms. Joanne Day (via teleconference), Mr. Clifford J. Edler (via teleconference), Ms. Linda McCall (via teleconference) Scott Moseley

Others Present: Marci Andino, Executive Director; Harrison Brant, General Counsel; Daylin Silber, Administrative Coordinator and a member of the public

Chairman Wells called the meeting to order. Ms. Andino advised all notices of the meeting had been posted as required by the Freedom of Information Act.

Old Business

The first item of business was a legal update in the case of Kylon Middleton, et al. v. Marci Andino, et al. Mr. Brant advised that on October 5, 2020, the U.S. Supreme Court (SCOTUS) issued an order which stayed the District Court’s order enjoining the witness requirement for absentee ballots “except to the extent that any ballots cast before this stay issues and received within two days of this order may not be rejected for failing to comply with the witness requirement.” He explained this meeting was scheduled to address questions coming in from voters, county election officials, the media, and various groups as to whether absentee ballots received after October 7, 2020 without a witness will be counted, or if voters would otherwise be given a chance to “cure” any issues with the witness requirement. Chairman Wells responded that SCOTUS gave guidance on this issue, and he thinks that guidance was to count any absentee ballots received without a witness through October 7, 2020, but not those received after that date. Ms. Crum advised that the Commission may want to go into executive session to receive legal advice to discuss the implications of the Supreme Court’s order.

Chairman Wells stated it would be appropriate to entertain a motion to receive legal advice on the effect of October 5, 2020 order. Mr. Mosely so moved, seconded by Ms. McCall. The motion passed by unanimous vote, and the Commission entered into executive session.

Upon reconvening into open session, Chairman Wells noted the commission received legal advice and no votes were taken. He also noted the commission has heard from its executive director that counties need direction on counting ballots received without a witness signature after October 7th. Chairman Wells asked if there was a motion to direct the Executive Director to immediately give clear direction to county election officials that they
have no authority to cure absentee ballots received by mail that do not have a witness signature after October 7th. Ms. McCall so moved. The motion was seconded by Mr. Edler, and passed by unanimous vote.

With no other business to be discussed, Mr. Edler motioned to adjourn the meeting, seconded by Mr. Moseley. The vote in favor was unanimous, and the meeting adjourned.

Respectfully submitted,
Daylin Silber, Administrative Coordinator

[Signature]