



MINUTES

Election Contest Committee

Monday, January 14, 2019

MEMBERS PRESENT

Representative Steven Holt, Chair
Representative Jon Jacobsen
Representative Brian Meyer

Representative Matt W. Windschitl
Representative Mary Lynn Wolfe

LSA CONTACTS: Minutes prepared by: Ed Cook, Legal Services, 515.281.3994

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Election Contest Committee

I. Procedural Business

Call to Order. Chairperson Steven Holt called the January 14, 2019, meeting of the Election Contest Committee to order at 4:02 p.m. in Room 103 of the State Capitol.

Next meeting. The next meeting of the Election Contest Committee will be held on Wednesday, January 16, 2019, at 4:00 p.m. in Room 103 of the State Capitol.

Adjournment. The meeting was adjourned at 4:13 p.m.

II. Committee Rules

Committee Action. Representative Windschitl moved to adopt the proposed rules of the Election Contest committee. The proposed rules were adopted by the committee on a 3-2 vote, Chairperson Holt, Representative Jacobsen, and Representative Windschitl voting aye; Representative Meyer and Representative Wolfe voting nay.

Committee Discussion. Representative Meyer asked Chairperson Holt whether any witnesses will be called to testify and evidence taken before the committee. Chairperson Holt indicated that a decision on whether to call witnesses and receive evidence will be made after hearing oral arguments from the parties at or after the next meeting. Representative Meyer indicated that he would not vote for the rules without assurance that witnesses will be called and evidence taken by the committee. Representative Wolfe noted that oral arguments are insufficient and that evidence is needed for a hearing. Representative Wolfe indicated that the rules should be amended to provide for a meeting with the ability of the parties to call witnesses. Chairperson Holt indicated that whether to call witnesses at a subsequent meeting would be considered after the next meeting.

III. Committee Procedure

Election Contest Committee Overview. Chairperson Holt addressed the committee concerning the election contest and noted that the primary issue for this election contest is whether to count the 29 absentee ballots in question. Chairperson Holt noted that the role of the committee is to make a recommendation on this issue to the House of Representatives.

Attorney Arguments. Chairperson Holt indicated that attorneys for the contestant, Kayla Koether, and the incumbent, Michael Bergan, will be provided the opportunity to submit written briefs to the committee and to make oral arguments during the next meeting of the committee. Chairperson Holt noted that no witnesses will be heard during the meeting on Wednesday. Written briefs, and any visual aids, should be submitted to the Legislative Services Agency by noon on Wednesday, January 16, 2019, which briefs will be posted on the committee website. At the request of the attorneys and agreement by Chairperson Holt, during the meeting on Wednesday, attorneys for the contestant and the incumbent will be provided the opportunity to make opening arguments of 30 minutes each and a rebuttal argument of 15 minutes each. The order of presentation will be to have attorneys for the contestant to first present opening arguments, the attorneys for the incumbent to make opening arguments, the attorneys for the contestant to make rebuttal arguments, and the attorneys for the incumbent to make rebuttal arguments.

Member Participation — Second Meeting. Chairperson Holt commented that members of the committee will be provided the opportunity to utilize visual aids during the meeting if authorized by Chairperson Holt. Requests by members of the committee to utilize a visual aid shall be made to Chairperson Holt by noon Wednesday, January 16, 2019, who will consult with Representative Wolfe prior to determining whether to authorize the visual aid. During the meeting on Wednesday, members of the committee will be provided 15 minutes each for questions and other oral observations.



Subsequent Meeting Determination. Chairperson Holt noted that a determination on whether to hold a third meeting will be made following the meeting on Wednesday. If a third meeting is held and witnesses will be called, attorneys for the contestant and incumbent can request a list of witnesses and Chairperson Holt will determine which witnesses, if any, will be called to testify before the committee.

Representative Wolfe Comments. Representative Wolfe noted that the election contest raises an important question on whether to allow the votes of 29 citizens to be counted. Representative Wolfe expressed concern about the committee reaching a decision without hearing evidence. In addition, Representative Wolfe noted that Iowa Code section 57.5 provides any party to an election contest the right to have a recanvass of the ballots and questioned whether this requirement will be conducted by the committee or before the entire House of Representatives.