

**STATE BOARD OF ELECTIONS
Board Meeting
Tuesday, January 16, 2007
Springfield, Illinois**

MINUTES

PRESENT: Jesse Smart, Chairman
Wanda L. Rednour, Vice Chairman
Patrick Brady, Member
John R. Keith, Member
William McGuffage, Member
Albert Porter, Member
Bryan Schneider, Member
Robert Walters, Member

ALSO PRESENT: Dan White, Executive Director
Steve Sandvoss, General Counsel
Rebecca Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:30 a.m. with eight members present.

Chairman Smart opened the meeting by leading everyone in the pledge of allegiance.

Chairman Smart presented the revised minutes of the December 1 regular monthly Board meeting reflecting Member Keith's comments. Vice Chairman Rednour moved to approve the minutes as revised. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The Executive Director indicated that there were two staff service awards to be presented today. Director White presented Sharon Steward and Kevin Turner with engraved clocks thanking them for 20 years of dedicated service. Rupert Borgsmiller stated that Ms. Steward's dedication and knowledge has helped him and the Agency for the last 20 years and referred to her as the "mother of electronic filing." Steve Flowers thanked Mr. Turner for bringing extensive technical skills to the IT Division and all of his work for the Agency.

Director White indicated that Maureen Murphy, Cook County Republican Committee, Vice Chairman Ballot Integrity, was present to discuss Cook County ballot issues. Materials were distributed that included a summary of a questionnaire sent out to every election judge in suburban Cook County, an affidavit by one election judge, and a resolution passed by the Illinois Republican

State Central Committee asking the State Board of Elections to conduct an investigation into the irregularities of the November 7, 2006 election in Cook County. Ms. Murphy reviewed the materials that were distributed. Chairman Smart indicated staff would review the materials and noted that representatives from the Cook County Clerk's office would be at the February Board meeting for further discussion on this issue. Mike Kreloff, Cook County Clerk's office, was present and indicated they would continue to work with Ms. Murphy regarding her complaints and also indicated a lot of misinformation is floating around. He discussed the transmission problems encountered election night. Member Schneider suggested Ms. Murphy put together a listing of questions and get together with Cook County staff to discuss.

Director White summarized the advisory committee meeting held this morning indicating a small but diversified group was present. Issues discussed included legislation, write-in voting, federal legislation that impacts elections, early voting and the statewide voter registration database. The next meeting will be on May 21. In response to a question from Member Schneider, Director White indicated the SBE is on track to have the database completed by mid 2008 but at this time there is a unanticipated delay with the procurement rules. It isn't a major obstacle but two meetings have been cancelled which has slowed the process. Once the rules are in place the project will proceed. There is great cooperation from the election authorities and excellent work product from Catalyst on the database project.

The Executive Director presented for Board consideration the proposed SBE 2007 legislative program. Cris Cray indicated a supplemental bill that included funds for the *King v. McGuffage* matter passed the Senate but was not called in the House. Ms. Cray is discussing the matter to see if this can be placed in a separate bill. Mention has been made of moving the 2008 primary date if Senator Obama decides to run for President. Mark Mossman distributed a schedule of potential filing and objection dates should legislation pass to move the primary date. Ms. Cray discussed other legislative items indicating she would be distributing federal legislation to the Board which would include paper trail and thermal paper requirements, election day registration and would outlaw robo calls. The proposed SBE legislation was discussed with Board members expressing their concerns with certain

legislative proposals. Concern was voiced with the language relating to statewide questions of public policy as well as current statutory deadlines that must be followed. Member Porter suggested some minor wording revisions on HB 4672 relating to campaign finance issues. Other proposals discussed include eliminating in-person absentee voting, election interference, including language to remedy certification for Republican presidential candidates, clean up language in Section 5/7-43 of the Election Code, and getting objections to candidates within two days. It was agreed that the General Counsel would write a letter with the Board's concerns regarding statewide public policy questions and send to the legislative leaders rather than introduce legislation on this matter at this time.

Director White indicated that Senator Althoff requested to be connected via telephone for the discussion on McHenry State's Attorney request regarding reprinting of ballots and the costs incurred. Senator Althoff could not be reached so discussion was delayed until she could connect. McHenry County Clerk Kathie Schultz was present on this matter also.

The Executive Director presented a revised HAVA grant acceptance agreement for Board consideration. Member Keith suggested to be consistent that on page two of the agreement the language "local jurisdictions" be revised as it is referred to as "election authorities" throughout the agreement. Member Brady moved to approve the agreement with Member Keith's revision. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Director White reported on the COGEL conference attended by Chairman Smart, Rupert Borgsmiller, Sharon Steward and Steve Sandvoss. The conference was held in New Orleans and Mr. Borgsmiller has included a report on the conference. Chairman Smart indicated that the 2008 COGEL conference will be held in Chicago and asked the Board to consider the SBE acting as a host agency for the conference. This would entail staff manpower but not an extensive amount. Member Porter moved to approve staff assistance for the 2008 COGEL conference in Chicago. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Director White indicated two voting systems are on the agenda for certification today. Dianne Felts indicated the Sequoia Edge2 Plus Model 300 v. 1.2.33 with WinEDS version 3.1.074 was approved in October with the understanding it was only for the November election. Staff did not finish with the

full volume tests but since that time the full tests have been conducted and both tests had no errors. Ms. Felts recommended it be certified for two year period. Vice Chairman Rednour moved to certify the system for a two year interim period. Member Walters seconded the motion which passed by roll call vote of 8-0.

Also presented for certification was a modification to the Hart 6.2 system for fractional voting for the City of Peoria. Ms. Felts explained that this was given interim approval in August of 2006 but did not address fractional voting because there was no statutory authority to use this. Public Act 94-1073 now authorizes the central counting of fractional votes. Ms. Felts recommended this be approved for the February 2007 primary only. Member Schneider moved to approve the system. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Director White presented an amended certification of the November general election results. Winnebago County has submitted an amended certification with a significant number of vote total changes but it did not change the outcome of any office. Member Keith moved to approve the recertification. Vice Chairman Rednour seconded the motion. Discussion ensued and Mark Mossman explained that the county discovered a discrepancy as they were entering voter history and the number of applications versus the number of ballots cast differed. The explanation was that the Accuvote malfunctioned in two precincts and the ballots that had been voted up to the point of the malfunction were placed in an auxiliary bin but the judges failed to put these ballots thru the tabulator after the polls closed. The motion was called and passed by a vote of 8-0.

The Executive Director presented the SBE FY08 appropriation request for Board consideration. A major program initiative is included for a vote testing center that would allow for on-going testing and evaluation of new voting equipment and software. If this wins legislative approval it will ensure the integrity of the electronic voting process in Illinois. Additional telecommunication funds are requested to keep pace with the technical advances, funds to provide for electronic canvassing and transmission of results as well as scanning of candidate petitions and campaign disclosure forms, four additional positions to help support the statewide database program, continuing election related materials including publishing of campaign disclosure and public information materials, training of

election judges and the satellite downlink campaign disclosure seminars. This budget request represents a 7.5% decrease from last year's appropriation although there will be only one election. Discussion ensued on the pass through judges stipend, state employees retirement contributions and the vote testing center. Ms. Felts explained that by having one place to test, staff would not have to move every two weeks and that the materials tend to get lost every move. This is an on-going function and will continue to be. Multiple vendors will be in at one time for testing of their systems. There is not enough space to do testing on this large of a scale in the current office building. Member Keith moved to authorize staff to submit the proposed budget request as presented. Member Porter seconded the motion which passed by roll call vote of 8-0.

Discussion returned to the situation concerning the November ballot certification and reprinting of ballots in McHenry County. The McHenry State's Attorney has sent a letter requesting the Board to reimburse the County for an amount of \$37,806.75 which was caused by the original certification not including the name of a judicial candidate. Kathie Schultz was present but Senator Althoff had not made contact. Director White explained the situation indicating a recertification was issued based on what was supplied to the SBE by the Secretary of State's office for the retention of judges. Mark Mossman indicated that the newly created 19th circuit was only going to be for Lake County and thus staff certified candidates for that circuit only to Lake County. Ms. Schultz indicated they saw the candidate on Lake County's ballot and she noted that it should have been on McHenry's ballot also because as of the date of the election this judicial position was in both the 19th and 22nd. Mr. Mossman indicated that the 19th and 22nd circuits have created controversy and the State Board of Elections certified based on the newly created 19th rather than the old 19th. Discussion ensued on not setting a precedent and reasons for recertifying. Member Keith suggested a legislative proposal for the future that in case of any recertification the State Board of Elections is not liable. Chairman Smart suggested sharing the costs without assessing responsibility. Member McGuffage moved that with the confusion created in the circuits the State Board of Elections request \$37,846.75 from the General Assembly to reimburse McHenry County. Member Brady seconded the motion which passed by roll call vote of 7-1 with Member Walters voting in the negative.

The Executive Director presented for informational purposes 1) the FY07 fiscal report for the period ending December 31, 2006, 2) the fiscal report for the Help Illinois Vote Fund, and 3) the two year plan of activity for the months of January and February.

The General Counsel presented appeals of campaign disclosure fines listed on the agenda as 3.a.1-3 and indicated his concurrence with the hearing officer's recommendation that the appeals be granted. Vice Chairman Rednour moved to accept the recommendation of the hearing officer and General Counsel to grant the appeals in the matter of *SBE v. Citizens for Kohler*, 06MA019; *SBE v. Illinois Trial Lawyers Association PAC*, 06AP048; *SBE v. Troopers PAC of IL*, 06AP049. No one was present in these matters. Member Porter seconded the motion which passed by roll call vote of 8-0. Chairman Smart voted Member Walter's proxy as he had stepped out of the room.

The General Counsel presented appeals of campaign disclosure fines listed on the agenda as 3.a.4-9 and noted that the hearing officer recommended that these appeals be denied of which he concurred. Agenda item 3. a. 9 was removed from group consideration for further discussion as a representative was present. In the matter of *SBE v. Laborers Local 703 Political PAC* additional correspondence was received requesting a reduction in the fine. The General Counsel indicated that the request for a reduction was a general request but no argument or reason submitted and it did not change his recommendation.

No one was present for any of these matters. Member Porter moved to deny the appeals in the matters of *SBE v. The East St. Louis Democratic Club*, 06JS057; *SBE v. The Friends of Lauren Boswel Loftin Committee*, 06GE021; *SBE v. Int'l Union of Operating Engineers Local 15 State, County & Local Area PAC*, 06AP096; *SBE v. Friends of Denny Jacobs*, 06JS128; *SBE v. Laborers Local 703 Political PAC*, 06GE052. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Vote for Sam Cahnman* indicating that the hearing officer recommended the appeal be denied. Sam Cahnman was present and indicated that he had mistakenly reported a volunteer's services to shoot television footage as an in-kind contribution. But when his attorney indicated that 5/9-1.4 reflects that this service does not have to be reported he removed it from his next filing. Discussion ensued on this section and the General Counsel indicated

he did not interpret the statute that way. Staff has always interpreted that section as not applicable to the provision of professional services but rather more mundane tasks such as stuffing envelopes – something you cannot put a monetary value on. Mr. Sandvoss noted that 100.10(a) of the Rules defines “anything of value.” After further discussion Member Brady moved to reject the recommendation of the hearing officer and General Counsel and grant the appeal. Member McGuffage seconded the motion which passed by roll call vote of 7-1 with Member Walters voting in the negative.

Upon further discussion Member Keith suggested and Chairman Smart directed staff to provide options for rulemaking to better clarify the guidance for candidates.

The General Counsel presented for Board consideration the assessment of civil penalties and asked for approval to issue final orders. Member Schneider moved to assess penalties and issue final orders as shown the sheet distributed by Campaign Disclosure. Member Brady seconded the motion which passed by roll call vote of 8-0 with Vice Chairman Rednour recusing herself from Citizens for Jesse White, S7451 and Friends of Blagojevich, S7720.

The General Counsel presented for informational purposes a listing of committees that paid civil penalties.

Member Keith moved to recess to executive session to discuss pending litigation and personnel matters. Member Schneider seconded the motion which passed unanimously. Meeting recessed at 2:05 p.m. and reconvened at 2:10 p.m.

Member Schneider moved to rectify the action taken in executive session to motion the court to publish the *Santana* decision to establish precedent. Member Brady seconded the motion which passed by roll call vote of 8-0.

The next regular meeting of the State Board of Elections will be held on Tuesday, February 20, 2007 at 10:30 a.m. in Chicago.

With there being no further discussion, Vice Chairman Rednour moved to adjourn. Member Schneider seconded the motion which passed unanimously. The meeting adjourned at 2:11 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director