

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, May 21, 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 10:45 a.m. with seven members present. Member McGuffage was awaiting connection via videoconferencing in the Chicago State Board of Elections office.

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

Chairman Smart presented the minutes of the April 16, 2007 regular monthly Board meeting. Director White discussed revisions submitted by Member Keith and minutes reflecting those revisions were distributed to Board members. Member Keith moved to approve the minutes as amended. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. (Member McGuffage was connected in the Chicago office.)

The Executive Director reviewed the April 17, 2007 Consolidated Election indicating there were relatively few calls and complaints and very low voter turnout. Staff was assigned to Alexander County as the county clerk had resigned just prior to the election. Staff was also present in St. Clair County and the city of East St. Louis. Director White indicated he was at the offices of the Cook County Clerk as well as Chicago Board of Election Commissioners after the polls closed. Both jurisdictions were pleased with the improvements made to the voting systems and the performance of the vendor.

Director White reported on the meeting of the Advisory Committee held this morning. Chairman Smart and Member Porter were in attendance. There were 20 committee members present and items discussed included the April consolidated election, the replacement of the Computer Operator's Log with a checklist, canvassing issues, legislation and the SBE website update. This was the last meeting of this Advisory Committee as a reconfiguration of the Committee will take place in conjunction with the new Chairman and Vice Chairman term.

Arvin Talwar and Scott Hilkert were present from Catalyst. Mr. Hilkert reviewed the statewide voter registration database project and the activity timeline. Final deployment will take place after the March 2008 election but prior to the November 2008 general election.

Director White discussed the legislative agenda and indicated the Legislature is scheduled to adjourn at the end of May. He further discussed pending federal legislation noting that the House passed HR 811 which will require voter verified paper trail, audits of federal elections and other accessibility requirements. Staff will continue to monitor this legislation and update the Board accordingly. Cris Cray distributed an update of all election bills and reviewed legislative activity. HB 426 which moves the primary to February 5, 2008 has passed both houses but has not yet been sent to the Governor. HB 1752 increases the stipend for election judges by \$20 but is subject to appropriation and unless more money is included in the SBE budget the judges will not see this extra funding.

Director White presented an amended certification from Winnebago County which would amend the results for a judicial race from the 2004 general election. The General Counsel reviewed the issues involved indicating that this would not change the results of any race or any signature requirements. In response to previous concerns of the Board the General Counsel prepared a report regarding the propriety of accepting an amended abstract of votes. Mr. Sandvoss proposed that the Board set a deadline through rule making or legislative action for the consideration of amended abstracts of votes or canvasses received from election authorities. He suggested a 30 day period beyond which the Board would not consider the submission of any such amendments that would change the outcome of a given contested election, including referenda. This would coincide with the 30 day deadline for filing an election contest. For all other amendments he suggested a 60 day

submission deadline for Board consideration. He further recommended the request be granted to avoid applying a new deadline retroactively and the fact that this would have no bearing on any election result or signature requirement calculated subsequent to the election. After discussion Member Keith moved to ask staff to submit a rule on an emergency basis on amended canvasses following the proposed guidelines of the 30 or 60 days after proclamation. Member Brady seconded the motion which passed by roll call vote of 8-0.

Member Keith then moved to deny the request from Winnebago County to amend the certification from the 2004 general election. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Member Keith commented that as this election is over and it would not affect any signature requirements, he did not want the Board to be in a position in the future with people wanting to make a change from years past.

Director White presented a proposed Board meeting schedule for FY 08 based on the assumption the primary will be held on February 5, 2008. The Board agreed to change the September date to Friday, September 14 as the COGEL conference conflicts with the September 17 date and many staff and the SBE Chairman usually attend this conference. Vice Chairman Rednour moved to approve the schedule as amended. Member Brady seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented for informational purposes 1) the FY07 fiscal report for the period ending April 30, 2007, 2) the fiscal report for the Help Illinois Vote Fund, and 3) the two year plan of activity for the months of May and June. In response to a question Mike Roate explained the draw down process of claiming federal accessibility funds which appears in the fiscal report as a negative balance.

The Board recessed at 11:30 a.m. for a short break and reconvened at 11:40 a.m.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer recommends be granted in the matters of agenda items 3.a.1-8 and noted his concurrence with all recommendations. No one was present in these matters. Member Keith questioned if the updated filing will be required if it has not already been filed in agenda item #6. Mr. Sandvoss indicated it would be a requirement. Member McGuffage recused himself from #2. Member Walters moved to

grant the appeals in the matters of *SBE v. Citizens for Brendan Ward/Will County Police*, 06GE063; *SBE v. Fioretti for Alderman*, 07DS063; *SBE v. Friends for Deborah Levi*, 07CP012; *SBE v. Christian County Republican Central Committee*, 07DS089; *SBE v. Illinois Pharmacists PAC*, 06AG061; *SBE v. Silverstein for Senator*, 06AG060; *SBE v. Friends for Barb Brown*, 07DS106; *SBE v. Friends for Jeff Richey*, 06AG066. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0 with Member McGuffage recusing himself from *SBE v. Fioretti for Alderman*, 07DS063.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer has recommended be denied in agenda items 3.a.9-29 and concurred with the recommendations in all but item #10. It was noted that in the matter of item #20 the committee must file an amended D-1 within 30 days. Member Keith asked to pull #10, 11, 26 and 27 for separate consideration. Item #18 was removed for separate consideration as parties were present for discussion. Vice Chairman Rednour moved to deny the appeals in the matters of *SBE v. United Southland Republican Women*, 07DS001; *SBE v. Phillips for Mayor*, 07DS047; *SBE v. Friends of Rex Parker*, 07DS074 & 07CE016; *SBE v. The Lombard Referendum Committee*, 07MA005; *SBE v. Williamson County Democratic Central Committee*, 06AG043; *SBE v. Mason County Democratic Central Committee*, 07DS86; *SBE v. Will County Democratic Central Committee*, 06AG044; *SBE v. Stickney Township Regular Democratic Org.*, 06AG047; *SBE v. Vermilion County Democratic Party*, 06AG048 & 07DS164; *SBE v. Wabash County Republican Central Committee*, 06AG049; *SBE v. CNA Citizens for Good State & Local Government*, 06AG050; *SBE v. Springfield Women's Political Caucus*, 07DS093; *SBE v. Electrical Contractors' Association of City of Chicago, Inc.*, 06AG054; *SBE v. Township Officials of IL PAC*, 06AG055; *SBE v. RSD Referendum Committee*, 06AG069; *SBE v. Mexicanos for Political Progress*, 07DS150. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Committee to Elect Mark T. Kupsky, Treasurer*, 07DS021 and indicated he disagreed with the recommendation of the hearing officer. The circumstances of the appeal are similar to one the Board just granted. The Board did not receive the envelope to prove a date and indicated this recommendation was written prior to the rule going in to effect. To be consistent he recommended the appeal be granted. Member Porter agreed indicating

that a copy of the report was timely filed with the election authority and the committee had never been late before. Member Porter moved to grant the appeal. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Randy Frese Campaign Fund*, 07DS037. Member Keith felt this was similar to the previous discussion. Based upon the circumstances that the Committee Chairman said he dropped the report at the post office on a Saturday thinking it would have plenty of time for receipt by the next Wednesday but it did not get postmarked until Monday, Member Keith moved to grant the appeal and noted it would be granted only one time for such offense. The General Counsel indicated the rule as written requires an illegible or missing envelope to qualify for the appeal to be granted. Although it is deviating from the rule, the Board could give some flexibility. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Maine Township Regular Republican Org.*, 07DS088 indicating the hearing officer has recommended the appeal be denied and he agreed with the recommendation. Ellen Yearwood, Treasurer of the committee, was present and indicated as a small committee they could not afford the assessed fine and asked for a smaller fine of \$50. The General Counsel did not feel that the fine could be lowered in this case. After discussion on the fine, Member Schneider moved to accept the offer. Member McGuffage seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

The General Counsel presented *SBE v. Friends for David J. Haynes*, 07DS114 and *SBE v. 45th Ward Regular Republican Organization*, 07DS120. No one was present in this matter. The hearing officer recommended these appeals be denied. Member Keith indicated to be consistent that these should be sent back to the hearing officer to take evidence as to when the reports were actually mailed as nothing was discussed at the hearing. Member Keith moved to send these two cases back to the hearing officer for determination of mailing dates. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for Ruth Munson*, 06AG064 and reviewed the recommendation that the appeal be granted in part and denied in part. No one was present in this

matter. Mr. Sandvoss concurred with the recommendation of the hearing officer. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Member Keith asked staff to prepare a report addressing the issue in this matter that relates to the contributor. He felt it should be addressed so contributors do not have the ability to manipulate the rule to avoid disclosure prior to election.

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

The General Counsel asked that the Board issue final orders for the committees included on pages 213-214 that were assessed civil penalties and did not appeal. Member Keith moved to authorize staff to send final orders to the committees as listed on pages 213-214. Member Walters seconded the motion which passed by roll call vote of 8-0. Vice Chairman Rednour recused herself from voting on the Citizens for Jesse White matter.

Member Keith moved to recess to executive session to consider the complaints following closed preliminary hearings. Member Brady seconded the motion which passed unanimously. Meeting recessed at 12:05 p.m. and reconvened at 12:40 p.m.

Upon reconvening Member Keith moved in the matter of *Geils v. Wassinger*, 07CD012 to grant the motion to supplement the record and find that the complaint was not filed on justifiable grounds and the complaint should be dismissed and no further action be taken. Member Schneider seconded the motion which passed unanimously.

Member Keith moved in the matter of *Ronske v. DiCianni*, 07CD027 to find that the complaint was not filed on justifiable grounds and no further action be taken. Vice Chairman Rednour seconded the motion which passed unanimously.

Member Keith moved in the matter of *Peppard v. Barbosa*, 07CD028 to find that the complaint was filed on justifiable grounds and no public hearing is necessary, acknowledging that internal procedures will determine what action should be taken, if any, on subsequent filings. Vice Chairman Rednour seconded the motion which passed unanimously.

Member Keith moved in the matter of *Williams v. Proviso First Party*, 07CD029 that the complaint be dismissed for lack of prosecution, that is was not filed on justifiable grounds and no further action be taken. Member Brady seconded the motion which passed unanimously.

Member Keith moved in the matter of *Peppard v. Barbosa*, 07CD030 to accept the motion to withdraw by the petitioner and the matter be dismissed. Member Brady seconded the motion which passed unanimously.

The General Counsel presented a draft rule in response to a Board request. The rule was drafted to restrict defense presented to the Board following hearing of appeals of a civil penalty assessment. Member Walters moved to approve the rule as proposed. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed his memo regarding the use of reportability of legal fees as a campaign expense or contribution. Mr. Sandvoss felt a change to the rule was not necessary in the matter of expenditure of legal fees to defend a petition challenge as it is already covered under the Campaign Finance Act. Discussion ensued on defining the "opponent behind the challenge" and lengthy discussion was held on what constitutes a "candidate." It was agreed to ask the General Counsel to draft two separate rules. One rule will pertain to petitions and D-4 complaints and the other will pertain to election contests. It was also suggested to contact other states to ascertain if they have done this through a rule or law.

The next regular meeting of the State Board of Elections will be held on Monday, June 11, 2007 at 10:30 a.m. in Chicago.

With there being no further discussion, Vice Chairman Rednour moved to adjourn. Member Brady seconded the motion which passed unanimously. The meeting adjourned at 1:15 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director