

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD MEETING
PUBLIC MEETING

THE OFFICE OF THE SECRETARY OF STATE
SLOPPY FLOYD BUILDING
2 MARTIN LUTHER KING, JR. DRIVE SE
12th FLOOR, EAST TOWER, ROOM 1252
ATLANTA, GEORGIA 30334

THURSDAY, DECEMBER 10, 2009
10:00 A.M.

PRESIDING OFFICER: KAREN C. HANDEL
SECRETARY OF STATE

SECRETARY HANDEL: Good morning everyone. I'm Secretary of State Karen Handel. I will call our meeting to order this morning and request, if I, can for everyone to stand for invocation followed by the pledge of allegiance and then I will do role call.

(INVOCATION)

(PLEDGE OF ALLEGIANCE)

SECRETARY HANDEL: Kent.

MR. WEBB: Present.

SECRETARY HANDEL: Davis.

MR. WORLEY: Here.

SECRETARY HANDEL: Karen is here and Tex is also here.

MR. McIVER: Present.

SECRETARY HANDEL: We do have a quorum and Randy Evans is not with us this morning. He had a last-minute conflict that prevented him from coming. The first order of business is going to be, as we do at all of our State Elections Board meetings, a general public-comment period. So, I'm going to take those public comment statements first and then we will close that and open up for the formal hearing on the rules. And there is a different set of public-comment rules for that. So, our first individual in the general public-comment period, I would ask everyone to please keep your comments to 2 minutes. David Chastain. And if you want to come on up and use the microphone at the head there, that would be great. I'm going to call everybody in order, so we can go ahead. After David will be Garland Favorito, Sally Fitzgerald and then Michael Opits.

MR. CHASTAIN: This is different. Hi y'all. I'm David Chastain from Acworth, Georgia. I'm giving you a formal letter today. I have got a signed original. I will give to the Secretary, if you wish. And I will summarize what I have written. Back in January I came before the State Election Board bringing to your attention the SPLOST 2005 referendum, up in Cobb County. I pointed out that there were 295 blank electronic ballots and I left. And I didn't hear anything from anybody, anywhere, any way, any why, until someone called me and said, did you ever file a complaint with the State Election Board. I said, no, I haven't. Maybe somebody else in Cobb did. So, we find that I was summarized in January 21st minutes. It says that I shared my concerns and I talked about the blank ballots. And then in October I'm on the agenda. But it doesn't say David. It says Cobb County SPLOST SEB Case 2009-four zeros and one eight. Well, that doesn't have my name on it. So even though I saw an agenda, I thought, well, somebody in Cobb, an activist, is doing something. And then what to my wondering eye should appear; the summary of the State Election Board Meeting of October 26th, 2009. And here is what it says. SEB Case No. 2009-four balls and one eight, (2009-00008) Cobb County 2005

SPLOST, Chris Harvey, Deputy Inspector General presented this case, which involved comments made by David Chastain at the January 21st, 2009, State Election Board meeting. Mr. Chastain voiced concerns regarding the Cobb County SPLOST election, held September 23rd, 2005, and stated there were many discrepancies in reporting votes and there were 285 blank ballots. Mr. Harvey recommended the cases close. There were no public speakers -- because they didn't know to be here -- and Randy Evans made a motion to close the case. Kent Webb seconded. The motion passed unanimously, 5 to 0. Now, since I was never informed, it makes me question what kind of inspection was this. And is there no process, no protocol for how we conduct an inspection when it is conducted by the office of the inspector general? And since my time is up, I'll simply say I've given you nine questions, but I'm also asking that you provide an independent forensic investigation of the SPLOST referendum in Cobb for 2005 and 2003. And, to get your attention, I've shown you that in 2003 there were 279 blank ballots in that SPLOST referendum. And I think the people of Georgia would like to know why. Thank you. Who should I give the formal letter to?

SECRETARY HANDEL: Was this what was just passed out to us? Okay. We've got it.

MR. CHASTAIN: Okay. It's got my signature on it.

SECRETARY HANDEL: Thank you. And I'll entertain a motion to accept this into the minutes.

MR. McIVER: I move to admit.

MR. WEBB: Second.

SECRETARY HANDEL: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY HANDEL: Any opposed?

(NO RESPONSE)

SECRETARY HANDEL: All right. Thank you. The next speaker is Garland Favorito.

MR. FAVORITO: Thank you. In January I also submitted a complaint letter, in person, directed to Director Tailor. Director Tailor has confirmed with me twice that he forwarded this on to the IG's office. Chris Brown of the IG's office confirmed that he had received it in February and during the next 10 months I repeatedly requested the status of that case from him, never got a status. I have some correspondence in a letter here to document some of these exchanges. But each time Chris Brown confirmed that the IG's office had it, but he could not provide the status. Finally, in October I wrote another formal letter, as you may remember, to the Board, requesting the status of my complaint, which, I think, was very serious since it involved hundred of millions of dollars of voting machines that were acquired and questionable, according to the law. I received a letter from the Inspector General's last week, saying that they can now not locate my

complaint. I'm attaching my response for your review. I do not consider the inspector's letter to be credible. I would like to, also, mention that I was down at the recount yesterday. I'm sorry to use that expression. No ballots were recounted yesterday. The e-voting simply reprinted previous unverifiable results that were never verified by the voter in the first place. No vote recording errors can be detected in that type of procedure. And the absentee ballots were not recounted. They were rescanned so that if there was an error in the tabulation scanner, in the original count, that error would have been, also, prevalent in the recount. Therefore, I do not consider any recount that was conducted yesterday -- I was there for the full time -- to be legitimate. I think the Board would be wise to look at their recount procedures in depth. Thank you, very much. I also want to inform the Board that I have compiled -- I have read the minutes for one of the Legas case. I understand that she has submitted an e-mail to you folks to have her case reopened. And I do have evidence to present to you in that case, in the event that it is reopened.

SECRETARY HANDEL: Okay. Thank you. The next speaker is Allen/Ellen Fitzgerald.

MS. FITZGERALD: Madam Chair, I've had an off-line conversation with Mr. Taylor on my concern. And he is aware of it and is going to move forward.

SECRETARY HANDEL: Okay. Thank you. The next speaker is Michael Opits.

MR. OPITS: The electronic voting machines --

SECRETARY HANDEL: If I can ask your name and address, for the record, please.

MR. OPITS: Certainly.

SECRETARY HANDEL: Thank you.

MR. OPITS: My name is Michael Opits. My address is 1802 Winfare Court, Marietta, Georgia 30062.

SECRETARY HANDEL: Thank you.

MR. OPITS: The existing e-voting machines are flawed. And that's according to Princeton University's math department. That's a Tier 1 university. Georgia is the only state that continues using these machines that do not produce a hard copy verifiable ballot, so, therefore, recounts are impossible. Simply by pressing the total button is not a valid recount process. It is just like pressing the total button on an electronic calculator. So, I would request that the electronic voting machines, which, by the way, have been acquired by Florida, after the hanging chads in Florida discovered that they, too, were unsatisfactory. I would request that these voting machines be replaced with scan-tron terminals, which is what we used prior to this electronic technology change. They were accurate. They were cost effective, and not subject and also provided a hard copy for recounts. Thank you, very much.

SECRETARY HANDEL: Thank you. With that, I'm going to close the public comment and

accept a motion to close the SEB meeting and then open for public hearing on the rules.

MR. McIVER: So moved.

PANEL MEMBER: Second.

SECRETARY HANDEL: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY HANDEL: All right. Now, we enter into the public-comment period on the rules and I would like to take each of the rules separately and entertain public comment on that. It appears that we have our first rule as 183-1-6.06 Verification of United States Citizenship of Applicant for Voter Registration. Ms. Ashling, you are here to speak on that rule.

MS. ASHLING: Yes.

SECRETARY HANDEL: Okay. Please come forward. Because we have different rules for this, it's 5 minutes each. After Ms. Ashling, Ms. Butler, your comments are on this Citizenship Rule?

MS. BUTLER: Yes.

SECRETARY HANDEL: Okay. You'll be next.

MS. BUTLER: Okay.

MS. ASHLING: Hi. My name is Cam T. Ashling. I'm here to represent OCA, commonly known as the Organization of Chinese-Americans, a leading national advocacy organization, protecting the civil rights of all Asian-Americans in the United States. We are headquartered in Washington, DC with 81 chapters in college affiliates, representing over 10,000 members. OCA Georgia and OCA National strongly objects to verifications of U.S. Citizenship of applicants of voter registration. OCA collectively supports full voting participation by all eligible American citizens and oppose this bill's effort to create new, unnecessary barriers that effectively block minority voting participation. There is, virtually, no evidence that non-citizens are even trying to vote illegally. People already have to take a legal oath of citizenship that protects the integrity of the system. Asian-Americans, like other ethnic groups, have a disproportionate rate of name changes, who have a current legal name that does not match the birth names. Many do not have certificates at all. Passports are very expensive, as you all know. This bill suppresses an already low voter registration group and undermines the spirit of the American people, where the government wants all citizens to participate in the process. This bill will create an unconstitutional poll tax on low-income citizens, where the documentation of papers can cost from \$10 for birth certificates to \$210 for replacement of naturalization papers. Birth certificates, as you know, are the easiest documents to forge, and are seldomly checked. Who is going to check them? Women who have changes through marriage are also vastly affected by this bill or regulation. The burden imposed by this anti-voter bill is substantially greater than the

justification for it. Is Georgia seriously going to require current registered voters to re-prove citizenship every time they move from county to county? As you all know, Georgia has 159 counties. This is extraordinarily cumbersome to the majority of the population. What benefit is there to shrinking the voting pool, but not to concentrate political powers to a few groups? What is the true intent of this regulation? It is greatly astounding that representatives of this great State of Georgia see fit to suppress and intimidate voters from exercising their constitutional right by creating multiple hurdles that aim to shrink and control the current voting pool, especially suppressing the minority vote. OCA Georgia and OCA National strongly objects to these regulations and will continue to speak against this anti-voter, anti-woman and anti-immigrant regulation. Thank you.

SECRETARY HANDEL: Thank you, very much. The next speaker is Helen Butler.

MS. BUTLER: Good morning. I'm Helen Butler, Executive Director of the Coalition for the People's Agenda. I believe we have already submitted our letter, but I wanted to read it into the record today.

SECRETARY HANDEL: If I may. Is that going to be your public comment because you only have 5 minutes and we are going to accept it into the record when we are finished with public comments?

MS. BUTLER: Yes, I will, but I still want to read it into the record, for those who may not have access to it. The Georgia Coalition for People's Agenda is submitting this comment letter as a public comment on the proposed SEB Rule 183-1-6-.06, to urge the State Election Board to reject this rule because it creates an unconstitutional burden on the right to vote on thousands of Georgia Citizens and violates the National Voter registration Act. The People's Agenda is convened by the Rev. Dr. Joseph E. Lowery, and is a coalition of more than 2 dozen historic and newer civil rights, environmental rights, economic justice, peace and social justice organizations, including the NAACP, SCLC, GABEO Woman, etcetera. We have a long tradition of voter registration, education, immobilization, and holding our elected officials accountable. At the onset we would like to register our deep objection to the underlying legislation SB-86 that precipitated the creation of SEB Rule 183-1-6.06. Georgia's existing voter registration procedures already provides for adequate protection against the stated fear of non-citizen voting. In particular, the affidavit of the long-approved, voter registration form requires voter registration applicants to swear that they are citizens under penalty of felony conviction. This requirement is consistent with the NVRA's mail-in order of voter registration and, thus, should not be supplemented with additional proof of citizenship documentation requirement. The Secretary of State's office has failed to provide any evidence of a need to impose a tremendous additional burden on voter registration applicants, despite their access to millions of voter registration records from which to identify a problem. Thus, we feel that the State nor the SEB can legally justify this new requirement. The U.S. Attorney General has already objected to the State of Georgia's illegal implementation of a so-called voter verification program for registration data that was interposed on May 2009 in Morales versus Handel. SBE Rule 183-1-6-.06 is, basically, the same requirement, reliance on the inaccurate Georgia Department of Driver Service's database and other forms of proof that required money, time, effort to obtain who have no substantive change to the blatantly unconstitutional aspects of the previous voter

registration program. In particular, the proof-of-citizenship requirement will have the same disproportionate effect on minority African-American, Hispanic-American, Asian-American and new-citizen voters. And it will effectively become a poll tax for those who are flagged by the inaccurate DDS System and who do not have the alternative required documentation readily available; thus, they would need to spend their time and money to obtain a birth certificate, passport, etcetera. We want to also express our deep disappointment that the State of Georgia seems to be retreating from the hard-fought progress to ensure voting rights for all of its citizens; in particular, the proof of citizenship requirement harkens back to the time when elected officials arbitrarily imposed additional requirements for voter registration that seemed targeted to suppress the vote of those with a history of disenfranchisement and who were the least likely to have the time, resources, etcetera, to jump through more hoops to exercise their right to vote. We have had many civil rights activists who really died for the right to vote. And we really think this is an imposition on that right to vote. The proof of citizenship requirement and its predecessors, the verification program, is discriminatory against minority voters and new-citizen voters and will result in target voter suppression among those communities. As we learned the painful lesson and infamous purging of the so-called felon voters in Florida in the 2000 election, such so-called verification programs generate numerous false positives, thus imposing extra burdensome requirements on some voters for no reason other than predictable administrative error. In the case of Georgia, the so-called voter verification process not only proved to be inaccurate, but also disproportionately flagged minority, again, African-American, Hispanic-American and Asian American voters. We can expect the same results from using the same inaccurate DDS database for the proof of citizenship requirement. In summary, we request that the State Election Board reject this rule because it implements an unconstitutional burden on the right to vote of thousands of Georgia citizens and violates the National Voter Registration Act. Thank you.

SECRETARY HANDEL: The next speaker is Jerry Gonzales.

MR. GONZALES: Morning. My name is Jerry Gonzales. I am Executive Director of the Georgia Association of Latino Elected Officials, also known as GALEO. Our address is P.O. Box 29506 Atlanta, Georgia 30359. Good morning, Chairman Handel, Vice-Chair McIver and members of the State Election Board. I am here to speak against the rule being proposed, as well. Rule No. 183-1-6-.06. Fundamentally, this will lead to discrimination against minority communities, as has been proven by the illegally implemented procedure by the Secretary of State Karen Handel in the last election. Fundamentally, if we want to protect the integrity of the voting process, we need to protect the integrity of access, as well. What this proposed rule will do is diminish access to minority communities that desperately do want to exercise their right to vote and further suppress voting. And, yes, I do believe this would be a poll tax for new citizens that's we want to engage in the democratic process that we have. Specifically, I want to talk about some of the specific concerns that we have with this. The proposed rule contradicts federal law, the National Voter Registration Act, by not allowing the applicants to register to vote using the federal mail-in application. Also, the proposed rule sets out non-existent citizenship documents. There is no state driver's license or identification card that indicates on its face that the applicant is a U.S. Citizen. The proposed rule also references citizenship documents under federal law, specifically, the Immigration and Control Act (sic.) IRCA. IRCA does not provide a listing of acceptable documents and procedures for determining U.S.

Citizenship. The proposed rule excludes potentially valid citizenship documentation. The proposed rule requires that some citizenship documents be, at least, 5 years old. This requirement is unworkable for an applicant who has to obtain the document for purposes, specifically, for voter registration. Many citizens have not had to prove their citizenship in the past and may need to obtain new documents in order to register to vote. In this situation, the citizenship document is going to be less than 5 years old. There are several problems affecting naturalized citizens. The proposed rule singles out naturalized citizens by requiring them to provide their certificate of naturalization to the Board of Registrars in person. The proposed rules do not make any accommodations for newly naturalized citizens that may not enter into the federal state system for several weeks. The proposed rules, also, do not make any accommodations for naturalized citizen that obtained a driver's license prior to naturalization and, therefore, will be tagged in the DDS database as non-citizens. The proposed rules also incorrectly limit certificates of naturalization to those issued by U.S. Citizenship and Immigration Services or USCIS. Certificates of naturalization were issued by Immigration of Naturalization Services, formerly known as INS and federal courts prior to the creation of USCIS. Furthermore, this rule -- these rules also provide too much discretion. The proposed rule, allowing the Board of Registrars to determine whether the citizenship documents presented are satisfactory by validating the totality of the evidence is insufficient guidance and will lead to charges of discrimination and foul play. There are several counties out there that are actively working toward suppressing minority voting. We have experienced that in the last several elections. We are working to rectify that, but the bottom line is, there is a lot of discretion given to some of these county board registrars. The bottom line is we believe this proposed rule should be rejected and I don't believe that the State has proven that it can be implemented in a non-discriminatory manner; therefore, we would deeply express our opposition to implementing this proposed rule. And we would ask for the State Board to reject this rule, the proposed rule. Thank you.

MR. McIVER: Señor Gonzales, con su permision, un momento. (in spanish) Mr. Gonzales.

MR. GONZALES: I didn't understand you. Excuse me?

MR. McIVER: May I ask you a question?

MR. GONZALES: Yes, sir.

MR. McIVER: I'm curious. I expected you to say that you, like the others who have commented earlier, are asserting that there is no evidence whatsoever of non-citizens attempting to vote in Georgia. Is that your position or the position of your organization?

MR. GONZALES: Based on what I have read and based on what I know, there has not been an active attempt for non-citizens voting, yes

MR. McIVER: That's the position of your organization.

MR. GONZALES: Yes, sir. That is what I believe.

MR. McIVER: Okay. Thank you. No other questions.

SECRETARY HANDEL: Anyone else?

(NO RESPONSE)

SECRETARY HANDEL: All right. Our next speaker is Jon Park. Thank you.

MR. PARK: Good morning. My name is Jon Park. And I represent the Center for Pan Asian Community Services. We are the largess Asian community service provider in the southeast I am also here to oppose 183-1-6-.06. Most of the points that have been covered by the people that have been up here before, I am not going to rehash that issue, but at the point of is there a problem of voter fraud? There has been several voter studies, both nationally and statewide. For instance, the Brennan Center conducted a 12-state study, in which they found no meaningful evidence, for statistics of voter fraud. That doesn't mean there was no actual voter fraud at all, but we are talking about meaningful. In addition, in 2008 the Texas Attorney General, Gregg Abbot, conducted a 2-year study, spending \$1.4 million investigating whether there was widespread voter fraud in the state of Texas, which has the largest immigrant population in the United States. He found, in that period, only 8 cases of actual voter fraud. So, there is no widespread actual voter fraud going on in the United States. Is there some voter fraud? There probably is, but the impact that this regulation would have to prevent those isolated cases would not be worthwhile. For instance, the groups that would be impacted by this regulation, up to 18 percent of citizen over 65 will be impacted by this type of regulation. 12 percent of citizens earning less than \$25,000 per year will be impacted. Up to 48 percent of women of voting age will be impacted by not having ready access to citizenship documents reflecting their current legal name due to marriage or divorce. So in weighing the pros and cons, this type of regulation would greatly burden the ability for eligible voters. And we believe that the letter issued by the Department of Justice regarding SB-86 reflects that these types of regulations is both unworkable and burdensome and how do we pay for these regulations in this era where there is deficits in local and state budgets? We feel that it is not worthwhile to implement this regulation in the light that there is no widespread problem at all. Thank you, very much.

MR. McIVER: One moment, Sir. May I ask the position of your organization with respect to whether or not you think there have been any individuals attempting to vote for no, who are non-citizens in Georgia.

MR. PARK: We are not disputing the fact that there may be isolated instances of voter fraud. We are talking about if you weigh the actual amount of voter fraud that has been proven versus the impact that this regulation would have on eligible voters that are flagged by this type of regulation, then it would not be worthwhile. We are not conceding that there is no actual voter fraud at all. We are saying the number of cases that can be proven versus the number of eligible voters that would be affected, the pros and cons who not justify it.

MR. McIVER: Thank you.

SECRETARY HANDEL: Anyone else?

(NO RESPONSE)

SECRETARY HANDEL: The next speaker is Nina Perelez.

MS. PERELEZ: Good morning, Chairwoman Handel, Vice Chairperson McIver, and members of the State Election Board. My name is Nina Perelez and I'm with Southwest Regional counsel of MALDEF, The Mexican American Legal Defense and Education Fund. I am pleased to testify today on proposed Rule 183 --

SECRETARY HANDEL: Can you pull your microphone over a little bit?

MS. PERELEZ: You can't hear me? I will give you my courtroom voice. I'm here to testify on proposed rule 183-1-6-.06, which is intended to implement section 21-2-216 (G) of the Georgia Code, otherwise known as SB-86. This testimony outlines a number of issues raised by the proposed rule and offers some suggestions for improving the rule. This testimony should not be understood to be an endorsement of any portion of either SB-86 or the proposed rule, even if these recommendations are adopted by the Board. I'm going to, briefly, cover the points in the comment letter that has already been provided to the Board. And I hope, Chairwoman Handel, that you do have that, and it will be part of the record.

SECRETARY HANDEL: It will.

MS. PERELEZ: Thank you. The propose rule contains a number of problems that flow from SB-86 itself. For example, the proposed rule does not make clear that the Boards of Registrars are still required by the National Voter Registration Act to accept and process properly completed mail voter registration forms. And we suggest that the rule make clear that, regardless of any contradictory language in SB-86 that Boards of Registrars are still required to accept and process NDRA mail applications. Section 2(a)(2) of the proposed rule is inoperable because there is no state driver's license or identification card that indicates on its face, quote, that the applicant has provided satisfactory evidence of U.S. Citizenship, unquote. You are probably, also, aware that Section 2E of the proposed rule is inoperable because there are no, quote, documents or methods of approved that are established pursuant to Federal Immigration Reform and Control Act of 1986, unquote. The proposed rule also incorporates differential treatment of U.S. Citizens who rely on naturalization certificates to prove their eligibility to vote, because, although other U.S. Citizens are permitted to mail in copies of their U.S. Birth Certificates or U.S. Passports those who rely on naturalization certificates must travel to Board of Registrars to, quote, provide, unquote, their citizenship documents in person. The rule should be changed to make clear that a legible photocopy of the naturalization certificate is satisfactory proof of citizenship. The proposed rule makes no accommodation for the fact that some U.S. Citizens are improperly reported as non-citizen in the DDS database. There has already been quite a bit of discussion on that this morning. So, I won't elaborate, other than to say that the proposed rule should be modified to delete the requirement that the Secretary of State verify U.S. Citizenship of voter registration applicants by reference to the DDS database. Section 2(d)(1) of the proposed rule wrongly limits the definition of the United States Certificate of Naturalization by limiting it to those, quote, issued by the United States Citizenship and Immigration Services,

unquote. As you know, that agency was created in 2003, when the INS was absorbed into the Department of Homeland Security. Prior to 2003, and there are many people whose naturalization certificates were issued prior to 2003, the certificates were issued either by the INS or by the federal courts. Because the naturalization certificates show a range of issuing agencies, the rule should be amended to delete the language limiting satisfactory certificates to those issued by CIS. The problems in SB-86, that flow over into the rule, make it all the more important that the rule provide a fair and open opportunity for voter registration, thus section 2(g)(2)3 should be repaired, because right now, it provides insufficient guidance to the Boards of Registrars by asking them to make eligibility determinations, based on a long list of documents, and then instructing them to consider the totality of the evidence presented. We suggest, instead, that in order to provide appropriate guidance to Boards of Registrars, the proposed rule should be amended to state that that enumerated documents should be presumed authentic, unless there is evidence of fraud. Finally, Section 2(g)(2)4 allows the consideration of a number of documents in order to determine citizenship if the documents have been created at least 5 years before the application. As Mr. Gonzales explained, somebody who may never have had to prove their citizenship before, for example, somebody who is older, but who has never traveled abroad and who didn't need to prove citizenship to get a driver's license might find themselves suddenly needing to produce, for example, an affidavit demonstrating that they were born at home or born with a midwife. Somebody who goes out gets that paperwork together, for the purpose of voter registration, may be presenting exactly a document that is less than 5 years old. So, we would suggest that that 5-year requirement be lifted. Thank you for the opportunity to testify today. I remain available to the Board for any questions regarding my testimony.

SECRETARY HANDEL: All right --

MR. McIVER: Señora Perelez, un momento, por favor.

MS. PERELEZ: Excuse me. I don't understand.

MR. McIVER: What is the position of your organization as to whether or not there is evidence of non-citizens attempting to vote in Georgia elections?

MS. PERELEZ: I am not aware of any incident in which a non-citizen has attempted to cast a ballot, knowing that they are ineligible to vote in Georgia. Thank you.

SECRETARY HANDEL: All right. Our next speaker, last speaker Susan Somach.

MS. SOMACH: Hi. My name is Susan Somach. I reside at 941 Blue Ridge Avenue NE, Atlanta, Georgia 30306. I stand here in opposition as well, and in solidarity with other speakers in opposition to the SEB Rule. 183-1-6-.06. By most definitions I would not be considered a minority. And by the, I would say a little bit of the approach I'm hearing here, this approach toward non-citizens and the assumption that people this name that sound foreign are non-citizens, I think is a fundamental problem with this whole approach. I find it personally an affront to our Democracy. I'm lucky that I moved to the State of Georgia 12 years ago, because if I moved here today, I don't know how I would meet the standard very easily without expending money. I was born in the state of Pennsylvania. I do not have a birth certificate

readily available to me. It would cost me time, money, and effort -- and I am rather busy -- if I had moved here to try to prove my citizenship to be able to vote. If I moved here close to an election or the closing date of a voter registration, I would be equally negatively affected by this. I look at the burden and I look at these questions about whether people are trying to vote who are ineligible to vote, I find it utterly unbelievable that there would be a movement to try to take over any election with non-citizen voting, given the fact that people struggle day-in and day-out and work with refugees and immigrants to come to this country and to get citizenship and while they are in the process, while they are not a U.S. Citizen, the penalty for voting, casting one single vote, that only, in the most rarest of cases, makes an difference in an election, and only a local election, at that. That by casting one vote they can lose all of their rights to everything they've worked and struggled for to come to this country. I think that we need to just step back for a second and think about this potential solution, chasing a non-existent problem, and it's a solution that hurts all of us in the State of Georgia, not just people who can't make it through the hoops, but the people who do, because it diminishes our democracy in this state to try and limit who gets to vote in this state. I think we need to have an open system. We need to be as open as possible. If you swear on penalty of a felony, that should be adequate that you are a citizen. If I came here, I know plenty of people who would not be as determined as I would be to vote. And I would say, you know what, I don't have the time to write to the State of Pennsylvania to get my birth certificate. I don't have time. I have a passport, so, actually, I probably would be able to; but I know people who don't. A huge percentage of Americans and a huge percentage of Georgians do not travel internationally and have the documents readily available. Just because our state legislature was, in my view, erroneous in passing what, I believe, to be an obviously unconstitutional requirement does not mean that the State Election Board has to follow in their footsteps and put their names to an unconstitutional practice. So, I would urge the Board to think very carefully, and until there is a readily easy way to handle this issue, I don't think they can, in conscience, pass this rule or any rule like it, because there is no system to easily check citizenship. And swear on an oath is what we do for most things in this country, with the penalty of a felony. And this should be good enough to vote. Thank you, very much.

SECRETARY HANDEL: Can you hold on a second. I want to make sure no one has any more questions.

MR. McIVER: No questions.

SECRETARY HANDEL: No questions. Okay. With that I'm going to close the public comments. I do have three --

MS. GALLEGOS: I came from Valdosta, Georgia. I came in late.

SECRETARY HANDEL: Okay, Come on up. I need you to fill out a public-comment card. Are you here to speak on the rules, or something else?

MS. GALLEGOS: No, ma'am to speak about --

SECRETARY HANDEL: We are not doing cases today. I'm so terribly sorry.

MS. GALLEGOS: I submitted a request to see if my case could be reopened.

SECRETARY HANDEL: Okay. If we can stop, I can deal with that later, but we need to continue with this. And we will come over to that. In the future I would really suggest that, since you are coming a long way, making a phone call to us about it would have been helpful.

MS. GALLEGOS: We even faxed information. So --

SECRETARY HANDEL: All right. Continuing, I have got three documents that were submitted as written public comment, one from the Coalition for People's Agenda, the second from the Mexican-American Legal Defense and Educational Fund and a third from the Lawyers' Committee for Civil Rights. Colleagues, each of you has a copy of the document. I will entertain a motion to accept them into the record formally.

PANEL MEMBER: Motion.

PANEL MEMBER: Second.

SECRETARY HANDEL: Any questions or comments?

(NO RESPONSE)

SECRETARY HANDEL: We have a motion and a second. All in favor, say aye.
(WHEREUPON THERE WAS A CHORUS OF AYES).

SECRETARY HANDEL: All right. Thank you. Now I will open the floor to each of you if you have questions you would like to ask of Wes Taylor, concerning the rules or comments that you need to make. Once we conclude that we can entertain a motion around the rules, if that's going to be the desire of the body.

MR. WORLEY: I had a number of questions for Mr. Taylor. Looking at the letter sent by MALDEF and the points raised by Mr. Gonzalez and Ms. Perelez, I just want to go through these one at time, because these appear to be some very valid concerns of events that have been raised on their face. (DISCUSSION ABOUT VOLUME OFF THE RECORD) all right. I think there are a number of very valid concerns that have been raised in this letter. And I wanted to check some of the specifics of the questions that were raised.

MR. TAILOR: Yes, sir.

MR. WORLEY: They first raised the issue that the rule lacks a statement that the registrars must accept and used the federal voter registration form required by the NVRA. Why don't we say that in this rule?

MR. WEBB: Because it is already provided for by statute. So, it would be redundant for the SEB to say that. It's actually provided for in O.C.G.A. 21-2-219 Subsection A.

MR. WORLEY: You are confident that the local registrar is (inaudible).

MR. TAILOR: Yes, sir. We get those in all the time.

MR. WORLEY: What is going to happen if someone sends in the federal voter registration form without proof of citizenship?

MR. TAILOR: It really depends on what they have on the mail-in voter registration form. If they use the national board and they put their driver's license number on that, which is required by the mail-in form, if they have already shown proof of citizenship to Georgia Department of Driver Services, then they would be done. That would be it.

MR. WORLEY: And are they required to show proof of citizenship to DDS?

MR. TAILOR: They are required to show either proof of citizenship or proof that they are not a citizen, but here legally.

MR. WORLEY: All right. What about their concern that Section 2(a)(2) of the proposed rule is inoperable (inaudible) as no driver's license or identification card indicates on its face the applicant has provided satisfactory evidence of citizenship? I'm assuming here that the references is to other states.

MR. TAILOR: Yes, sir, and, in fact, that's part of the statute. So, the rule really incorporates the language in the statute.

MR. WORLEY: But the statute is incorrect.

MR. TAILOR: Just because it does say that, if another state provides for proof of citizenship on the face of the driver's license that that can be accepted, just because there isn't one now, we can consider that as a place holder.

MR. WORLEY: Okay. What about their concern, MALDEF'S concern that Section 2-E of the proposed rule is inoperable -- (reading documents, inaudible to reporter)

MR. TAILOR: I would have the same response. Again, that's straight from the statute. Again, I believe that works as a placeholder, as well.

MR. WORLEY: The Georgia statute describes documents or methods of proof established pursuant to the ICTISCA (sic.) that don't exist.

MR. TAILOR: That's my understanding. Yes, sir.

MR. WORLEY: And you think that the Board should continue that mistake?

MR. TAILOR: Again, I don't consider that a mistake. If the federal government or if Congress and the President passed documents under that Act and provide for documents under that Act then they would automatically be incorporated into this statute.

MR. WORLEY: But right now there are none.

MR. TAILOR: Not that I'm aware of, no, sir.

MR. WORLEY: All right. The next point, and this, I think, is a very valid point, and one that I am particularly very concerned about. It says the proposed rule incorporates from the statute the unfair treatment of U.S. Citizens who rely on naturalization (reading - inaudible) other U.S. Citizens are permitted to mail in copies of their birth certificates or passports for those who rely on (inaudible) are not. Can you explain that?

MR. TAILOR: Again, that is provided for by the statute. It is almost straight from the statute. Two things about that, however, one is on the documents themselves it does say, on naturalization certificates, it does say you are not allowed to copy those documents without authorization. I don't know if that entered into the Legislature's mind when they passed the statute as-is; however, keep in mind that if somebody is naturalized and they have their naturalization certification they will be, going forward, just able to put their naturalization number or their alien registration number on the application and that can be verified through Save, and it's done. So, they don't actually have to -- individuals, typically, shouldn't even have to provide a naturalization certificate, but they can if they want to.

MR. WORLEY: But they are going to have to appear in person to do that.

MR. TAILOR: Whether they would have to appear in person or provide the original and have it sent back, I don't know.

MR. WORLEY: All right. What about this issue of whether the Save System, where there is some lag of several weeks because that system is inaccurate. (inaudible)
(SPEAKER WAS ASKED TO SPEAK LOUDER.)

MR. WORLEY: All right. I will try to speak up. And maybe next time we can have a better sound system or have the stenographer sit closer to us. My question was what about the issue of the lag in the Save System having accurate information.

MR. TAILOR: I guess I'm not sure what the -- I understand the question about there being at the Save and being a Department of Homeland Security, but we are already utilizing the programs that are available. And if there is lag, then the individual can certainly provide some other method of proof of citizenship. There's a lot of different methods of proof of citizenship, as you know.

MR. WORLEY: Could you speak to the concern that was raised in the letter about the proposed rule not making any accommodation for the fact that some U.S. Citizens are improperly reported as non-citizens.

MR. TAILOR: Yes, sir. Actually, that is not provided for in this rule; however, the Secretary of State has posted, and I won't speak for the Secretary of State, but will likely adopt a rule which will allow us, when somebody appears as a non-citizen in the Department of Driver Services' database, the Secretary of State's Office will then match that information with the

Department of Homeland Security Save System to see if those individuals have been recently naturalized. So, in that manner, we can actually accommodate this issue that's been raised.

MR. WORLEY: Okay. There was also a concern raised that section 2(d)(1) of the proposed rule, wrongly limits the definition of the United States naturalization, that those issued by the United States Citizenship and Immigration Services, is that another mistake in the statute that is reflected in the rule?

MR. TAILOR: I don't -- I'm sorry. I'm looking for the naturalization. No, sir. The actual reference to the United States Citizenship and Immigration Services is only contained in the rule, not the statute; however, two comments about that. In, as they say, the applicant need only provide the alien registration number, rather than the certificate itself. So, that shouldn't be an issue; however, I believe the State Election Board can interpret its own rule to include any entity that provided alien or produced naturalization documents prior to or after USCIS.

MR. WORLEY: I can understand that. (audience member coughing) We might be able to interpret it that way. My real concern is what local voter registrars, or the way in which local registrars are going to interpret that rule. Again, if they look at this rule and they see, issued by the U.S. Citizenship Immigration Services, when, in fact, there are other naturalization certificates that don't fall, that are perfectly legitimate, but don't fall within that phrase, then I think they are -- they may have a problem with that. So, it's not to get to us until really two late for the person who wants to vote or the person who wants to register. What about this five-year issue? And we have discussed this at previous Board meetings. I understand you got that from other federal regulations relating to Medicare or Medicaid.

MR. TAILOR: Medicare, yes, sir.

MR. WORLEY: But it seems to me, a very valid concern that a number of people have raised, that you need to go out and prove your citizenship now, because you want to register to vote and we have this new law and new rule requiring it. Essentially, anybody who goes out and gets these documents between now and the next five-years isn't going to be able to use them or isn't going to be able to vote for 5 years. That really doesn't make a lot of sense.

MR. TAILOR: Well, I think that's a misinterpretation of the rule. The rule actually provides that the document, I believe, provides that the document be created. So, really what you are talking about here, like a health-insurance record or states-census record, that the record itself was created or medical records created more than 5 years ago to give it some indicia of proof that the person has been here and has been a legal or United States Citizen, because in the medical record, five years ago somebody indicated that this person is a United States Citizen (unclear) and so it gives it some indicia of reliability. It is not that the person would go and get the medical record at the time of registration, that kind of thing. They might get a copy of the medical record that was created. That's why that's there. And, again, the federal government provides for that. And it's system is to provide for the same indicia of reliability.

MR. WORLEY: I appreciate that. But it really does mean that there is going to be a Catch 22 here and that people are not going to be able to prove that -- I mean if they have documents that

don't exist and they need to get an affidavit from someone that they were actually born in the United States, then they are going to be stuck for 5 years, under the rule as it's termed or crafted.

MR. TAILOR: I'm sorry. I don't understand what you just asked.

MR. WORLEY: It really wasn't a question.

MR. TAILOR: Oh.

MR. WORLEY: That's fine.

MR. WORLEY: Well, again, I think -- and this is not a question. I think there is a number of issues that legitimately have been raised by public commenters, and I think that we ought to try to either amend some of these rules today to fix some of these problems or we should table this rule until we can do another revision that responds to some of these concerns.

SECRETARY HANDEL: Any other questions?

MR. WEBB: I do. Mr. Taylor, you did a very good job of explaining everything for the points that Mr. Worely raised. I just want to question about the point that was raised about Section 2(d)(1), that there is other naturalization records issues other than by the CIS. So, if I understand it correctly, if somebody showed up with an INS form and they have already had their citizenship proven prior to the Homeland Security taking over, saying, I think I am not registered to vote; on it's face it could be rejected by the local Board, but they could request a hearing under Section G-2?

MR. TAILOR: They could, yes, sir. But I should make it clear that the State Election Board, again, could make it clear that that provision does apply to any naturalization documents or certificates of naturalization issued by the federal government in its forms. And that certainly can be disseminated and obviously the registrars can know about that well in advance of this implementation of this rule.

MR. WEBB: Is there any concern that this rule simply does not state that, as you are now taking something outside what the rules says? I mean that's extraneous; am I right?

MR. TAILOR: I do understand your point, yes, sir. But, again, the State Election Board has the opportunity to interpret its own rules and statutes. So, you can take the proactive step without necessarily amending the rule at this point or you can amend the rule or you can interpret it and provide a proactive interpretation of the rules.

MR. WEBB: Excuse me for my ignorance. I'm new to the Board. Is that common thing that the Board does, is issue those interpretations or guidance?

MR. TAILOR: There, actually, have been a number of interpretations by the State Election Board at various meetings, yes, sir.

MR. WEBB: On its face, just because it says CIS, doesn't mean that we can't notify everyone, through the procedures that have been established previously, that other forms are available as long as they are issued by the federal government.

Error! Reference source not found.: That is correct, yes, sir.

MR. McIVER: Mr. Tailor, I would like to clarify how Ms. Susan Somach got a driver's license for the State of Georgia. Setting aside the fact that she has got a passport as we've heard in her public comment; if she moved here from the State of Pennsylvania and did not have her birth certificate with her, how would she have obtained a Georgia Driver's License, which I simply presume she has, since she has been here for some number of years?

MR. TAILOR: Right. The Department of Driver Services implemented its requirements for proof of citizenship and proof of non-citizenship in 2005. And that's the data that we have at this point, going forward. I don't know if Ms. Somach got driver's license prior to 2005 or whether she provided some other proof of United States citizenship after that.

MR. McIVER: Would her Pennsylvania Driver's License -- I know she is very young in appearance, would her Pennsylvania Driver's License have been proof enough prior to 2005 to satisfy DDS and therefore they would have issued her a driver's license?

MR. TAILOR: It may have, yes, sir.

MR. McIVER: I moved here in 1972 and I think that's how I got mine. I surrendered my Texas license and I was given a Georgia License. That was my presumption. It was proof of my citizenship at the time.

SECRETARY HANDEL: Mr. Tailor, if I might. In developing the rules, did you and the Elections Division go out and look at other best practices in, at least, one other state that has a similar statute, citizenship statute in place?

MR. TAILOR: Yes, ma'am, we did. We looked at Arizona, which had a similar statute in place, and the rules and regulations that it had passed.

SECRETARY HANDEL: Very good. And just to be clear on the two areas where, within the statute, there were requirements that were put in place that might not necessarily exist today, is it your understanding that that was in an attempt to be anticipatory of potential future actions to avoid having to go back into the legislature update the statute?

MR. TAILOR: Yes, ma'am, that is my understanding.

SECRETARY HANDEL: So, it is anticipatory. All right. And then on section 2(d)(1) around to both David's question and Kent's question. We do, quite frequently, issue guidance out of the Secretary of State's Office to your division routinely to local elections officials if there are questions or specific processes that need to be detailed down further?

MR. TAILOR: Absolutely.

SECRETARY HANDEL: And then, lastly, on provisional ballots, which has been an area of specific concern for me to ensure that if there are any questions at the voting place, that we always have that provisional ballot as a safeguard for the process. I note that one of the last concerns raised had to do with, because this rule does not detail out provisional ballots, could you explain to us how, if you went through all of this, how the provisional ballots would come into play for that individual.

MR. TAILOR: Yes, ma'am. The way that this statute and rule would be implemented, the ideas that it would be similar to IDR voters currently, or voters who do not provide an ID with their voter-registration application under Hobo (phonetic) what happens at that point is those individuals are identified as not having provided the correct form of identification.

SECRETARY HANDEL: I guess what I meant is, is it, specifically set forth in statute that a provisional ballot is provided for or within other rules that we already have in place?

MR. TAILOR: It is contemplated in this rule and even talked about under 2(g)(2) and 2(g)(2)(i), provisional ballots.

SECRETARY HANDEL: Okay, great. So, we do provide for the provisional ballot backup within this system, as well.

MR. TAILOR: Yes.

SECRETARY HANDEL: That's what I wanted to make sure of, that it was all consistent. All right, colleagues, any other questions?

MR. WORLEY: I wanted to follow up. (inaudible) When you look at best practices of other states, you look at Arizona, Arizona is the only state that has a provision like this, correct?

MR. TAILOR: To my understanding, yes, sir.

MR. WORLEY: And then, getting back to the MALDEF letter, they raised an issue that Section 2(g)(2) on the next to last page.

MR. TAILOR: Yes, sir.

MR. WORLEY: Page 3, section 2(g)(2), in the middle, provides that the Board of Registrars shall determine whether the evidence provided by -- (reading, low inaudible) Was that a phrase derived from the Arizona statute or regulations or where did that come from?

MR. TAILOR: Actually, no, sir. Arizona doesn't -- this rule provides for a fail-safe mechanism for individuals who don't have any of the other forms of ID, which is a hearing, that takes place with the Board of Registrars. Arizona statute doesn't provide that fail-safe mechanism, but what was included, and the reason why that totality-of-the-evidence standard was included is that the Board of Registrars are able to look at all of the evidence and all of the circumstances that

someone brings to them in their consideration of whether somebody has provided satisfactory evidence of citizenship.

MR. WEBB: This is a follow-up to try to give a larger discretion to give someone, a broader right -- obviously, with the purpose of getting the person registered to vote, to give everyone every opportunity to share or show their evidence of citizenship, even though it may not otherwise be specified in the statute.

MR. TAILOR: Yes, sir.

SECRETARY HANDEL: All right. Are we ready to entertain a motion?

MR. WORLEY: I would like to make a motion to amend Section 2(D)(1) of the rule, which now says an applicant may provide the Board of Registrars with the applicant's United States certificate of naturalization issued by the United State Citizenship and Immigration Service. I would like to add the phrase, or other official naturalization document issued by the United States Government.

SECRETARY HANDEL: Can I ask, just for clarity, how is that different from what we have there?

MR. WORLEY: Because the issue was that not all certificates of naturalization are now issued by the United States Citizenship Immigration Services. In fact, they were issued by INS or they have been issued by federal courts. And so this responds to one of the concerns that was raised in the letter.

SECRETARY HANDEL: Mr, Tailor are documents from INS or federal court not otherwise provided for in the rule or the statute?

MR. TAILOR: Again, if that is the interpretation of the State Election Board, it would be, yes.

SECRETARY HANDEL: So, through our offices, what we have done previously, we can detail out what they would be versus putting everyone of them in here in order to provide greater responsibility; is that true?

MR. TAILOR: Yes, ma'am.

SECRETARY HANDEL: All right. Okay. There was a motion. Got a second?

(NO RESPONSE)

SECRETARY HANDEL: There is no second.

MR. WORLEY: I would like to make another motion. I would like to table this rule so that the Board and staff would have an adequate opportunity to consider the issues that were raised in the public comments and correct some of the problems that have been pointed out. I think we should

table this, so that we can perfect rule. And I make a motion to do that.

SECRETARY HANDEL: There is a motion. Is there a second? There is no second.

(NO RESPONSE).

MR. McIVER: I move we adopt the rule.

SECRETARY HANDEL: Motion to adopt; is there a second?

MR. WEBB: Second.

SECRETARY HANDEL: Motion and a second; comments, questions, colleagues?

MR. WORLEY: I have, sort of, two sets of comments. One, I think the rule is not well drafted and that may be because the statute is not well drafted, but I don't think that we should continue with the errors that are in the statute. We have a separate and independent responsibility to ensure that our rules make sense. And as has been pointed out by the public comments, in particular, in the MALDEF letter, there are a number of provisions in the statute that are reflected in the rule that just don't make sense, that are inoperable, as the language of the letter says. So I think that it's a bad rule. I also think, just as a general matter of policy, that we are, again, going down a road that the State went down to great expense, and I think wrongly as a matter of policy. I am not talking about the rules of rulings of the Court on the matter, but as a matter of policy we are placing a great burden on voters and that burden is not justified by the limited attempts that we have seen to have non-citizens vote. And the way they come before this Board it must be involved citizens attempting to -- (unclear) so, I just think it is a burden on new citizens. And I think it has been shown and I think it has clearly been shown by the Morales case that the systems that we have in place in the State at this time are just not effective in identifying non-citizens. Basically, half the people in the Morales case, who were identified as non-citizens turned out to be citizens that weren't identified. The procedures that have been in place, as the Justice Department indicated, are discriminatory. And I think that the rule has a tremendous potential to be discriminatory. So, I am going vote against it.

SECRETARY HANDEL: Any other comments?

(NO RESPONSE).

SECRETARY HANDEL: If not, then we are ready to take a vote. All in favor, please say aye. (WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY HANDEL: Any opposed?

MR. WORLEY: Opposed. No. Let's be real clear.

SECRETARY HANDEL: All righty, folks. Our next agenda item is 183-1-11.02 Appearance of Candidate's Name on the Ballot. And in keeping with my previous practice on this particular

matter, I am going to recuse on all deliberations and comments on it and turn the meeting over to Vice Chair McIver.

MR. McIVER: Karen have you left me the comment cards?

SECRETARY HANDEL: Those are all the that we had.

MR. McIVER: Rhonda, would you provided this gentleman a comment card, please. Let the record reflect that the Chair is leaving the room. We will now proceed with my chairing the meeting now that Chair Karen Handel has recused herself. I will open the meeting for public comments. I will identify those who have asked to speak, by way of offering public comments. Similarly, those who do wish to speak that have indicated an interest, you will be limited to 5 minutes. I will do my best with watch without a speed hand here to see that we keep to 5 minutes. While the gentleman is completing the comment card, this section of the meeting does involve the proposed rule 183-1-11-.02, entitled, Appearance of Candidate's Name on Ballots, so that there will be no confusion. Mr. James Quarterman, we will hear from at this point. Mr. Quarterman, I know that you have spoken before at these meetings, but permit me to remind you, we would like your full name, your address, the organizations, if so, that you represent and you are limited to 5 minutes.

MR. QUARTERMAN: My name is James Quarterman. I reside at 8880 Dordnot Circle, Winston Georgia 30187. I am the Chair for the Douglas County Democratic Party. I'm here today because a year and two months ago I filed a complaint with this Board regarding the same issue, the appearance of candidates' names on the ballot. We had a primary election and a general election. And in the primary election, they listed the candidates name as one way and then in the middle of the general election they started the early voting part and then they changed the candidate's name. In changing that candidate's name they changed the database. They contacted your Senator up at Kennesaw State and, actually, made a whole new database containing candidate name change of a middle initial. Well, when they made that name change and changed the database, they threw out, basically, all the database of the folks who had been counted on the previous database that recorded votes for the early voting part. This just happens to be the election that President Obama was in, when more votes were cast in early voting then any time in our nation's history. Upon the votes being tallied that night, come to find out, the Gem server, which we, as tax papers have paid somewhere close to a hundred million dollars, so that Georgia can have an electronic voting system, where all votes are supposed to be counted, by this hundred million dollar electronic voting system, only counted 30,000 of 55,000 votes counted. I presented that information to you. You have it in the record. As a matter of fact you ruled not to even send this issue over to the attorney general to have it looked into, but 25,408 people's votes were not counted. In your own report, your investigator stated that later they went and counted these votes and they made a spreadsheet. And when they made a spreadsheet they gave the spreadsheet to one of the election officials to take home with them. Anybody with a computer can change a spreadsheet and change the voting. There is no security in that. The purpose of this system was to provide security to the public that casts their votes in secrecy and their voters would be counted by accuracy of a hundred million dollar machine or system. So, if you are going to allow flexibility in changing people's names and changing ballots halfway during the election, then there ain't no rule and the rules that you have you are not enforcing,

because four months ago you ruled somewhat in our favor that you would look to impose sanctions against Douglas County and four months after you took 9 months to investigate it, you have taken no action, none whatsoever have you cited Douglas County for anything. And they have held elections since then where they have changed names again on the ballot halfway through. So what you are doing is giving these people a free ride to elect whoever they want by manipulating the ballot and changing names and changing databases. So either you get a system that can read multiple databases and correct itself as it goes along -- and I am a technology professional -- and I know that technology exists that does that, but it depends upon whether you want to pay for it or not. So why I'm here today is to tell you that you have a system. You don't enforce the system. And when you don't enforce the system you allow people to elect who they want to elect, not by the vote of the people, but by their decision who they give votes to. There is no way that this Board should allow 25,000 people's vote to be counted from a spreadsheet when you have a hundred-million-dollar system in place and then don't act to impose any kind of fine or sanction or nothing against these people doing that for over a year and a half. So, they just got a free ride. I will just go do what I want to do. They ain't going to do nothing to me. I just got out of jail, spent 6 days in jail for this same reason, because the Board failed to implement it's policies and procedures to force these people that if you break the law, you will be punished. So now we have got election officials out there now threatening voters, if you don't vote for this we will raise your taxes. We send you documents; you don't do anything about it. Than they want to hold you in contempt of court. The public has no option if you don't protect us. That is what we pay you for, to protect us and our interest and make sure that our votes when we vote them are accounted and are placed and counted for the person to whom we vote, not somebody making up a spread-sheet in a back room and then go to implement these votes and you not do nothing about it. I hold you accountable for that. I am not going to spend my money trying to sue you, because it's not worth it. You should do the job to which we pay you to do. And when you fine these people -- it takes you 8 months to investigate something then the attorney general has got it for another 4 months, and nobody has been fined, nobody has been sanctioned. Nobody has done nothing. We, the people, have just been robbed. And you are the one robbing us. Thank you.

MR. McIVER: Thank you. Let the record reflect that there are no others seeking to engage in public comment on 183-1-11-02. We have, as best I can tell, one written public comment from, that is from a Christy L Boyston, election supervisor of Barrow County in Winder, Georgia. I will entertain a motion that we admit this document into the record.

MR. WORLEY: So moved.

MR. WEBB: Second.

MR. McIVER: Moved and seconded. Any discussion?

(NO RESPONSE).

MR. McIVER: All right. Those in favor of the motion, please indicate by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

MR. McIVER: Opposed?

(NO RESPONSE).

MR. McIVER: All right. The document is admitted. Is there a motion either to amend modify or adopt the rule.

MR. WEBB: Any discussion?

MR. McIVER: Well, my style is to try to get a motion on the table and then we will move from there. If you prefer the other -- it seems to me we need to have something to discuss. Would you like to make a comment or ask questions

MR. WEBB: I would. I want to discuss it. If you want to make the motion that will be fine

MR. WORLEY: I will make the motion that we adopt the rule, so we can have discussion.

MR. McIVER: Is there a second on the motion?

MR. McIVER: I'll second. All right. Discussion about the motion?

MR. WEBB: I just had some questions on Section 1, where it says given or first name, is that trying to say in case a person only has one name? My father only has one name. That would be his given name.

MR. TAILOR: Right. I believe certain cultures and traditions call their first name their given or first name. So, we tried to be inclusive with that.

MR. WEBB: Regardless, Section 1 also requires that no matter what your name is, if you have four names you have your surname, your first name has to be on the ballot whether or not you go by it or use it or not.

MR. TAILOR: In some form, yes, sir.

MR. WEBB: Thank you, because you can use the initial. In my case, I go my middle name. So I'm required to put either my first name or an initial and 3 names.

MR. TAILOR: Correct, like your name plate.

MR. WEBB: Right. I would want try to leave open the possibility that if somebody went by their middle name, did not want to use their first name, did not want to use the initial of their first name, they could use just that name instead. And I'm also in favor of allowing a person, as in a Chipper Jones or Sonny Perdue to be able to use their name by which they are mostly known. My preview of this rule is that that is prohibited. I just want to give a little bit more flexibility. I like a lot of things about the rule, the fact that it limits 25 characters. It has to be some standards

on junior and so forth. And it does require the nickname to be in quotations, but that, in essence, I would prefer that the person not be required to use their first name or in some form unless they did want to. So, in that case I am against the rule as it is presently drafted.

MR. McIVER: Other comments.

(NO RESPONSE)

MR. McIVER: Hearing none, I will call for a vote. Those in favor of the rule as proposed and seconded, please indicate by saying aye.

MR. McIVER: Aye. Those opposed?
(WHEREUPON THERE WAS A CHORUS OF NAYS)

MR. McIVER: Motion fails.

MR. WEBB: I would like to make a motion that we amend the rule, make another draft and post it for consideration.

MR. McIVER: Does that motion include the exact specific language you would propose?

MR. TAILOR: Well, I could work on it, but I think the easiest part is down in Section 4, where it says the candidate's name shall always appear in the following form. Where it says first or given name or initial, I would insert a comma and say if desired by the candidate, similar to how it's drafted for the middle name. On Section 1, I think it should state a candidate's name shall include a family surname and a given or first name, middle name, or nickname, comma, or an abbreviated version of such given first name or middle name or appropriate initials.

MR. McIVER: Any other language that you would proposed?

MR. WEBB: I think that would take care of it.

MR. McIVER: Would anyone like the motion to amend to be seconded? Do I have a second for the motion to amend?

MR. WORLEY: I will second.

MR. McIVER: Moved and seconded. Any other discussion? All right. I will call the motion to amend rule 183-1-11-.02 to a vote. Those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

MR. McIVER: Opposed.

MR. McIVER: Aye. All right. Motion passes 2 to 1.

MR. TAILOR: So the amendment as passed is the candidate's names shall include a family surname and a given or first name, middle name, or nickname, if desired by a candidate or an abbreviated version of such given or first names or appropriate initials.

MR. McIVER: I believe our court reporter has it accurately.

MR. TAILOR: I can do that.

MR. WEBB: Will it be posted?

MR. McIVER: I assume you must revisit the process.

MR. TAILOR: It has to be reposted and noticed for comments.

MR. McIVER: We reinitiate the process.

MR. TAILOR: Correct.

MR. McIVER: Let's begin that process with an original circulation of the amended motion as proposed by Mr. Webb and by member Webb to the members of the Board and all other relevant parties. Of course, there will be a public posting.

MR. TAILOR: Yes, sir.

MR. McIVER: Any other business with respect to proposed rule 183-1-11-.02? All right. I'll call this part of the meeting to a close. We'll ask the Chair to return to her seat. Let the record reflect that Chair Handel has returned to the room and is now chairing the meeting.

SECRETARY HANDEL: Thank you, very much. All right our next rule for consideration is 183-1-14.08 regarding additional sites at additional registrars offices or places of registration for absentee ballots. Is there anyone here to present a public comment on this rule?

(NO RESPONSE).

SECRETARY HANDEL: All right that there being none, I will bring that public comment to a close, as well, and open up for questions from colleagues.

MR. McIVER: Are there any written comments that, perhaps, I don't have?

SECRETARY HANDEL: Did you get any additional comments?

MR. TAILOR: No, sir, no comments.

SECRETARY HANDEL: Why don't you do, since it's kind of in a bit of legalees, laymen's terms of exactly what this is, for the record.

MR. TAILOR: Yes, ma'am. This is the rule that was considered at the last meeting, but since I posted it incorrectly, it had to be reposted. It takes the definition of government building from the disability section of the O.C.G.A. and applies it to the elections code, so that elections officials may have a wider opportunity to utilize government buildings in early voting.

SECRETARY HANDEL: That would be great, so it gives them more options for early voting. Great. Any comments on this one, colleagues?

(NO RESPONSE).

SECRETARY HANDEL: All right. With that I will entertain a motion.

MR. McIVER: Move to adopt.

MR. WEBB: Second.

SECRETARY HANDEL: Motion and second. Any other questions or comments?

(NO RESPONSE).

SECRETARY HANDEL: All in favor, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY HANDEL: Any opposed?

(NO RESPONSE)

SECRETARY HANDEL: All right. Do we have any other business from anyone? Ann, I think this is a case that might be in your area, if you want to let us know and let her know. Is it not scheduled for a hearing in January?

MS. BRUMBAUGH: It is scheduled for a hearing in January.

SECRETARY HANDEL: Tell us the name of the case. Come on up. And we will explain to you what the process is.

MS. GALLEGOS: Come forward?

SECRETARY HANDEL: Yes.

MS. BRUMBAUGH: This is the case of the State Election Board versus Laura Gallegos. It is presently pending before the Office of State Administrative Hearings. It is set for a hearing on January 14th and 15th, in Valdosta. You should have received notice of that reset hearing date. It was previously scheduled to be heard December 4th and on your motion the Judge in this case

continued the hearing in order for you to obtain legal counsel.

MS. GALLEGOS: Yes, ma'am. My name is Laura Gallegos.

SECRETARY HANDEL: I'm sorry Ms. Gallegos. That's all that we can do in this forum.

MS. GALLEGOS: I requested and asked if I could please have the case reopened.

SECRETARY HANDEL: I understand, but please understand that we have to operate under legal requirements. And this case has not been noticed out. I cannot legally have any more on. We hear you. We will put it in the record that you have asked for it to be reopened. You have counsel, I believe. And we will have -- Ann will contact you and you will need to go through that process.

MS. GALLEGOS: I have been charged.

SECRETARY HANDEL: Ma'am. I cannot. Again, I am going to have to stop you. Legally, I cannot have more testimony on this in this forum. It is not to your benefit to do that either. So, please, if you have legal counsel or if you would like to talk with the Attorney General's Office, I am most certain that she will be willing to do that, okay?

MR. FAVORITO: Madam Chair, can I have a point of order, please?

SECRETARY HANDEL: May I ask what your relationship or role is?

MR. FAVORITO: As I mentioned in my public comments gone through, and I have some evidence that I would like to submit to the Board before they charge this lady and have her incur thousands of dollars of legal expenses.

SECRETARY HANDEL: If I can, again, Mr. Favorito, you know as well as I do, I cannot. This is already in the Attorney General's Office. The State Elections Board has already acted and referred this to the Attorney General's Office. If there is additional evidence, it will go

through that process through the Attorney General's Office. And they are now aware of it. And I am certain that it will proceed.

MR. FAVORITO: Can I have one more point of order, please. As I understand from the DVD, and I have looked at in the last meeting, I believe that one of the members, I think it was Mr. Evans, expected a recommendation back from the Attorney General's Office. And I don't know if the Board is aware, but she has already been charged and they have already tried to have her tried and convicted the last week. And my understanding is the Board was expecting a recommendation back from the Attorney General's Office. Could you please explain what the procedure is to me? Maybe I just don't understand it.

SECRETARY HANDEL: I guess, Ann, I need some counseling. I am extraordinarily concerned to go further down the road on a case that is pending.

MS. BRUMBAUGH: If you want to discuss this with me after the meeting I will be more than happy to talk to Ms. Gallegos. You are not a party to this case. You are not her attorney. It is not appropriate for me to be discussing this case with you.

MR. FAVORITO: Don't want to.

SECRETARY HANDEL: Mr. Favorito.

MS. GALLEGOS: I was told that I would be given an opportunity to speak on my behalf. Now I'm having to hire an attorney.

MS. BRUMBAUGH: Ms. Gallegos, you and I need to speak about this case after this hearing. The Chair is correct. Once the case was bound over, I believe it was the June meeting, the case comes to me, and it is my responsibility to resolve this case. You and I can talk after the meeting, but it is not appropriate at this point, now that it is pending before the Office of State Administrative Hearings, for us to bring this case up again. Okay. So, I will be happy to speak with you right outside those doors as soon as the Chair adjourns this meeting.

MR. FAVORITO: I still have the same point of order.

SECRETARY HANDEL: Mr. Favorito, we have taken that in. And I appreciate it.

MS. GALLEGOS: My thing is about a recommendation.

SECRETARY HANDEL: Ms. Gallegos, you are out of order. Please, if you continue, everything that you are saying affects your case. It is my strongest counsel that you take the advice of the Attorney General's Office and go and meet with her off line. We cannot legally engage in a further conversation. Colleagues, is there any other business? I will entertain a

motion to adjourn.

MR. McIVER: I so move.

SECRETARY HANDEL: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

SECRETARY HANDEL: Thank you. (MEETING ADJOURNED AT 11:35 A.M.)