

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, March 21, 2005
Springfield, Illinois**

MINUTES

PRESENT:

**John R. Keith, Chairman
Jesse Smart, Vice Chairman
William McGuffage, Member
David E. Murray, Member
Albert Porter, Member
Wanda L. Rednour, Member
Elaine Roupas, Member
Bryan Schneider, Member**

ALSO PRESENT:

**Dan White, Executive Director
Steve Sandvoss, General Counsel
Becky Glazier, Assistant to Executive Director**

The regular monthly meeting of the State Board of Elections was called to order at 11:05 a.m. with seven members present. Member Schneider was delayed.

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

Chairman Keith presented the minutes of the March 7 conference call, noting that the February 22 regular meeting minutes would be presented for approval at the April meeting. Member Murray moved to approve the minutes as presented. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0 (with Member Smart voting Member Schneider's proxy). (Member Schneider arrived at 11:10 a.m.)

The Executive Director indicated that two public hearings were scheduled on the Administrative Complaint Procedures. The first was in Chicago at the February 22 Board meeting and the second is scheduled for today's meeting. Written comments were received and are included in the packet for the Board's review. Following today's discussion the rule will be revised if necessary and then submitted to JCAR. No one was present for the public hearing. The General Counsel discussed the written comments and requested guidance from the Board on two particular provisions. Discussion then ensued on Section 150.140 Board Determination and Section 150.145 Alternative Dispute Resolution. Equip for Equality was concerned with Section 150.140 as to what options the Board would provide for granting relief. They also feel, among other things, that an order should

always be issued by the Board. The General Counsel indicated that without legislative change he was not sure what the Board could do by rule. Wording was suggested that the Board would take whatever action they are authorized to take under State statute. With Section 150.145 Equip for Equality was concerned with the allocation of the costs to be borne by the complainant. After discussion, the Board agreed that the arbitrator should make the determination of the cost based upon the hearings. Member Murray indicated that he agreed with Martin Lawless' comments regarding representation under Section 150.45. Mr. Sandvoss agreed with the comments as well and indicated he would incorporate those as well as other provisions discussed today. He further indicated that a draft that will be submitted for second notice will need to be approved by the Board.

The Executive Director indicated we are now in-between local elections and reported that very few problems occurred with the voting systems tests for the consolidated primary election. Director White commended Dianne Felts and her staff and indicated with more counties using optical scan voting equipment, it entails much more staff time and money to conduct the tests. Ms. Felts indicated that she is now in the process of testing for the consolidated election and that she has never had an election like this. Many of the ballots are just now arriving and there is a very short window of time to prepare for the tests and conduct the tests. The number of ballots styles in Vermilion County alone is over 250. The cost borne by the SBE for the ballots used for testing has increased since the number of jurisdictions using optical scan has increased. Director White and Ms. Felts will be meeting to address the concerns with the costs and manpower. Chairman Keith suggested approaching service groups to assist in marking the ballots.

Pat Freeman reported on the Consolidated Primary Election activities noting there were elections in limited jurisdictions. Ms. Freeman discussed the election day schedule for the Consolidated General Election noting that Jayme Sims and Cheryl Hobson will now be going to Montgomery County and Don Schultz will not be available to work in E. St. Louis.

The Executive Director reported on the Senate appropriation hearing indicating that only two questions were asked and neither related to the budget. The House appropriation hearing will be in May. Cris Cray distributed two legislative reports and discussed pending election legislation. Ms. Cray

indicated that she could find no Republican or Democrat member to carry the bill regarding state central committees filing vacancies for statewide office. She indicated that all legislation that passed during veto session would not be signed until the drop dead date. A non-election bill is out there that will require JCAR to review all interagency agreements before they can be entered into.

Member Schneider moved to recess and convene in executive session for the purpose of discussing personnel and litigation matters. Member Roupas seconded the motion which passed by voice vote. Meeting recessed at 12:00 noon and reconvened at 12:50 p.m.

Upon reconvening, Member Murray moved to extend the four year term appointments of Dianne Felts and Mike Roate. Member Roupas seconded the motion which passed by roll call vote of 8-0.

It was questioned whether another term appointment had been approved in open session. Member Murray then moved to extend the four year term appointment of Patricia Freeman nunc pro tunc. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Member McGuffage presented proposed amendments to campaign disclosure legislation. He discussed the revisions and what they provide for. Mr. Borgsmiller discussed the committees that are formed to support referendum and was not sure how anything can be enforced on them. Member Schneider was concerned about who would speak for the committee when it was formed for a referenda. Member Murray suggested leaving the public issues out of the proposal for now. Discussion ensued on proposed language in Section 9-10(e) regarding failure or refusal to pay any civil penalty within 30 days of the Board's final order. Mr. Borgsmiller was concerned that the 30 days may not be a workable time frame. John Countryman, former Board member and Judge, suggested prohibiting transfers out if a fine has been imposed and not paid, and also asked that the Director of Campaign Disclosure be given discretion to enter into a payment schedule for committee's that want to pay but do not have the money. Member McGuffage then moved to adopt the proposals in written submission with 1) the removal of non candidate public policy committees from Section 9-30, 2) adding to Section 9-10(d) a 30 day provision, and 3) revising the last line of today's handout from "...a civil penalty...." to "any civil penalty...." Member Porter seconded the motion. Member Schneider

indicated he would support the motion but felt it was a mistake to include the 30 days in (d). Member Murray reiterated his comments. The motion was called and passed by roll call vote of 8-0.

Chairman Keith indicated to accommodate parties present on campaign disclosure matters those would be taken out of agenda order.

Chairman Keith presented *SBE v. Citizens for Bassi*, 04AP35, an appeal of a civil penalty. John Countryman was present on behalf of the committee and agreed with the hearing officer that the appeal should be granted. The General Counsel discussed the activities of the committee and agreed with the hearing officer's report as to the in-kind contribution, but disagreed with the committee's basis for lack of reporting that they had filed but did not receive a receipt. The General Counsel recommended that the appeal for the remainder of the contributions totaling approximately \$10,809 be denied but the amount in question be reduced to 10% which would be \$1,089. Mr. Countryman felt the hearing officer's report did not capture everything that was heard at the hearing. Discussion ensued on the committee's filing activities and the software the committee uses to file noting that you cannot print the A-1 until the file is transmitted to the State's server. The treasurer admitted she could not find the confirmation but did contend the report was filed. There was evidence presented at the hearing that the A-1 was printed. Vice Chairman Smart moved to grant the appeal. Chairman Keith questioned why it was several months later that it was filed as it is so easy to tell if the report has been accepted. Member Schneider seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Central Illinois Democratic Women*, 04JS147 and 04DS152. Doris Turner was present on behalf of the committee. The General Counsel discussed the committee's activities noting that the hearing officer denied the appeal as it was not a recognizable defense and concurred with the hearing officer's recommendation. Mrs. Turner discussed the officer's of the committee and indicated the treasurer was having a number of personal problems at the time. As soon as Mrs. Turner was informed of this problem she contacted the SBE. She was not aware of the previous penalty and indicated they have filed timely since then. Ms. Turner indicated the committee has a balance of \$405 in their account as of today. This committee has not done any fundraising for several years and it exists on the member's dues. They do in-kind support to help

women candidates. Member Murray moved in accordance with the testimony given today to accept the offer of \$400. Member Porter seconded the motion which failed by a roll call vote of 4-2-2. Member McGuffage voted present, Member Schneider and Vice Chairman Smart voted in the negative and Chairman Keith recused himself as he has a personal relationship with Mrs. Turner and her family.

After further discussion on the penalty and settlement offer, Member McGuffage requested to change his vote from present to aye. Member McGuffage then moved to reconsider the previous motion and to approve the settlement. Member Porter seconded the motion which passed by a roll call vote of 5-2-1 with Member Schneider and Vice Chairman Smart voting in the negative and Chairman Keith recusing himself.

Chairman Keith presented *SBE v. 17th District Democratic Victory Fund*, 04JS136. John Gianulis was present on behalf of the committee. The General Counsel reviewed the activities of the committee and the penalties assessed. The committee has been dormant since 2002 and would file a final report but has indicated the FEC is conducting an investigation which prevents it from closing out. No financial transactions have taken place. The hearing officer has recommended the appeal be denied, indicating the circumstances are unique and has recommended a suspension of the penalty until receiving documentation from the FEC on the investigation. This documentation has not yet been received. Mr. Gianulis responded that he was not fully aware of the first two penalties and never received notification of the current penalty as the letter was sent to another address based on voter files. He indicated he has lived at his current address since 1954. He further indicated the case has been pending for 5-6 years. Discussion ensued on the reports that have been filed, the person responsible for filing them, and the pending litigation which is stopping the committee from dissolving. Member McGuffage moved to remand the matter to the hearing officer to take substantive evidence regarding the status of the FEC complaint. Member Murray seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented an update on HAVA activities. Mark Mossman provided an update in the packet on the progress of the statewide voter registration database and the database advisory committee. Mr. Mossman intends to meet with the committee after the April election and is

also preparing answers to questions received from some of the election authorities. Director White also discussed a letter sent at the request of the Board informing election authorities if they do not yet conform to IDEA/VISTA they will need to appear before the Board to request future HAVA monies. He indicated that firewall problems have been resolved in Champaign County and staff is working to establish communication with the equipment. Director White noted that progress is being made with other jurisdictions as well.

Mark Shelden, Champaign County Clerk, was present to discuss the database project. Mr. Shelden indicated his involvement in the database project over the last five to six years and discussed the progress of the database. He further requested the Board to make a commitment to HB 640.

The Executive Director presented a proposal for a HAVA cost recovery plan. The HAVA funds have been expended very cautiously since receiving them and it is possible we could recoup some costs spent through the General Revenue Fund that are HAVA related. This would benefit the State GRF fund as state law requires and the money could not be returned to the SBE. Mike Roate, Fiscal Officer, discussed the indirect cost recovery plan proposals received from two vendors. HAVA funds would be used to pay for the work. Mr. Roate felt that we would recoup the initial cost of the vendor plus some. We would also be ensuring compliance with the State Officers and Employees Money Disposition Act, although HAVA does not specifically indicate that indirect cost reimbursement is required under the program. Director White requested authority to review this with Mike Roate and Roy Miller, fiscal consultant, and then proceed with contracting with one of the entities. Vice Chairman Smart moved that the Executive Director proceed with this plan as discussed. Member McGuffage seconded the motion which passed by roll call vote of 8-0. Vice Chairman Smart voted Member Murray's proxy and Chairman Keith voted Member Rednour's proxy as they had both stepped out of the room.

The Executive Director reported on a carryover discussion from the February Board meeting regarding telephone numbers being submitted on VIS submissions. It is the understanding that we are receiving telephone numbers from the computerized counties, including Will.

Director White reviewed the staff proposal to place names of committees who have not paid their civil penalty on our website. This would not occur until the Board had issued a final order and the committees have exhausted all avenues of appeal. Discussion ensued on what wording would be listed on the website to describe the delinquent committees. Member Murray moved to direct website posting of committees who have been assessed fines and have not been paid after going through the appeal process. Member McGuffage seconded the motion. Member Porter suggested adding to the motion, which was accepted by Members Murray and McGuffage, that staff propose language for Board consideration to enact this. The motion was called and passed by vote of 8-0.

The Executive Director presented for informational purposes the fiscal report for the period ending February 28 as well as the Help Illinois Vote Fund. Director White indicated that money was transferred for the costs of ballots for testing. Director White discussed a new HAVA fiscal report that will be included beginning next month which will cover the recently received HAVA Requirements money.

The General Counsel presented appeals of campaign disclosure fines where the hearing officer has recommended they be granted. Agenda items 3.a.1, 8, and 6 were taken out of group consideration for further clarification or discussion. Vice Chairman Smart moved to approve the hearing officer's recommendation that the appeals be granted in agenda items 3.a.2, 3, 4, 5, 7, and 9, 10, 11 and 12. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Addison Twp. Republican Central Committee*, 01AE42. No one was present on behalf of the committee. The General Counsel concurred with the hearing officer's recommendation that the appeal be granted but for different reasons. The committee did not seem to participate in this election with which the A-1's were due. He also felt that the fine should be \$1,800 rather than the \$9,200. Member Murray moved to adopt the recommendation of the hearing officer as amended by the General Counsel with a proviso that a statement of nonparticipation is filed within a reasonable time nunc pro tunc. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Citizens to Elect Joseph Whittington*, 04GE14. No one was present on behalf of the committee. The General Counsel reviewed the committee's activities and it was noted that this falls under the same circumstances as the previous case. Member Murray then moved to adopt the recommendation of the hearing officer and General Counsel with the provision that within a reasonable time period the committee file a statement of nonparticipation nunc pro tunc. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Countryside Independent Party*, 04GE18. No one was present on behalf of the committee. The General Counsel reviewed the activities and noted the committee was assessed a \$600 penalty for delinquent filing and was previously assessed a \$200 penalty for a late filing. The hearing officer has recommended both appeals be granted due to circumstances involved. Mr. Sandvoss disagreed with the granting of the first appeal as it was not timely filed and felt it should remain a stayed penalty and that the second appeal be granted. They have taken steps to ensure that the late filings will not happen again. Member Roupas moved to follow the recommendation of the General Counsel. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented appeals of campaign disclosure fines that the hearing officer has recommended be denied. Agenda items 20 and 22 have already been heard. Agenda items 3.a.14, 19, 16, 21 will be removed from group consideration. The General Counsel agreed with the hearing officer recommendation in the remaining items. Vice Chairman Smart moved to approve agenda items 3.a.15, 17, 18, and 23. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Cass County Republican Central Committee*, 04GE36. No one was present on behalf of the committee. The General Counsel reviewed the matter indicating the committee consists of newly elected officers that were uninformed as to when reports needed to be filed. The recommendation of the hearing officer was to deny the appeal, but give them an option to set up a payment schedule, assuming they would be unable to apply for a raffle license until the payment is received in full. He concurred with this recommendation and noted that the rules provide for an appeal of the final order within seven days. Discussion ensued on offering the committee an

opportunity to appear. Member Murray moved to continue action on this matter to the May Board meeting giving the party an invitation to appear and present some sort of payment plan. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Satterthwaite for Mayor*, 04GE43. No one was present on behalf of the committee. The General Counsel discussed the committee's activities indicating the hearing officer recommended the appeal be denied. The treasurer stated under affidavit that she placed the envelope in the post office on October 14 and the due date was October 18. There was no postmark on the envelope and in the past if a committee is willing to attest under oath that they mailed it more than 72 hours prior to its due date and we could not refute it, we would grant the appeal. Member Murray moved to grant the recommendation of the General Counsel. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Waukegan Township Republican Organization*, 04JS135. The hearing officer requested this be pulled since there were some changes she wished to make in the recommendation. This matter was continued to the April agenda.

Chairman Keith presented *SBE v. Illinois Association of School Social Workers PAC*, 04GE76. The General Counsel reviewed the committee's activities. No one was present on behalf of the committee. He believes there was a general miscommunication and there was a diligent effort of an address change and recommended the appeal be granted. Member Murray moved to accept the recommendation of the General Counsel. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for Board consideration payment plans for Marshall County Democratic Central Committee and Centreville City Democratic Organization. The General Counsel concurred with the payment plans as long as Centreville reflects their fine owing as \$875 and adjusts payments accordingly. Member Murray moved to adopt the payment plans subject to the recommendation of the General Counsel. Member Roupas seconded the motion which passed by roll call vote of 8-0.

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

The General Counsel presented Draft 4 of the proposed personnel rules. Jim Withers, Director of Administrative Services, reviewed the most recent revisions. Member Murray discussed several issues he wished clarified or revised. Member Schneider also requested clarification on language pertaining to “custodian” of files. Mr. Withers thanked the Board for their input. Member McGuffage moved to approve draft four with modifications Member Murray and Member Schneider made and have prepared by April 9. These will be drafted subject to final sign-off by Member Murray and Chairman Keith. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Mr. Borgsmiller indicated that a campaign disclosure complaint was filed that needed to be heard under the seven day calendar. The Board agreed to meet by telephonic conference on March 23 at noon.

Vice Chairman Smart moved to recess to executive session to discuss a complaint following closed preliminary hearing. Member Rednour seconded the motion which passed unanimously. Meeting recessed at 4 p.m. and reconvened at 4:05 p.m.

Member Schneider moved in accordance with action taken in executive session to accept the recommendation of the hearing officer to dismiss SBE v. Friends of Judy Martini for want of prosecution. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

A special meeting of the Board will be held on Wednesday, March 23, 2005, at 12:00 noon to discuss a campaign disclosure complaint. The next regular meeting of the State Board of Elections will be held on Monday, April 18, 2005 at 11 a.m. in Chicago.

With there being no further discussion, the meeting adjourned at 4:10 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director