



Approved Minutes - ERIC Board of Directors Meeting
March 17, 2023 | 11 am - 2 pm ET
Virtual/Teleconference

The meeting was called to order at 11:05 a.m. ET. Chair Brater welcomed board members. He noted he was going to be strict about acting on motions and seconds to the motions to prevent the confusion that occurred at the previous meeting. He said he would work to alternate between speakers in favor of the motion, speakers against, and those who were neutral.

Secretary Maeda conducted the roll call. 30 Directors were present, 2 Directors were absent. See attached roll call documentation.

1. Approval of the Feb. 19, 2023, Annual Board of Directors Meeting Minutes

Chair Brater asked if there were any comments or changes to the minutes. For agenda item 6.(b), M. Grandjean said she disagreed with the characterization that J. Brater's motion occurred nearly "simultaneously" with H. Burhans second to her motion. She said the second came before the other motion was made. H. Burhans said she agreed with M. Grandjean. S. Hamlin said he would correct the minutes.

R. Rock moved the minutes as amended. J. Marks gave the second. There was no further discussion. Motion was unanimously approved on a voice vote.

Waiver of Notice to Consider Bylaws Amendment:

Chair Brater reminded the board that Ohio requested a waiver of the notice requirement for proposed amendments to the Bylaws/Membership Agreement to allow the board to consider at today's meeting a motion amending the bylaws to eliminate the non-voting board seats on the board. This waiver required unanimous written consent of the entire membership. M. Grandjean said she had not heard back from Alabama or Florida. She disagreed with the analysis of the notice requirement and said at the last meeting, Alabama was blacked out on the roll call sheet and the member representative was vacant. S. Hamlin said Alabama vacated their designated member representative but was still an ERIC member. Every member could designate a representative but was not required to. For a director's vote, Alabama would not have a vote since it did not have a director, but they were still a member. M. Grandjean asked that the item be moved to later in the meeting and she would continue to reach out to Alabama and Florida. S. Hamlin agreed to also reach out to Florida and Alabama to ask for their position on the waiver request.

2. Membership Agreement Amendments

Chair Brater said originally the intent was to take a vote on the reappointment of D. Becker to a non-voting member seat today, but because Becker had withdrawn from consideration the Executive Committee's goal was to leave the seats vacant. He praised Becker's contributions to ERIC over the years.

Working Group Recommendation: Operational Enhancements

S. Hamlin presented the noncontroversial amendments referred to as "operational enhancements" to the membership agreement. He said the enhancements were primarily technical, housekeeping, or clarifying. The changes to the data and report protection provisions codified updated guidance provided last summer and long-standing practices and interpretations on applicable federal data protection laws. He reminded the board that he had conducted detailed briefings on the operational enhancements during two open mic meetings the week of March 6. To preserve time today, he was not going to review each change in detail and would rather take specific questions today. S. Steffen clarified that there was a sentence related to MVD data that was inadvertently left out. It stated that "collectively voter registration data and MVD data shall be referred to as Member Data." This was important to include because it feeds into the data privacy provision. She said this needed to be amended into the motion to approve the enhancement amendments.

J. Choate moved adoption of the Membership Agreement amendments categorized as operational enhancement amendments. R. Rock gave the second.

Discussion followed.

M. Wolfe asked that the provision requiring a vote of the Executive Committee to allow ERIC to share data with a third party for the purpose of research be changed to a vote of the full Board. She said sharing data with a third party violates a Wisconsin statute and because she was no longer a member of the Executive Committee, she would need to know if there was a decision pending to disclose data for research projects. Others agreed with M. Wolfe's proposal. S. Hamlin said he would make note of the proposed change and implement it pending a vote.

There was no further discussion.

J. Choate withdrew his previous motion and moved approval of the Membership Agreement amendments categorized as operational enhancement amendments with M. Wolfe's proposed change. R. Rock gave the second.

Secretary Maeda conducted a roll call vote of the members. There were 29 'yes' votes and one (1) abstention. Having achieved the 4/5 vote threshold specified in the bylaws, the motion was adopted. See attached roll call documentation.

Working Group Recommendation: "Ala Carte" Model

S. Hamlin summarized the working group’s recommendation for an ‘a la carte’ model: Under the proposed model, all members, whether new or existing, must take each of the following reports at least once: cross-state movers, in-state movers, in-state duplicates, deceased report, eligible but unregistered report, and the voter participation report (unless a member is unable to certify that it can protect the data in the voter participation report under state law or submit the required data). After a member has taken and acted upon each of these reports once in accordance with the timelines laid out in the proposed provision, the member may request ERIC reports on a schedule of its choosing (if at all), in consultation with ERIC, and act on them as set forth in the draft provision. ERIC must annually publish a report detailing each Member’s use of the ERIC reports for the preceding year. National Change of Address reports remain optional. There are no proposed changes to the data upload requirements.

Chair Brater noted that Ohio had received written consent to waive the notice requirements from Alabama and Florida, and that the bylaws amendment could now be taken up later in the meeting.

M. Grandjean moved to approve the Membership Agreement amendments submitted to the membership for consideration on February 8, 2023, to include amendments categorized as “Reform Proposals” in the summary documents submitted with the amendments. K. Sellers gave the second.

Discussion followed.

M. Grandjean, referring to the letter shared with the board in advance of the meeting, noted her Secretary openly shared his strong support for the amendments and reasons why they were so important.

H. Knapp said he spoke before his general assembly earlier in the week and told them he would push for the amendments. He stated there was a strong possibility South Carolina could leave ERIC should the amendments not pass.

B. Evans said Georgia supported the motion. He noted he worked with J. Marks to come up with an alternative proposal, but he fully supported these proposed amendments.

J. Choate said he was fully supportive of the motion, but Colorado would oppose the amendments. He said he hoped the amendments would be looked at further in the future. He said it was unfortunate that the desire to adhere to the purity of ERIC’s mission was taking precedence over the desire to work with existing members.

H. Burhans said Iowa strongly believed in ERIC and its mission. The proposed amendments were about making sure ERIC worked for all of its members. If the changes were not adopted, it could hinder other states from joining and cause

existing members to leave. ERIC works because of the data submitted by the members and would be weaker if states left.

Chair Brater said he would vote no on the motion, but he was committed to continuing the discussion on how to reform ERIC in ways that may help keep states in.

M. Wolfe said as the chief election official of Wisconsin she is, by law, required to be nonpartisan. She said it was unfortunate that many of the votes the board recently took had become politicized but was a reality given the principles many of the board members answered to. She wanted to state, for the record, that she planned to vote for what she thought was best in terms of moving ERIC forward.

M. Vigil said it was best for the organization to try to retain its members. As a working group member, she supported the motion.

S. Beals called the question.

Secretary Maeda conducted a roll call vote of the members. There were 17 yes votes, 12 no votes and 1 abstention. Having failed to achieve the 4/5 vote threshold specified in the bylaws, the motion was not adopted. See attached roll call documentation.

Georgia/Pennsylvania proposal

J. Marks and B. Evans presented the alternative proposal they had developed. J. Marks said the compromise proposal kept the requirement that states had to use the list maintenance reports with a carve out for states that could not certify they could protect the data in these reports or submit the required data. The proposal also tied together the eligible but unregistered report to the voter participation report. The goal of the compromise was to maintain the balance between voter outreach and list maintenance. B. Evans said one of the things he liked about the proposal was that under the existing agreement if a state does not do an eligible but unregistered mailing, they are automatically removed from ERIC. Under the proposal a state would not automatically be removed for failure to do an eligible but unregistered mailing and would maintain the benefit of still receiving ERIC data. Instead, they would not receive the Voter Participation Report. He said the proposal also strengthened the list maintenance requirements. He also liked that the consequence for missing a deadline wasn't automatic removal that exists in the current agreement.

B. Evans moved to accept the membership agreement amendments included in the Georgia/Pennsylvania proposal. M. Vigil seconded the motion.

M. Grandjean said she could not support the proposal and felt it unfairly linked two different concepts by tying together the voter participation report to the eligible but unregistered report. She said the former involves a crime under state and federal

law and the latter is about how a state chooses to do voter outreach. She didn't think the two should be linked.

J. Choate said he would support the motion even though it felt like it was a way to punish states who do not do the eligible but unregistered mailing.

H. Burhans said she appreciated the efforts in trying to find some common ground but linking the two reports did nothing for her state because neighboring states would not join ERIC because of the requirements and an existing member's state law prohibits them from submitting the data required to use the voter participation report.

Chair Brater said he supported the motion and commended the effort to try and come up with a proposal that everyone could agree with. He said the proposal kept the list maintenance requirements mandatory, something that was a priority for some states and it compelled states who wanted to do the eligible but unregistered mailing to do the voter participation report as well. He said the eligible but unregistered mailing wasn't just about voter outreach, but it was also about list maintenance. If other states were not doing the eligible but unregistered mailing, it impacted Michigan because when voters move to another state and register to vote (possibly through the EBU mailing), that voter will appear on a cross-state movers report and Michigan could then take steps to remove the voter from its rolls.

M. Vigil said the proposal recognized the need to find middle ground. She said it was an option that moved the organization away from the status quo and may help grow the organization.

M. Evans said she was neutral to the proposal but felt it was important to find something that everyone could agree to and applauded the effort to find consensus. She said the more states that are in ERIC the more useful the reports were for all members.

R. Cowley said the failure to approve the a la carte proposal meant several states would leave ERIC and put Utah, a founding member, in a precarious position. He said the alternative proposal was a good effort but did not move the needle much. As a state with same day registration and automatic voter registration, the eligible but unregistered mailing provided little value for Utah. The value was to have more states in ERIC.

S. Beals called the question.

Secretary Maeda conducted a roll call vote of the members. There were 21 yes votes, 7 no votes and 2 abstentions. Having failed to achieve the 4/5 vote threshold specified in the bylaws, the motion was not adopted. See attached roll call documentation.

Bylaws Amendment

Having received unanimous written consent to waive the notice requirements set forth in Article II, Section 11 of the Bylaws, the members proceeded to take up a proposed amendment to the bylaws that would remove the non-voting board seats from the bylaws.

M. Grandjean moved to amend the bylaws by removing the ex officio (non-voting) positions. H. Burhans gave the second.

Discussion followed.

M. Grandjean said she believed ERIC should be an organization consisting only of member states that use taxpayer dollars to support the mission.

J. Marks said he supported the motion, but history might show it was a mistake to take away a discretionary tool that might be useful to the members.

H. Knapp said this was the most important issue for South Carolina. He noted his state's boards and commissions had ex officio (nonvoting) members, but they are directly impacted by the work of the commission. He noted ERIC's bylaws allow for advisory positions.

H. Burhans said, for several members, the ex officio (nonvoting) positions issue had been a concern for a long time. At the start of ERIC, it may have been fine, but ERIC was now a mature organization and there was no need to have nonvoting seats on the board.

Chair Brater said he supported the motion even though he previously voted against the same motion at the February meeting, given the context of where the discussion to remove the ex officio (nonvoting) seats was coming from. He said given where the board is at today, it now made sense to make the change.

Secretary Maeda conducted a roll call vote of the members. There were 29 yes votes, 0 no votes, and 1 abstention. Having achieved the 4/5 vote threshold specified in the bylaws, the motion was adopted. See attached roll call documentation.

Chair Brater said he was committed to continuing to look at reforms to the membership agreement.

E. Haas noted the next eligible but unregistered mailing would not be done or required until the summer of 2024 and there is still the opportunity to continue the discussion. She said it was important to make data informed decisions. There was still time to find better ways to support voter outreach efforts.

M. Evans said she was open to revisiting or reconsidering the a la carte proposal given the alternative proposal failed and for the sake of trying to retain as many

members as possible. M. Evans moved to reconsider the motion for the ala carte option as presented by the Executive Director. S. Beals gave the second.

Secretary Maeda conducted a roll vote of the members. There were 26 yes votes, 0 no votes, and 3 abstentions. The motion was adopted.

M. Grandjean moved to adopt the proposed working group amendments – the a la carte model - to the membership agreement. H. Knapp gave the second.

Discussion followed.

H. Knapp asked what the biggest sticking point was for allowing states to take responsibility for how best to use their ERIC membership. He said questions about how South Carolina was using its ERIC membership would be asked to him rather than to ERIC as an organization.

J. Marks said in talking with other states the whole goal of ERIC was to get states to think

beyond what was best for their own state. There was an effort to find common ground between those states who wanted to increase civic participation with those whose priorities was to increase election integrity. He said the two were not mutually exclusive. To allow states to pick and choose reports undermines that goal. He said that was what states who opposed the ala carte proposal told him.

M. Grandjean said the board needed to look forward rather than to the past. ERIC needed to evolve. She said the a la carte proposal allowed each state to use the organization the way it wanted to use the organization. She said she could not justify ERIC membership if Ohio was not allowed to use the organization the way its taxpayers and voters wanted.

S. Beals and J. Choate discussed the origins of ERIC's dual mission to provide voter registration information and help states improve the accuracy of state voter rolls. J. Choate noted this dual mission would appeal to both Democratic run states and Republican run states.

M. Vigil said as ERIC tries to grow and move forward it was important to recognize the passions on both sides. She said for those states considering leaving, it would have been helpful to get some definitive commitment to remaining if reforms continued to be discussed.

R. Cowley said he struggled with ascertaining if states that were looking to leave would instead stay if the a la carte proposal passed. He felt most of the states had good faith intentions. By voting against the a la carte model, what was really being said was - what another state did or didn't do with the data was worth losing everything. He said the value was every state providing data to ERIC.

Chair Brater said he would vote against the motion but reiterated his commitment to finding common ground.

Secretary Maeda conducted a roll call vote of the members. There were 18 yes votes, 11 no votes and 1 abstention. Having failed achieve the 4/5 vote threshold specified in the bylaws, the motion was not adopted. See attached roll call documentation.

Chair Brater congratulated M. Grandjean for her leadership during the past year, noting it was an extremely difficult time to be the chair. He also thanked the members of the executive committee and working group for their work. He thanked the staff and recognized how difficult the year had been for them as well.

S. Hamlin said ERIC would move forward with whatever members are left at the table. He asked the states who didn't get what they wanted with the votes today to continue to work with their principles so the discussion could continue.

Having no further business, the meeting was adjourned at 2 pm ET.

