Indiana Election Commission
Minutes
July 31, 2018

Members Present: Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission ("Commission"); S. Anthony Long, Vice Chairman of the Commission; Zachary E. Klutz, member; Suzannah Wilson Overholt, member.

Members Absent: None.

Staff Attending: J. Bradley King, Co-Director of the Indiana Election Division (Election Division); Matthew R. Kochevar, Co-General Counsel of the Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, campaign finance staff, Election Division; Michelle Thompson, campaign finance staff, Election Division

Others Attending: Ms. Ashleigh Adams (VSTOP); Dr. Jay Bagga (VSTOP); Mr. Adam Fox (VSTOP); Mr. Bernie Hirsch; Mr. Mani Kilaru (VSTOP); Mr. Keith McGinnis.

1. Call to Order:

The Chair called the July 31, 2018 meeting of the Commission to order at 1:30 p.m. EDT in Conference Room C, 402 West Washington Street, Indianapolis, Indiana.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Kathleen Andrews of Associated Reporting, Inc., which is incorporated by reference into these minutes.

The following scrivener’s error is corrected: Page 25, line 19, replace “AVA” with “ADA”.

Respectfully submitted,

J. Bradley King
Co-Director

Angela M. Nussmeyer
Co-Director

APPROVED:

Bryce H. Bennett, Jr., Chairman
APPEARANCES

INDIANA ELECTION COMMISSION:
Bryce Bennett, Chairman
Anthony Long, Vice-Chairman
Suzannah Wilson-Overholt
Zachary Klutz

INDIANA ELECTION DIVISION:
J. Bradley King
Co-Director

Matthew R. Kochevar
Co-General Counsel

Dale Simmons
Co-General Counsel

Michelle Thompson, Campaign Finance

Abbey Taylor, Campaign Finance
CHAIRMAN BENNETT: I'm going to call the Indiana Election Commission Public Session to order for Wednesday, July 31, 2018. The time is 1:32, and we are hereby calling the meeting to order.

I'm the Chairman, Bryce Bennett. Our Vice-Chairman, Anthony Long, is with us. Member Suzannah Wilson-Overholt is here, and Member Zachary Klutz is here.

The Indiana Election Division staff, Co-Director Brad King. Co-Director Angie Nussmeyer is absent due to family matters. The Co-General Counsel are here, Dale Simmons and Matthew Kochevar.

Our court reporter today is Kate Andrews from Associated Reporting. And before we begin, I want to remind everyone on behalf of the court reporter to identify yourself when you are beginning to speak, spell your name when identifying yourself, and speak clearly, and do not speak at the same time as others.

I request at this time that the co-directors confirm that the Commission meeting has been properly noticed as required under the Open Door Law.

MR. KING: Mr. Chairman, members of the
Commission, notice of this meeting was properly posted in accordance with the Indiana Open Door Law.

CHAIRMAN BENNETT: Thank you. At this time I would ask for an approval of the July 17, 2018, Commission minutes, and ask for a presentation by Mr. King.

MR. KING: Thank you, Mr. Chairman, members of the Commission. The July 17, 2018, minutes have been reviewed by Co-Director Nussmeyer and myself. We recommend them for the approval by the Commission.

CHAIRMAN BENNETT: Is there a motion to approve the July 17, 2018, minutes as presented?

MR. LONG: I would make that motion, which includes the, we call them errata sheets, the corrections that were certified to in the beginning. And I think I wasn't here for the meeting, but I have read the entire transcript, and I commend everyone here for a good meeting.

CHAIRMAN BENNETT: Thank you. We have a motion. Is there a second?

MR. KLUTZ: Second.

CHAIRMAN BENNETT: Motion and a second. Is there a discussion? Hearing none, all in favor say
aye.

(Chorus of ayes.)

CHAIRMAN BENNETT: Those opposed say nay.

The ayes have it, and the minutes are approved, and I will affix my signature to them at this time.

At this time I would ask for presentation by Ms. Taylor and Ms. Thompson with regard to ratification of Campaign Finance Settlement Agreements.

MS. THOMPSON: Mr. Chairman, members of the Commission, under the white tab in your binder there is a list of committees to ratify that have agreed to pay the settlement agreement and waive the hearing.

CHAIRMAN BENNETT: Is there a motion to ratify the Campaign Finance Settlement Agreements as presented?

MR. KLUTZ: So moved.

CHAIRMAN BENNETT: Is there a second?

MR. LONG: Second.

CHAIRMAN BENNETT: I have a motion and second. Is there any discussion? Hearing none, all in favor say, aye.

(Chorus of ayes.)
CHAIRMAN BENNETT: All opposed say nay.

The ayes have it, and the motion to ratify agreements is adopted.

We'll move on to a report on referral of campaign finance penalty orders to the Office of the Attorney General, and I would ask for a presentation by the staff.

MS. THOMPSON: Mr. Chairman, members of the Commission, behind the settlement agreement is a list of committees that we are turning over to the Attorney General for collection.

CHAIRMAN BENNETT: I want to thank the staff for this report. Since there is no Commission action required in this matter, we will proceed to the next item on the agenda. Thank you.

MS. THOMPSON: Thank you.

CHAIRMAN BENNETT: At this time we are here to administer the oath to individuals testifying before the Commission today. I would ask Mr. Simmons to administer that oath, and everyone present who plans to testify at today's meeting please stand for the administration of the oath.

(Oath administered.)

CHAIRMAN BENNETT: Thank you.

I now recognize Dr. Jay Bagga and Dr. Bryan
Byers of Ball State University, which administers the Voting System Technical Oversight Program, VSTOP, for a presentation concerning the voting systems.

DR. BAGGA: Thank you, Mr. Chairman and members of the Commission. I would like to start by introducing the VSTOP team.

I'm Jay Bagga, a co-director of VSTOP. To my left is Mani Kilaru. He is the VSTOP IT specialist.

To my right is Ashleigh Adams. She is a VSTOP graduate assistant, and she is working on her Master's of Public Administration degree at Ball State, with a concentration in criminal justice and criminology.

To my far left is Adam Fox. He is a VSTOP undergrad assistant, and he is working on his bachelor's in computer science.

We are pleased to be here.

CHAIRMAN BENNETT: Very good. Thank you. Welcome everyone.

The first item we'd like to address is the MicroVote engineering change orders. The Commission has received two reports from VSTOP with recommendations regarding proposed engineering
change orders for the MicroVote EMS4.1 system.

Both of these reports are included in your binders behind the MicroVote tab with the blue sticker separating the two sets of documents. Each report begins with a summary and recommendation from VSTOP concerning the proposed engineering change order.

Dr. Bagga, can you please briefly describe the engineering change orders to the Commission.

DR. BAGGA: Thank you, Mr. Chairman and members of the Commission.

The first report concerns MicroVote ECO number E180301. This is a de minimis modification or engineering change order which concerns replacement of end-of-life metal-oxide semiconductor field effect transistor and capacitor, which are being replaced on the bridge board.

Members of the VSTOP team have reviewed the ECO and have reviewed all the supporting documents and the voting system testing lab report, which is attached as Attachment 1 in your report.

VSTOP finds that this ECO is in compliance with the requirements for de minimis changes to hardware components. VSTOP recommends approval by the Indiana Election Commission.
CHAIRMAN BENNETT: Is there a representative of MicroVote or any other person present who wishes to testify regarding this matter?

Are there any questions or discussion from the Commission members?

MR. LONG: I have none.

MR. KLUTZ: None.

CHAIRMAN BENNETT: Is there a motion to adopt VSTOP's recommendation for approval of both the engineering change orders listed in VSTOP's reports, E180301 and E180464, as modifications to MicroVote EMS4.1 voting system, with this approval effective immediately?

MR. LONG: So moved.

MR. KLUTZ: Did that motion include both?

MR. LONG: Yes. That is what he called for.

CHAIRMAN BENNETT: Then is there some more discussion and more information he would like to give on the other.

DR. BAGGA: We do have more on the second ECO, if I may continue, Mr. Chairman, since the motion concerns both the ECOs.

The second ECO is ECO E180464, which is also a replacement of an DDR memory socket. It's being phased out, and it's being replaced with an
alternate part.

Members of the VSTOP team have reviewed this ECO and the supporting documents and a report from the Voting System Testing Lab. VSTOP finds that this ECO is in compliance with the requirements for a de minimis change to hardware component.

The DDR3 SODIMM socket is being phased out due to end of life and is being replaced with an alternate part. And the new part is compatible with the MicroVote EMS4.1 voting system, which is certified for use in the State of Indiana. This ECO applies to MicroVote EMS4.1 Infinity Panel Rev D05, as does the previous ECO that we mentioned.

VSTOP recommends the approval of this ECO also.

CHAIRMAN BENNETT: Is there a MicroVote or any other person present who wishes to testify regarding the E180464?

MR. HIRSCH: I'm Bernie Hirsch, chief information officer for MicroVote. I have two requests. It's not specific to that particular ECO but about ECOs in general.

As you know, part of our certification requires us to very tightly control the physical configuration of our components that are used in
our voting system. And because of that there are frequent changes, de minimis modifications, that happen during active production of our voting system on an ongoing basis. We are very actively producing and installing and upgrading, and so we do have a regular normal occurrence of these type of end-of-life components.

Many of them are like we have today, de minimis or extremely minor in nature. They don't alter the function, the fit of the system itself.

And so the first request I have is that if there is a possible way to expedite, I kind of feel bad having to rush you to meet together to decide something that really is not rising to the level of, you know, a significant modification to our system, which could definitely continue to happen every couple of months with the way production goes, the amount of parts that are used in a system like ours.

If there is a way that it could be reviewed by the federal and VSTOP labs and recommended to the board, perhaps there's some other system that could be used besides everyone getting together in a room to do that kind of an approval.

And the other thing that might help expedite
the situation is that if we could be given access
to the VSTOP report when they actually issue it, so
that if there isn't a difficulty or problem or
something that they're not, you know,
understanding, we have the opportunity to rectify
that; so that again we don't necessarily have to
meet and then go back another time to meet a second
time.

So does anyone have any questions about that?

MR. LONG: When do you get the reports now?

MR. HIRSCH: The reports?

MR. LONG: The VSTOP reports.

MR. HIRSCH: We don't get them.

MR. LONG: You've not seen these?

MR. HIRSCH: No. So in the past couple of
times when I've asked for that report, the response
I understand has been, you know, we submit that
directly to the IEC, and you'd have to go to them.
So I'm going to. And I'm saying in the future,
because this will happen every couple of months,
that we get those reports when they are issued, so
that we can address anything of concern in the
report rather than waiting for the meeting to find
out.

CHAIRMAN BENNETT: Is there any communication
between your company and VSTOP people before the report is issued?

MR. HIRSCH: What was the beginning of that question?

CHAIRMAN BENNETT: Is there any communication that occurs between your company and VSTOP?

MR. HIRSCH: Yes. So I'm the one that sends the lab report, the federal lab report to VSTOP, the VSTOP team.

I don't have individual, I mean, I know Dr. Bagga, but I don't send this to him directly. I'm instructed to send it to the VSTOP email address, which goes out to individuals, whoever is on that list. And then if they have questions, they send it back via email about the lab report, and then that's it.

Sometimes I don't even find out if they've issued a report until weeks after they've done that, which happened actually with this first ECN. So it was about two weeks later I said so, you know, whatever happened to that one? We submitted it a couple of weeks ago to the IEC. Which is great and fine, but it's like there's a direct communication once the report is issued between them and you, but it doesn't ever go back to us.
CHAIRMAN BENNETT: Let me ask, Dr. Bagga, how this protocol was developed, and what's the purposes for the way it's done now.

DR. BAGGA: So the protocol is indeed that VSTOP is in communication with the vendors when the process of review of the ECO happens, and the documents from the vendors are submitted to VSTOP. And it's been our understanding that we submit our report to the Commission. And once the Commission has acted on it, the Indiana Election Commission then issues a letter to the vendor as to what the approval process was, if it was approved.

At that point the vendor has sometimes requested copies of reports from the Commission or from the Division. But if the Commission so wishes, we can change the protocol by sharing these reports with the vendor before the Commission accepts them. That's a direction we will follow from the Commission.

MR. HIRSCH: So what we're asking for is when they share it with you, that they then also share it with us.

MR. LONG: I think before we jump on that, we ought to ask the co-directors and co-counsel to review the protocol with regard to the Open Door
requirements and when these become public records
to make sure we're not crossing a line. I think
it's a very reasonable request, both of them. I'm
not for sure that I've sat in on one where they
didn't recommend approval.

I guess Dr. Bagga would, if you are not going
to approve it or if there is something wrong with
it, you would not notify the vendor that you've got
a problem?

DR. BAGGA: We continue to communicate with
the vendor until we resolve all of our issues and
problems.

MR. LONG: So is it when you all stop
communicating, you all have approved it?

DR. BAGGA: We make a recommendation to the
Commission.

MR. LONG: You approve the recommendation to
approve.

DR. BAGGA: Generally, that's the case.

MR. LONG: If there is a technical difficulty
that needs to be resolved?

DR. BAGGA: We continue to work with the
vendor.

MR. LONG: You're communicating with the
vendor to resolve it?
DR. BAGGA: Yes, sir.

MR. LONG: I think the other issue on the de minimis changes, I think staff should communicate with VSTOP people and review that protocol and make a recommendation to us that when we have what are certified de minimis changes, those can be communicated because I don't think we've ever turned one down that's de minimis and they’ve recommended approval.

I think it's more the process than the delay. I can see your problem there.

CHAIRMAN BENNETT: I think we also need a legal opinion to see if the Commission Open Door meeting is necessary in order to approve that.

MR. LONG: I'm not suggesting they get it approved ahead of time. It would still be approved at the meeting. But I think they are just saying we'd like to get the report and we'll know we can act accordingly, if they want to go forward and do what they are doing in their long-range plan before we formally approve it.

MR. HIRSCH: If the reports are always going to be positive by the time they are done with us, then we don't need the report. We only wanted to get the report to know if we had to do something
before it went to the point of going before the
board, the Commission, because then we don't have
time to address anything.

So that part is sort of solved by what
Dr. Bagga has just said about he'll work through
any issues with us before issuing his report. So
that's fine.

With regard to the other issue, so until we
actually get a formal approval from your
Commission --

MR. LONG: You can't do it.

MR. HIRSCH: We can't install or anything any
of these changes. And we have, I mean, a very
heavy schedule of upgrading counties throughout the
year, or especially because we have an election.
We are in an election year. So we currently are
actually holding up some installations because of
this approval, and I just don't like to see that
happen unnecessarily, if there is an expedited way
through your public, you know, Open Door policies
or anything that you could make that decision,
which is eventually going to happen anyway, as soon
as you get the report somehow without having
everyone drive here and do all of that.

MS. WILSON-OVERHOLT: If I could add to what
Commissioner Long said, I agree with everything you said. I think it would be worth exploring the parameters within which the voting systems, you know, because obviously we have to approve voting systems. But surely to goodness there is, well, the de minimis threshold that maybe does not have to be approved by this Commission every single time.

You know, if the type of battery that is used as backup has to be changed due to changing technology, you know, it seems -- well, I guess I won't use the term I was going to use. It seems like it's questionable as to why that should have to be approved by this body. Especially, I mean, I can see if VSTOP, the federal lab, you know, they need to review those things because of various regulations. But I would be interested in hearing if there are certain types of modifications that just do not need to come all the way to the Election Commission, or if we can delegate to VSTOP the discretion to approve certain types of de minimis modifications.

MR. LONG: Or the co-directors.

MS. WILSON-OVERHOLT: Or the co-directors, yes.
MR. LONG: I think that's what needs to be explored. And if we can do that properly, I think it's a completely reasonable request.

MR. HIRSCH: Thank you.

CHAIRMAN BENNETT: Any other discussion on issues raised by Mr. Hirsch?

DR. BAGGA: If I may, Mr. Chairman, and members of the Commission, the current protocols, policies, and procedures for managing changes in Indiana 35 voting systems, that protocol was approved by this Commission on June 27, 2011. And we are operating under those guidelines, and those guidelines do require that the Commission approve all changes, de minimis or otherwise.

Whether now these changes can be dispensed with without Indiana Election Commission approving them, I think that's for the Indiana Election Division counsel and the court to determine, and we will defer to their recommendations on that.

MR. LONG: We need to get copies of those protocols so we can. I'm sure I was here then, but I don't remember.

MS. WILSON-OVERHOLT: I was not.

CHAIRMAN BENNETT: Okay. Let's take things one at a time. I think the first motion on the
table, the first question, is there a motion to adopt VSTOP's recommendation for approval of both of the engineering change orders listed in VSTOP's reports, the E180301 and E180464, as modifications to MicroVote EMS4.1 voting system, with its approval effective immediately.

MR. LONG: That was my original motion, and I renew it.

CHAIRMAN BENNETT: Is there a second to that motion?

MR. KLUTZ: Second.

CHAIRMAN BENNETT: The motion is seconded. Is there any further discussion?

Hearing none, those in favor say aye.

(Chorus of ayes.)

CHAIRMAN BENNETT: All opposed say nay.

Ayes have it. The motion is adopted.

Secondly, we have the issues raised by Mr. Hirsch. Does anyone wish to make a motion with regard to the discussion that we've had on that issue?

MR. LONG: It's a simple motion to incorporate our discussion. I think the co-directors and general counsel understand where we're looking, and they can give us guidance. I move they research
this issue, give us a copy of our existing
protocol, see if there are amendments we can make
to the protocol within the parameters of the law
that will accommodate this meeting, and perhaps
there may be other areas within the protocol that
you may want to discuss with VSTOP to see if it
maybe needs to have a more in-depth overhaul. It's
been eight years ago or almost.

CHAIRMAN BENNETT: Anything else?

MR. LONG: No.

CHAIRMAN BENNETT: For purposes of discussion
I will second that motion. Any discussion?

Hearing none, all in favor say aye.

(Chorus of ayes.)

CHAIRMAN BENNETT: Opposed say nay.

The motion carries.

MR. LONG: Thank you for bringing that to our
attention.

CHAIRMAN BENNETT: Dr. Bagga, will you please
proceed with your presentation regarding the status
for the application for certification of the
Election Systems & Software EVS 5.2.4.0, a new
voting system.

The Commission members will find the status
report of this system behind the ES&S tag in your
binders.

DR. BAGGA: Thank you, Mr. Chairman, members of the Commission. This is a status report on our work in progress in reviewing the ES&S EVS 5.2.4.0, which is a new voting system being evaluated by VSTOP.

VSTOP has reviewed the documentation and is now preparing to conduct a field test on August 10 at Ball State University. This field test will involve demonstration tests on hardware, firmware, and software components. This will also involve verification of all the required elements of the Indiana Election Code regarding voting systems as well as ADA Compliance demonstration.

VSTOP will also conduct a mock election, including the IED approved test case scenarios for straight party voting. All those tests will be conducted on August 10, and then the results of the tests and the documentation will be reviewed again before we can issue a report to the Indiana Election Commission.

CHAIRMAN BENNETT: Very well. Thank you, Dr. Bagga, for that status report.

Because there is no VSTOP recommendation or action at this time, we'll proceed to the next item
on our agenda.

That brings up the Unisyn Voting Solutions voting system report. And, Dr. Bagga, please discuss the application for certification of the Unisyn Voting Solutions OpenElect 2.0.A in the new voting system.

DR. BAGGA: Thank you, Mr. Chairman and members of the Commission. This is a report on Unisyn Voting Solutions OpenElect 2.0.A voting system, which is a modification of OpenElect 2.0. OpenElect 2.0 was tested at Ball State University in February 2018 by the Voting System Technical Oversight Program, VSTOP. VSTOP conducted all the demonstration tests on hardware, firmware, and software components. And the tests also included verification of all required elements of the Indiana statutes regarding voting systems as well as ADA Compliance demonstration.

Mock elections were conducted on the system, and the system passed those results. At that point it was discovered that OpenElect 2.0 was not VVSG compliant, the Voluntary Voting System Guidelines promulgated by EAC. And Indiana statute requires that a system that comes for certification to Indiana must be VVSG compliant. As a result of
that, VSTOP did not make a recommendation to approve the OpenElect 2.0.

Subsequently, Unisyn modified the system and brought before VSTOP OpenElect 2.0.A, which did become VVSG compliant. A review of the documentation was conducted, and we find that the system OpenElect 2.0.A now satisfies all Indiana requirements, including straight party voting, all the ADA requirements, and is also VVSG 2005 compliant.

We recommend this system for certification with the limitation that certain functionalities of this system be disabled. And you will find those functionalities listed on page 5 of the report, of the VSTOP report on Unisyn OpenElect.

In particular, we have placed the limitations that the Election Server and the Software Server be not included in 2.0.A because we do not allow the telecommunication functionalities for transmitting results to local networks. We only allow results to be transferred to USB drives. Therefore, Unisyn has agreed that they will disable the telecommunication functionalities. With that, the system satisfies all of the Indiana statutes.

CHAIRMAN BENNETT: And is there a
recommendation?

DR. BAGGA: The recommendation is to approve
this system for certification.

CHAIRMAN BENNETT: Is there a representative
of Unisyn or any other person present who wishes to
testify regarding this matter?

Are there any questions? Yes, sir.

MR. MCGINNIS: Keith McGinnis, on behalf of
Unisyn. I'd be happy to entertain any questions
that you may have.

MR. LONG: Can you give us a general oversight
of the system?

MR. MCGINNIS: Excuse me, sir?

MR. LONG: In common layman's terms how does
this system differ?

MR. MCGINNIS: It's an optical scan hybrid
system, which utilizes a tabulator to count the
votes. It utilizes a marking device that prints
the ballot, the AVA portion of it, and can also be
used in the vote center environment. It's a paper
trail all the way through, with three redundancies
built into the system, pictures taken to the hard
drive USB. No networking whatsoever within the
system.

MR. LONG: You answered my question.
MR. MCGINNIS: Thank you.

CHAIRMAN BENNETT: Is there a motion to approve the application for certification of the Unisyn Voting Solutions OpenElect 2.0.A in accordance with the recommendations of VSTOP and subject to any restrictions or additional requirement in that recommendation for a term expiring October 1, 2021?

MR. LONG: So moved.

CHAIRMAN BENNETT: Is there a second?

MR. KLUTZ: Second.

CHAIRMAN BENNETT: The motion is seconded. Any discussion? Hearing none, those in favor say aye.

(Chorus of ayes.)

CHAIRMAN BENNETT: All opposed say nay.

The ayes have it, and the motion is adopted.

All right. Following the Unisyn Voting Solutions report, the Indiana Election Commission has finished its business for today. Is there a motion for the Indiana Election Commission to adjourn?

MR. LONG: So moved.

CHAIRMAN BENNETT: I have a motion. We need a second.
MR. KLUTZ: I'll second the motion.

CHAIRMAN BENNETT: We have a second. There is no discussion. All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN BENNETT: All opposed say nay.

The meeting is adjourned. Thank you.

(Meeting adjourned at 2:02 p.m.)
STATE OF INDIANA  )
   SS:
COUNTY OF HAMILTON  )

I, Kathleen Andrews, Notary Public in and for
the County of Hamilton and State of Indiana, do
hereby certify that the foregoing transcript is a
true, full and complete transcript of the
proceedings had.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my official notarial seal on this 7th
day of August, 2018.

__________________________
Kathleen Andrews, RPR, Notary Public

County of residence: Hamilton County
My commission expires: March 22, 2023