

**State Board of Elections Board Meeting  
Friday, April 16, 2004  
Chicago, IL**

**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**

**ALSO PRESENT:**

**Daniel W. White, Executive Director  
Colleen Burke, General Counsel  
Darlene Gervase, Administrative Asst. II**

The regular monthly meeting of the State Board of Elections was called to order at 11:10 a.m. with 7 members present.

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

The Chairman accepted Member Phil O'Connor's resignation with regrets. A plaque commemorating his service to the Board was presented and all Board members offered tributes to his many accomplishments. Mr. O'Connor received a standing ovation from all attendees.

The Chairman presented the minutes of the March 15, 2004 regular and the March 18, 2004 special Board meetings for approval. Vice Chairman Smart moved and Member Roupas seconded the Motion to approve the minutes. The Motion carried 7-0.

Director White began his report with the proclamation of results of the March 16, 2004 Primary Election. Member Murray moved to certify the results of the primary election as presented and Vice Chairman Smart seconded the Motion which carried 7-0. The official canvass of votes was signed by the Board members.

The Director continued with an Election Day report monitoring activities. Most jurisdictions had little provisional voting activity with over half reporting no provisional ballots. Everyone was in agreement that the system was working well.

Pat Freeman reported an increase in calls in both offices regarding locations of polling places because the Secretary of State's office includes the SBE's staff phone numbers on their receipts. The Chicago office reported a large volume of calls regarding over-votes and under-votes, confusion about voting for delegates and the lengthy ballot. Springfield calls were focused on ballot entitlement, and receiving the wrong ballot style in relation to referenda. In a few instances, this mistake could affect the outcome of the referenda (usually in a tax referenda or school consolidation question). Downstate field representatives reported questions on pollwatchers, electioneering and ballot

entitlement along with questions of write in candidates. Alexander County experienced problems with several vote recorders. SBE staff is working with Gallatin County to transfer vote recorders that Gallatin will no longer be using to Alexander County for use in the November election.

Rick Fulle presented a report of the results of pretests in twenty-five election jurisdictions and a synopsis of election equipment problems. He noted that there were pretest problems in the counties that we do not test, and that some election authorities tested their own equipment. Mr. Fulle said that when we test, we should not find any mistakes since the vendor and the county have already performed their tests.

The Director proposed potential hearing dates for the two remaining filing periods for the General Election. The Board agreed that 9:00 a.m. on June 1<sup>st</sup> and 9:00 a.m. on July 6<sup>th</sup> are the dates to convene as the State Officers Electoral Board for the purpose of hearing objection cases if necessary.

Director White presented a proposal between the SBE and Secretary of State ("SOS") to develop a joint agreement to meet HAVA requirements for the Board's review and approval. Co-Chairs Rednour and Smart met with SOS and SBE staff to establish goals and set a time table for completion of the proposal. The data sharing agreement is before the Board today for discussion and approval. Co-Chair Smart thanked the SOS and SBE staffs for their diligent work stated that this agreement timely brings us thru Phase I and closer to the compliance goal of 2006. He assured the County Clerks that they were well represented by Pat Freeman and she conveyed intricate problems and questions that the clerks may have with the agreement. Phase II, the Database Sharing Agreement, establishes costs that would be necessary on behalf of the SOS to meet budgetary requests. The Database Sharing Agreement distributed to the Board for informational purposes only and will be on the May agenda.

Jill Zwick of the SOS' office was introduced to the Board and offered several comments. She reiterated that an important issue is that completion of Phase I brings Illinois into compliance with the requirement ahead of schedule. This proposal meets all the requirements and further stated that she is very pleased with the progress of the SOS/SBE committee in establishing goals and a time table plan for completion of the proposal. Furthermore, their staff also looks forward to the continued working relationship of the committees. Tim Mahler, IT Director of the SOS answered questions regarding the SOS programs.

Election Officials and/or their representatives from Morgan, Lake, Champaign, DuPage and Cook stated their discontent with the SOS/SBE agreement and requested more input from the clerks before the Board approves it. Vice Chairman Smart explained that this agreement is Phase I and their concerns will be addressed in the future during Phases II or III.

Steve Flowers, IT Director SBE, was asked to provide answers to the clerks' concerns and he reiterated that the clerks' input is vital for the development of the paperless phase of the program.

Member McGuffage moved and Member Murray seconded a Motion to adopt the proposal between the SBE and SOS. The Motion carried 7-0. Chairman Keith thanked everyone

for their comments and stated that he understands that 2004 will continue as is and reiterated that this is just the beginning and we all must work together to ensure compliance with the Act. Furthermore, the Board cannot make everyone happy, but it is doing the best it can.

Member Roupas moved and Member Murray seconded a Motion for the General Counsel to request an opinion from the appropriate authority, whether it's the Illinois Attorney General or the Election Assistance Commission regarding HAVA requirements in regards to 303.A.5.iii. The Motion carried unanimously.

The positive results of an extensive review by a team of auditors from the State Auditor General, was presented by the Executive Director for informational purposes. He thanked Jim Withers and Mike Roate for overseeing the fiscal operation.

The first three quarters of the fiscal year were reported with interesting developments regarding the contributions to the retirement funds and receiving a supplemental appropriation of approximately \$167 thousand included in this report. These two developments coupled with controlled spending leaves the SBE in solid shape for the remainder of the fiscal year.

The Executive Director presented the FY04 HAVA Fiscal status report for informational purposes. He noted that application for punch card reimbursement tapered off prior to the election and that we have expended \$9.5 million to election jurisdictions for punch card replacements. This matter concluded the Director's report.

After a short break, the meeting continued and the Chairman removed 28 cases from Volume 1-28 of the Campaign Disclosure Agreed List noticed to be up for decision today. Twelve cases were removed from disposition at this time. Vice Chairman Smart moved to accept the General Counsel's recommendation and adopt the findings and recommendations of the Hearing Officer and the General Counsel as amended. Member Rednour seconded the Motion which carried 7-0.

The General Counsel presented for informational purposes only, proposed rules amending Title 26, Ill. Adm.Code 100.50, 100.60, 100.70, 100.140, 100.170 (the Campaign Financing Act), Section 125.425 (civil penalty assessments); and Section 210.10 (licensing of raffles).

Ms. Burke submitted 26 Ill.Adm.Code 204.10-204.180 (approval of voting systems) for approval. Member Murray moved and Member Porter seconded the Motion to approve the rules as submitted, but to remove the language regarding the bonding issue and authorize the General Counsel to cure minor, non substantive, language and grammatical changes. The Motion carried unanimously.

The General Counsel presented for informational purposes the Confidentiality Agreement for Receipt of Computer Code between the SBE and the party to an election contest once an election contest is filed. This matter is continued until the May meeting.

For informational purposes Steve Sandvoss, Deputy General Counsel, informed the Board of the Small Business Advisory Act wherein each agency must post on its website any proposed rules or legislation that may impact small businesses in Illinois. Due to the

nature of the agency and rules it proposes, few listings are anticipated to comply with this Act and no action is necessary.

The General Counsel presented one complaint following public hearing, *Klem v. Holewinski*, 04 CD003. Member Murray moved to adopt the recommendation of the Hearing Officers and General Counsel and find that the complaint was filed on justifiable grounds, but not willful; the \$500 penalty is stayed pending continued good behavior; and no further action is required. Vice Chairman Smart seconded the Motion which carried 7-0.

An appeal of a campaign disclosure fine in *Citizens for Arroyo*, S7977 was the next matter presented for the Board's review. Member Murray moved and Member Roupas seconded a Motion that agreed with the Hearing officer to deny the appeal and abate the \$3,450 penalty if the committee dissolved and had no activity through and including June 23, 2005. The Motion carried unanimously.

The Board considered the matter of *Citizen for Ronal Serpico*, L6747. This committee maintains a successor committee. Member Murray moved to accept the recommendation of the Hearing Officer and General Counsel to deny the appeal, reduce the penalty to \$400; transfer the penalty as a first violation to L11082 as the successor committee. Member Porter seconded the Motion which passed 7-0.

Committees taken out of order on the agreed list were addressed. The Chairman recognized Ms. Patricia Horton, the new treasurer of *Committee to Elect Rickey Hendon*, 02 AP004. She presented her side to the Board for its review. Member Murray moved and Member Rednour seconded the Motion to adopt the recommendation of the Hearing Officer and General Counsel to deny the appeal and assess a civil penalty in the amount of \$1,450. The Motion carried unanimously.

The Chairman called the matter of Respondent committee Reform Party of Illinois, #S-7961, which was represented by Mr. James Wright. Mr. Wright presented a Motion to Dismiss to the Board. Chairman Keith denied the Motion as untimely. Member McGuffage moved, and Member Rednour seconded a Motion to adopt the recommendations of the Hearing Officer and General Counsel and deny the appeal, assess a \$100 penalty and stay the penalty as a first time offense. The Motion carried unanimously. During his presentation, Mr. Wright indicated that he intended to file an action in the court regarding this matter. Chairman Keith advised Mr. Wright that he may purchase a copy of the transcript from the Court Reporter and the General Counsel can provide him with that information.

A request from Mr. John Countryman was presented to the Board for informational purposes. Mr. Countryman indicated settlement conferences are a very common practice for administrative agencies to follow and believes that the Election Code provides for the procedure in Section 9-21. The Board, represented by Rupert Borgsmiller, Director of Campaign Finance, would have the discretion to levy assessments when uncontested fines are settled by stipulation. Member Murray moved and Chairman Keith seconded the Motion to have the General Counsel promulgate rules for review to change the way appeals are heard and allow stipulations and agreed orders between the Director of Campaign Finance and the Respondents. The motion carried 7-0.

The General Counsel presented a status report on *Donahue v. Moreno*, 02 CD 70 stating that this matter has been referred to the Attorney General for willful failure to file a complete report, that no civil penalties can be assessed, and that the report is as complete as it will be, but still inadequate. Steve Sandvoss, the Hearing Officer, remanded the latest filing to staff for their review. Although the report is inadequate, staff is satisfied that the Respondent has done everything they can do and as a result of the amended report assessments of A-1s are forthcoming. Member Murray thanked Mr. Donahue for his determination in bringing this matter to the Board's attention and moved that the Board issue a Final Order adopting the General Counsel's recommendation and continuing this matter generally until the Board re-notices it, which does not preclude staff or anyone else from filing new complaints, or amendments. Furthermore, the General Counsel shall amend the letter sent to the Attorney General to include the Board's action. Chairman Keith seconded the Motion which carried 6-0. Member Porter recused himself from this matter.

The next item on the General Counsel's report was the assessment of final orders for the committees who received assessment letters during January and did not file an appeal. They are Committee Numbers S2271; S272; S8040; S5806; S2782; S6825; S7197; S6409; S5910; S8135; S5211; S7894; S7601; S8252; S1841; S8089; S4610; L11070; L11195; S575; S5038; S7197; L11325; L11455; and S2271. Ms. Burke stated that this is a new procedure the Board is adopting and these committees did not appeal to reduce the penalties to 10% for first time violations. Member Murray moved and Vice Chairman Smart seconded a Motion to apply general rules for the late filing A1's that reduce the penalty to 10% for first time violation only. After further discussion, Vice Chairman Smart withdrew his second. Member Murray then moved that this matter be held over to the May meeting in order for staff to make an analysis if these committees should have their A-1 assessments reduced to 10% of the amount that was not timely reported. Member McGuffage seconded the motion which carried 7-0.

A request from Rupert Borgsmiller, Director of Campaign Finance to address abated assessments per emergency rules was presented to the Board. Member Murray moved and Member Porter seconded the Motion to enter final orders for committees L832; S1840; L7367; L5590; L2670; L3280; S6519; S7125; S1866; S3675; S2400; and S202 indicating assessments had been abated pursuant to the Emergency Rules and to instruct the committee to pay the assessment. The Motion carried unanimously.

The General Counsel presented Committee L2344 for final order following disposition of abated assessment per emergency rules. Member Murray moved to issue a final order and instruct the committee to pay the assessment. Member Porter seconded the Motion which carried 7-0.

Ms. Burke presented a request from Citizens for Oscar Worrill committee to the Board for consideration of a payment schedule. After discussion, Chairman Keith moved and Member Porter seconded the Motion to deny the request for a payment plan. The Motion carried 5-2 with Members Murray and Rednour dissenting.

The American Taxpayers Alliance and Law Enforcement Alliance of America campaign disclosure plaintiffs were ordered by the Hearing Officer to submit a show cause Motion. This matter is continued to the May 17<sup>th</sup> regular Board meeting.

The General Counsel presented for information purposes a list of committees that paid outstanding civil penalties.

Member McGuffage moved and Member Murray seconded a Motion to continue the 12 appeals removed from Volumes 1-28 of the Campaign Disclosure Agreed List until the May 17<sup>th</sup> meeting. The Motion carried 7-0. Staff is directed to send notices to those committee.

Member McGuffage moved to recess to executive session to discuss pending litigation and personnel matters. Member Murray seconded the Motion which passed unanimously. The meeting recessed at 4:15 p.m.

The meeting reconvened at 5:05 p.m.

Member McGuffage moved and Member Murray seconded the Motion to direct the General Counsel to take action on the Dana Gill matter as adopted in Executive Session. The Motion passed 7-0.

The next meeting of the State Board of Elections will be held on Monday, May 17, 2004 in Springfield, 11 a.m.

There being no further discussion, Member Murray moved to recess and Member Rednour seconded the Motion which passed unanimously. The meeting adjourned at 5:10 p.m.

Respectfully submitted,

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Assistant to the Executive Director

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Executive Director