

# Indiana Election Commission

## Minutes

### September 28, 2009

**Members Present:** Thomas E. Wheeler, II, Chairman of the Indiana Election Commission ("Commission"); Brett Voorhies (proxy of record for S. Anthony Long, Vice Chairman of the Commission); Daniel A. Dumezich, member of the Commission; Sarah Steele Riordan, member of the Commission.

**Members Absent:** S. Anthony Long, Vice Chairman of the Commission.

**Staff Attending:** Pamela Potesta, Co-Director of the Indiana Election Division; Dale Simmons, Co-General Counsel of the Election Division; Leslie Barnes, Co-General Counsel of the Election Division.

**Others Attending:** Laurel Judkins and Jenny Troutman, on behalf of the Marion County Election Board.

#### **1. Call to Order**

The Chair called the September 28, 2009 meeting of the Commission to order at 10:00 a.m. in the Indiana Election Division Conference Room, Indiana Government Center South, Room E-204, at 302 West Washington Street, Indianapolis, Indiana.

The Chair noted that this meeting had been called pursuant to IC 5-14-1.5-5(d) to deal with an emergency involving actual or threatened disruption of a governmental activity under the jurisdiction of the Commission, and that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice and agenda are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

#### **2. Adoption of Order 2009-312 (absentee ballot application forms)**

The Chair recognized Mr. King and Ms. Potesta, who advised that after the Commission's September 18, 2009 meeting at which Order 2009-311 was approved, the Co-Directors acted under IC 3-5-4-8 to distribute a notice of newly revised forms approved by the Commission. A copy of the September 23, 2009 notice from the Co-Directors is incorporated by reference.

The Co-Directors noted that under Order 2009-311, revised ABS-1 and ABS-2 absentee application forms, in English and Spanish, had been approved to reflect a change in state law, effective July 1, 2009, that added a new reason for voting absentee by mail, namely that the applicant "is a member of the military or a public safety officer." The notice indicated that the revised versions of the ABS-1 and ABS-2 superseded all previous absentee application forms because of this addition to state law.

The Co-Directors indicated that after mailing this notice to county election officials, the Election Division had received inquiries from county election officials who were concerned that the absentee ballot applications to be used in the November 3, 2009 special elections on local public questions, including several in all or part of Marion County, had already been widely printed and distributed.

The Commission determined that the continued use of the versions of the ABS-1 and ABS-2 absentee application forms which did not include the provision required under state law concerning military voters and public safety officers was necessary for the special elections to be conducted in November 2009.

Ms. Riordan moved, seconded by Mr. Dumezich, that the Commission adopt Order 2009-312, which is incorporated by reference. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Wheeler, Mr. Dumezich, Ms. Riordan, and Mr. Voorhies), and no Commission member voting "no," the motion was adopted.

### **3. ABS-7 Absentee Ballot Envelope**

The Chair recognized Ms. Judkins and Ms. Troutman, who addressed the Commission on behalf of the Marion County Election Board. They advised that the County Election Board had printed several thousand ABS-7 absentee ballot security envelopes with the ABS-1 application on the reverse side of that ABS-7 envelope, and noted that the version of the ABS-1 application did not include the military voters and public safety officer language added by the General Assembly in 2009. A copy of the ABS-7 absentee ballot security envelope with the ABS-1 absentee ballot application on the reverse, as presented by the Marion County Election Board, is incorporated by reference in these minutes.

Ms. Judkins and Ms. Troutman noted that it would be extremely difficult and expensive for Marion County to print new ABS-7 envelopes for use in the upcoming November 3, 2009 special election. The Chair remarked that he favored permitting Marion County to use these envelopes for the special election, but would want to revisit whether to permit any use of these envelopes during 2010.


Ms. Riordan moved, seconded by Mr. Dumezich, that the Commission authorize Marion County to use this version of the ABS-7 absentee ballot envelope with the ABS-1 printed on the reverse side through December 31, 2009. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Wheeler, Mr. Dumezich, Ms. Riordan, and Mr. Voorhies), and no Commission member voting "no," the motion was adopted.


### **4. Adjournment**

There being no further items on the Commission's agenda, the Chair entertained a motion to adjourn. Mr. Voorhies moved, seconded by Mr. Dumezich, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting

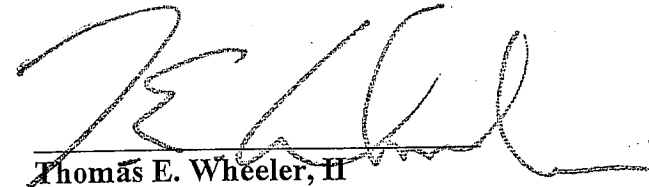
"aye" (Mr. Wheeler, Mr. Dumezich, Ms. Riordan, and Mr. Voorhies), and no Commission member voting "no," the motion was adopted and the Commission then adjourned at 10:30 a.m.

Respectfully submitted,

  
J. Bradley King  
Co-Director

  
Pamela Potesta  
Co-Director

**APPROVED:**

  
Thomas E. Wheeler, II  
Chairman