

## **RESPONSE TO QUESTION RE 2004 LCMS CONVENTION DELEGATES AND OTHER MATTERS**

In recent days, some members and individuals in congregations of The Lutheran Church – Missouri Synod have contacted Synod and some district headquarters with questions and concerns regarding a letter that has been circulated to a number of LCMS congregations. The letter solicits participation in proposed litigation regarding exceptions granted for electoral circuits for the 2004 Synod convention, the authority of the Board of the Directors under Missouri law, and the status of related opinions of the Commission on Constitutional Matters. The purpose of this communication is to provide factual information in response to these questions and concerns.

### **BYLAW REGARDING VOTING DELEGATES**

First, it is important to note the bylaw of the Synod regarding voting delegates and the granting of exceptions to electoral circuits sending voting delegates to convention of the Synod. The applicable bylaw is from the 2001 *Handbook* of the Synod, which reads as follows.

#### **Bylaw 3.03 Voting Delegates**

Voting delegates shall consist of one pastor and one layman from each electoral Circuit. An electoral Circuit shall consist either of one or two adjacent visitation Circuits, as shall be determined by each District, on the basis of the following requirements: Each pair of delegates shall represent from 7 to 20 member congregations, involving an aggregate communicant membership ranging from 1,500 to 10,000. Exceptions to these requirements and limitations can be made only by the President of the Synod upon request of a District Board of Directors.

### **SYNOD PRESIDENT'S COMMUNICATIONS WITH COUNCIL OF PRESIDENTS**

The following information shared by the Synod President with the Council of Presidents in their regular meetings (and subsequently with the Board of Directors) in reference to the granting of exceptions may also be helpful.

#### **September 2002 Synod President's Report to LCMS Council of Presidents**

##### **Electoral Circuits**

In my initial long range planning and preparation for the 2004 Synodical Convention, I have reviewed the Handbook of the Synod regarding the matter of Electoral Circuits.

As I recall the practice of previous Synodical Presidents, I am reminded of the following quote in a letter from President Barry regarding this subject prior to the 1998 LCMS Convention, in a letter dated April 9, 1998, granting exemption to two Electoral Circuits in the Texas District. President Barry wrote:

*“Exemptions are made on the basis of a circuit fulfilling one of two requirements of the Bylaws for an electoral circuit; namely, either seven congregations or 1500 communicant members.”*

In an attempt to provide guidelines for each District that are consistent with historic practice, I plan to follow a similar principle, in general, when considering any request

that may come from your District Board of Directors. Specifically, I envision giving positive consideration to requests for “exceptions to these requirements and limitations” of the definition of a Circuit that satisfy at least one of the requirements for a minimum number of 7 member congregations or a minimum “aggregate communicant membership” of 1,500.

It is my intention and pledge to work with each of you and with your District Board of Directors in resolving any unusual cases that may be received in my office as a request for exception to the “requirements and limitations” noted above.

Although it may seem a bit early to be thinking about such matters, I am sensitive to the rapidity with which time passes, especially with the first District Convention scheduled to begin January 26 in Grand Forks, ND. You will have many items “on your plate” in the months preceding your District Convention!

The Handbook defines the timetable for election of delegates to the Synodical Convention:

### ***3.05 Election of Delegates***

*a. Each electoral Circuit shall meet at the call of the Counselor(s) to elect its delegates not later than nine months prior to the opening day of the convention.*

Since the Synodical Convention begins July 10, 2004, this means that your Electoral Circuits must have their work of delegate elections completed no later than October 10, 2003. Therefore, if your Board of Directors desires to request an exception to the electoral circuit “requirements and limitations”, my office will need to receive these requests no later than July 10, 2003. This notification should provide ample time for you to process your requests and for me to consider them. Thanks for your assistance and understanding in this matter.

## **November 2002 Synod President’s Report to LCMS Council of Presidents**

### **Electoral Circuits**

In an attempt to provide guidelines for each District that are consistent with historic practice, I envision giving positive consideration to requests for “exceptions to ... requirements and limitations” of the definition of a Circuit that satisfy at least one of the requirements for a minimum number of 7 member congregations or a minimum “aggregate communicant membership” of 1,500

## **February 2005 Synod President’s Report to LCMS Council of Presidents**

### **Voting Delegates for 2007 Synod Convention**

While I have already mentioned this matter verbally on two previous occasions, I encourage you again to review your District’s Electoral Circuit configuration to determine whether or not any changes need to be made. If that should be the case, my counsel is to handle this matter through the appropriate channels ASAP, in order to avoid the necessity of requesting exceptions to voting delegate requirements in preparation for the 2007 Synod convention.

## April 2005 Synod President's Report to LCMS Council of Presidents

### **Voting Delegates for 2007 Synod Convention**

In preparation for the 2007 convention of the Synod, at each meeting of the COP since the issue addressed in the paragraph above was raised I have counseled all District Presidents to address the question of electoral circuits in your respective Districts. Specifically, I encourage your District Board of Directors or District convention, as the case may be, to make any changes to the configuration of your electoral circuits deemed prudent and proper in accord with Bylaw requirements of 7 – 20 congregations and 1500 – 10,000 communicants per circuit. I repeat that counsel once more, with the evangelical encouragement that this be done as soon as possible. Doing so will help avoid any further anxiety, criticisms, or concerns. It will also assist in preparation and logistics regarding the number of voting delegates to the 2007 convention of the Synod.

### **SYNOD BOARD OF DIRECTORS ACTIONS**

In response to a November 3, 2004 letter from an LCMS pastor asking the Board of Directors of the Synod to file a similar suit against the Synod President and others, the board conducted an investigation into the matter of exceptions for electoral circuits sending voting delegates to the 2004 convention. This study included an inquiry into the actions of district boards of directors, who must request that such exceptions be made by the President of the Synod. The investigation demonstrated that the decisions and actions of the President were in accord with the Bylaws of the Synod. To the extent that district secretaries responded to requests for their board of directors' minutes, the investigation also demonstrated that the districts were in compliance with Bylaw 3.03. A brief chart showing the number of voting delegates, the number of delegate exceptions requested and granted, and a review of these facts for the past three conventions is included as Addendum 1 to this communication. The complete report of the Secretary of the Synod regarding this matter is available on the Synod's website. ([Click here to see complete report.](#))

The Board of Directors also took the following related action recorded in the February 24-25, 2005 minutes of the board:

#### **(F.) To Proceed with Seeking a Judicial Declaration**

A member of the Board placed into the docket a proposed action advocating that the Board of Directors proceed with seeking a judicial declaration to decide whether the delegate representation at the 2004 convention was valid and whether the outcome of any action taken by the convention was affected. After discussion, the following resolution was introduced: “*Resolved*, That the Board of Directors deny the request made in the November 3, 2004 letter that asked the Board to initiate a lawsuit against President Kieschnick and others regarding the creation of 188 [*sic*] additional delegates to the 2004 convention, the legality of convention Resolution 7-02A that relates to the authority of the Board of Directors, and the validity of certain CCM opinions; and be it further *Resolved*, That the Board of Directors express its concern regarding these issues and the need that they be resolved definitively and clearly.” After further discussion, an amendment was offered to shorten the resolution to end with the words “...and others” in the first resolve. The amendment carried, as also did the amended resolution. President Kieschnick asked that the minutes record that he refrained from voting. The resolution as adopted read as follows:

Resolved, That the Board of Directors deny the request made in the November 3, 2004 letter that asked the Board to initiate a lawsuit against President Kieschnick and others.

It should also be noted that the Board of Directors and the President of the Synod are moving forward with the requirement of Resolution 7-02A of the 2004 convention that “directs the President and the Board of Directors jointly to appoint a committee to address the matter and report to the 2007 convention.” “The matter” refers to a large extent to the very issues that the proposed lawsuit intends to raise. The Board and the President have agreed upon an appointment process and have made their respective appointments. Arrangements for an initial meeting of this special committee will be made during the Board’s May, 2005 meeting.

## **CONCLUSION**

This information is being shared with the Synod in the hope and desire that the members and individuals in congregations of the Synod will be fully informed and reassured regarding these matters. We are prayerful that any congregation or individual solicited to join in such needless and divisive litigation involving these matters will decline to do so, especially given the fact that the Board of Directors has investigated the electoral circuit matter and has resolved not to pursue such action, and given the additional fact that the Board and the President have appointed a committee to look into the very issues being raised by the would-be lawsuit. The Holy Spirit-inspired words of St. Paul are commended for prayerful consideration:

<sup>1</sup>If any of you has a dispute with another, dare he take it before the ungodly for judgment instead of before the saints? <sup>2</sup>Do you not know that the saints will judge the world? And if you are to judge the world, are you not competent to judge trivial cases? <sup>3</sup>Do you not know that we will judge angels? How much more the things of this life! <sup>4</sup>Therefore, if you have disputes about such matters, appoint as judges even men of little account in the church! <sup>5</sup>I say this to shame you. Is it possible that there is nobody among you wise enough to judge a dispute between believers? <sup>6</sup>But instead, one brother goes to law against another—and this in front of unbelievers!

<sup>7</sup>The very fact that you have lawsuits among you means you have been completely defeated already. Why not rather be wronged? Why not rather be cheated? <sup>8</sup>Instead, you yourselves cheat and do wrong, and you do this to your brothers.

<sup>9</sup>Do you not know that the wicked will not inherit the kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters nor adulterers nor male prostitutes nor homosexual offenders <sup>10</sup>nor thieves nor the greedy nor drunkards nor slanderers nor swindlers will inherit the kingdom of God. <sup>11</sup>And that is what some of you were. But you were washed, you were sanctified, you were justified in the name of the Lord Jesus Christ and by the Spirit of our God. (1 Corinthians 6: 1-11)

### **Response submitted on May 6, 2005 by the following:**

Dr. Gerald B. Kieschnick, President of the Synod  
Dr. William Diekelman, First Vice-President of the Synod  
Dr. Raymond Hartwig, Secretary of the Synod  
Dr. Tom Kuchta, Vice-President—Finance—Treasurer of the Synod  
Dr. Robert Kuhn, Chairman, Board of Directors of the Synod  
Rev. James Fandrey, Vice-Chairman, Board of Directors of the Synod  
Rev. William Hoesman, Chairman, Council of Presidents of the Synod  
Dr. Larry Stoterau, Vice-Chairman, Council of Presidents of the Synod

### ADDENDUM 1: Voting Delegate Registrations and Attendance

The following is a comparison according to districts of voting delegate registrations and attendance at the Synod's 1998, 2001, and 2004 conventions:

- The numbers in **bold face print** represent the number of voting delegates registered for each convention.
- The numbers following in *italic print* represent the number of voting delegates that actually attended each convention.
- The numbers following in parentheses ( ) indicate the number of requested exceptions granted by the President of the Synod according to Bylaw 3.03.
- The numbers in brackets [ ] indicate the number of such requests for exceptions that were denied.

	<u>1998</u>		<u>2001</u>		<u>2004</u>	
Atlantic	<b>24</b>	22 (3) [1]	<b>20</b>	<i>19</i> (4) [4]	<b>24</b>	<i>24</i> (6)
Cal./Nev./Hawaii	<b>36</b>	<i>35</i> (4)	<b>32</b>	<i>32</i> (4)	<b>36</b>	<i>36</i> (4)
Central Illinois	<b>32</b>	<i>32</i>	<b>32</b>	<i>31</i>	<b>32</b>	<i>32</i>
Eastern	<b>32</b>	<i>32</i>	<b>28</b>	<i>28</i> (1)	<b>32</b>	<i>32</i> (5)
English	<b>38</b>	<i>36</i>	<b>40</b>	<i>39</i> (11) [1]	<b>38</b>	<i>38</i> (8)
Florida/Georgia	<b>32</b>	<i>32</i> (1) [1]	<b>31</b>	<i>32</i> (1) [1]	<b>44</b>	<i>44</i> (7)
Indiana	<b>43</b>	<i>43</i>	<b>44</b>	<i>44</i>	<b>44</b>	<i>44</i> (1)
Iowa East	<b>26</b>	<i>26</i>	<b>26</b>	<i>26</i> (1)	<b>26</b>	<i>26</i>
Iowa West	<b>40</b>	<i>40</i>	<b>39</b>	<i>40</i>	<b>40</b>	<i>40</i> (1)
Kansas	<b>32</b>	<i>32</i>	<b>32</b>	<i>32</i>	<b>32</b>	<i>31</i>
Michigan	<b>88</b>	<i>86</i> (3)	<b>88</b>	<i>88</i> (5)	<b>88</b>	<i>88</i> (5)
Mid-South	<b>22</b>	<i>22</i>	<b>21</b>	<i>21</i> (1)	<b>24</b>	<i>24</i> (1)
Minnesota North	<b>36</b>	<i>35</i>	<b>36</b>	<i>36</i> (1)	<b>36</b>	<i>36</i> (1)
Minnesota South	<b>52</b>	<i>52</i>	<b>52</b>	<i>52</i>	<b>52</b>	<i>51</i> (2)
Missouri	<b>58</b>	<i>58</i>	<b>58</b>	<i>58</i> (1)	<b>58</b>	<i>57</i> (1)
Montana	<b>12</b>	<i>12</i> (1)	<b>12</b>	<i>12</i> (1)	<b>12</b>	<i>12</i> (2)
Nebraska	<b>44</b>	<i>43</i>	<b>44</b>	<i>44</i>	<b>44</b>	<i>44</i> (1)
New England	<b>18</b>	<i>17</i> (2)	<b>18</b>	<i>18</i> (2)	<b>18</b>	<i>18</i> (3)
New Jersey	<b>12</b>	<i>12</i>	<b>12</b>	<i>11</i>	<b>10</b>	<i>9</i> (1)
North Dakota	<b>16</b>	<i>16</i>	<b>16</b>	<i>16</i> (3)	<b>12</b>	<i>12</i>
North Wisconsin	<b>40</b>	<i>39</i>	<b>40</b>	<i>40</i>	<b>40</b>	<i>40</i>
Northern Illinois	<b>52</b>	<i>52</i>	<b>49</b>	<i>49</i> (2) [1]	<b>52</b>	<i>52</i> (3)
Northwest	<b>48</b>	<i>47</i>	<b>48</b>	<i>48</i> (1)	<b>50</b>	<i>49</i> (5)
Ohio	<b>30</b>	<i>30</i>	<b>30</b>	<i>30</i>	<b>30</b>	<i>30</i>
Oklahoma	<b>14</b>	<i>14</i>	<b>16</b>	<i>16</i> (1)	<b>18</b>	<i>18</i> (4)
Pacific Southwest	<b>56</b>	<i>55</i> (1)	<b>52</b>	<i>52</i> (2) [3]	<b>64</b>	<i>64</i> (2)
Rocky Mountain	<b>28</b>	<i>28</i>	<b>28</b>	<i>28</i> (1)	<b>28</b>	<i>28</i> (1)
SELC	<b>6</b>	<i>6</i>	<b>6</b>	<i>6</i>	<b>6</b>	<i>6</i> (1)
South Dakota	<b>22</b>	<i>22</i>	<b>22</b>	<i>22</i>	<b>22</b>	<i>22</i> (2)
South Wisconsin	<b>54</b>	<i>54</i> (1)	<b>53</b>	<i>53</i> (2)	<b>54</b>	<i>54</i> (1)
Southeastern	<b>38</b>	<i>38</i> (1) [1]	<b>36</b>	<i>36</i> (1) [1]	<b>40</b>	<i>40</i> (2)
Southern	<b>28</b>	<i>28</i>	<b>28</b>	<i>28</i> (2)	<b>28</b>	<i>28</i> (3)
Southern Illinois	<b>14</b>	<i>14</i>	<b>14</b>	<i>14</i>	<b>22</b>	<i>22</i>
Texas	<b>62</b>	<i>61</i> (2)	<b>72</b>	<i>72</i> (6) [2]	<b>76</b>	<i>75</i> (13)
Wyoming	<b>14</b>	<i>14</i> (2)	<b>14</b>	<i>14</i> (2)	<b>14</b>	<i>14</i> (2)
<b>TOTALS</b>	<b>1199</b>	<i>1185</i> (21) [3]	<b>1191</b>	<i>1188</i> (56) [13]	<b>1246</b>	<i>1240</i> (88) [0]

In summary:	<u>1998</u>	<u>2001</u>	<u>2004</u>
• Number of visitation circuits:	629	627	644
• Number of electoral circuits:	601	596	623
• Number of voting delegates registered:	1199	1191	1246
• Number of voting delegates in attendance:	1185	1188	1240
• Number of districts requesting exceptions:	11	23	28
• Number of exceptions granted:	21	56	88
• Number of exceptions not granted:	3	13	0
• Number of delegates from exceptions:	42	112	176
• Percentage of delegates from exceptions:	3.5%	9.5%	14.2%

Excerpted from Report to LCMS Board of Directors, February 24-25, 2005  
 Compiled by Dr. Raymond Hartwig, LCMS Secretary

**ADDENDUM 2: Chart showing average number of communicant members per Electoral Circuit by District for the 2004 LCMS Convention.**

[\(Click here to view this chart.\)](#)