

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, July 19, 2004
Springfield, Illinois**

MINUTES

PRESENT: John R. Keith, Chairman
Jesse Smart, Vice Chairman
William McGuffage, Member
David E. Murray, Member
Albert Porter, Member
Elaine Roupas, Member
Bryan Schneider, Member

ABSENT: Wanda L. Rednour, Member

ALSO PRESENT: Dan White, Executive Director
Colleen Burke, General Counsel
Rebecca Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 11:00 a.m.

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

Chairman Keith introduced Judge Thomas Appleton who was present to conduct the swearing-in ceremony of Bryan Schneider. Mr. Schneider was appointed to the Board to replace Phil O'Connor who recently resigned. Following the swearing-in ceremony, Mr. Schneider thanked the Board and staff for their kindness and hospitality in welcoming him to the Board.

The roll was then called with seven members present. Member Rednour was absent and Chairman Keith held her proxy.

Chairman Keith presented the minutes of the June 14 regular monthly Board meeting and July 6 special meeting. Vice Chairman Smart moved to approve the minutes. Member Porter seconded the motion which passed by roll call vote of 6-0-2. (Members McGuffage and Schneider voting present.)

Due to a scheduling conflict of one of the parties, the Board agreed to recess at this time and convene as the State Officers Electoral Board to discuss the matter of *Adler v. Bryan*, 04SEBGE500. Member Roupas moved to recess as the State Board of Elections and convene as the State Officers Electoral Board. Vice Chairman Smart seconded the motion which passed unanimously. Meeting recessed at 11:05 a.m. and reconvened at 11:35 a.m.

The Executive Director congratulated and welcomed Member Schneider to the Board. Mr. White thanked Becky Glazier, Amy Calvin and Pat Freeman for organizing the welcoming reception.

The Executive Director presented for discussion the issue of the campaign disclosure raffle reporting and indicated in this year's audit we received a material finding for failing to identify gross receipts expenses and net proceeds relating specifically to raffles as required by the Raffles Act. The Auditor General believes that the SBE has failed to enforce a statutory provision of this Act. Member Murray noted he would be in favor of amending our forms to include such information and asked how much work would be involved to do so. Steve Flowers discussed the changes and what it would involve to modify IDIS, the electronic filing program. After further discussion, Vice Chairman Smart moved and Member Murray seconded a motion to table the matter and place on the January agenda to allow staff to research the time and cost involved with modifying this program. With no objection, the motion passed. Director White was directed to notify the Audit General of this action.

The Executive Director reviewed the background of the ballot forfeiture provision of 10 ILCS 5/9-30. With certification of the ballot approaching staff is looking for a policy decision on this issue. Discussion ensued on options for allowing candidates to pay their outstanding civil penalties. Member Murray moved that all fines be due no later than 12:01 p.m. on Friday, August 27, 2004, and if not paid by that time the names be stricken from the ballot and proper notice be given to all committees affected (that have fines due and owing by the date of certification). There will be no grace period after this time period. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0. Discussion ensued on any committees that have fines due after certification.

The Executive Director discussed the past practice of the office staying open during petition filing periods. As very little activity occurs on Saturdays this practice has not proved to be as productive as originally thought. This would be a policy decision to no longer maintain this practice and the administrative rules would need to be amended. Member Murray moved that the office not remain open on Saturdays during any filing periods conducted by the State Board of Elections and that the rules be amended accordingly. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The Executive Director referred to materials supplied by Freedom's Answer, a non-profit organization with goals to get young people involved in the election process as well as getting people to the polls to vote. Member Roupas felt it was a great program to support. A letter has been prepared with the Chairman's signature to go to all student council presidents endorsing the program. It was noted to include in the letter a reference to the SBE mock election program as well. Member Roupas moved to support the Freedom's Answer program. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The Executive Director reported on his attendance at the initial meeting of the Standards Board of the EAC held in Houston, Texas. This is an advisory board established by the Help America Vote Act with an objective to review the development of voluntary voting systems standards described in Title II, part 3 of HAVA./ Mr. White indicate states have been told not to expect these standards until April of 2005. Director White indicated he has volunteered to sit on one of the committee's involved in this. Mr. White indicated that we recently received a letter from the Department of Justice in response to our letter requesting an opinion concerning the statewide voter registration system. The DOJ letter refers us to the Election Assistance Commission and references the letter we previously received which noted they will not be issuing opinions. We have not yet received a response from the EAC, but Mr. White indicated he did discuss the letter with the EAC's legal counsel while in Texas.

The Executive Director reported that the EAID grant application was sent out (\$870,000) and we are receiving many responses. A second application was sent last week to all election authorities for the \$1.5 million discretionary funds for polling place accessibility. A third application to dispense \$3 million for the general improvement of elections will be sent out soon.

Member Roupas discussed the letter that was received by the Board members from Bob Saar regarding their conversations with the Department of Justice. Mr. White indicated he did follow up with Mr. Saar and noted that staff would meet with their group again soon.

The Executive Director discussed the relocation notice the Chicago office received regarding the reallocation of space in the James R. Thompson Center and indicating the office of the SBE will be moved to space outside the Center. Mr. White spoke with CMS indicating the SBE is in the process of

preparing for a Presidential election and this would not be a good time for a move. He was told this was just the beginning of the process and nothing was set yet. Mr. White will be meeting with them again regarding this order.

The Executive Director indicated our appropriation request is still pending and we are now operating on a one month "core" budget. This core budget funds only personal services and contractual items. The SBE request for matching monies for HAVA has also been received. Cris Cray reported on the pending election bill and indicated there is nothing that would affect the SBE financially. Mike Roate also reported that we did receive our HAVA appropriation request so those payments are proceeding.

The Executive Director presented for informational purposes the FY 04 fiscal status report for the period ending June 30, the HAVA funding report and the two year plan of activity for the months of June and July. Mr. White indicated we are now in the lapse spending period but are in good shape meeting all payments.

The General Counsel presented for emergency consideration proposed rules establishing state-based administrative complaint procedures to remedy grievances as required by Section 402 of the Help America Vote Act. Ms. Burke reviewed the proposed rules and asked the Board to review them and contact her with any suggestions or concerns by August 13. The amended rules will be placed on the August agenda for adoption. Discussion ensued on this requirement possibly imposed a large workload for this agency, and also that this requirement is limited to federal elections. Ms. Burke discussed the alternative dispute resolution procedure noting that it could be any firm selected by the Board. Member Murray indicated it could be mediation (nonbinding) or arbitration (binding) depending upon the circumstances.

The Board took a short recess at 12:45 p.m. and reconvened at 12:55 p.m.

The General Counsel then reported on the status of the ATA and LEAA campaign disclosure complaints noting that she received a number of motions and will report further next month.

The General Counsel presented *SBE v. Republican Party*, 02AP37 noting it was continued from the June meeting at the request of the respondent. Ms. Burke reviewed the activities indicating the

hearing officer has recommended a penalty be assessed for failure to file, but the amount be reduced to ten percent and concurred with the recommendation. Deanna Mool was present on behalf of the respondent and accepted the hearing officer's recommendation with the ten percent reduction. Vice Chairman Smart moved to accept the hearing officer and General Counsel's recommendation. Member Murray seconded the motion which passed by roll call vote of 8-0.

The General Counsel referred to agenda item 3(c) and indicated she concurs with the hearing officer's recommendation in all cases. No one was present for any of the appeal matters.

Chairman Keith presented campaign disclosure appeals recommended to be granted, agenda item 3(c)(2)(b) #2 through #18b and removed #10 from the mass consideration. No one was present in these matters. Member McGuffage moved to accept the recommendation of the hearing officer and General Counsel and grant the appeals in #2-18b. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Dan Rutherford Campaign Committee*, 02AG98 (which was taken separately from items 2 through 18b). No one was present in this matter. Member McGuffage moved to accept the recommendation of the hearing officer and General Counsel and grant the appeal. Chairman Keith seconded the motion which passed by roll call vote of 7-0-1 with Vice Chairman Smart voting present.

Chairman Keith presented appeals that are recommended to be denied, agenda item 3(c)(2)(c) 19-51c, excluding 25, 35 (on agenda twice), 46 and 48. No one was present in these matters. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel and deny the appeals. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Citizens to Elect Robert Shaw*, 03AC16. Member McGuffage recused himself from this matter. No one was present in this matter. Member Murray moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0-1 with Member McGuffage passing his vote.

Chairman Keith presented *SBE v. Keith Sommer Campaign Committee*, 02AP38. This is a third violation and it was questioned why it is being appealed. John Countryman explained that he had

been representing the Committee and thought there was a legitimate defense but could provide no evidence since the client was out of town. Member Porter moved to accept the recommendation of the hearing officer and General Counsel. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Committee to Elect Chuck Jefferson*, 02AP17 and noted that this was pulled from the mass consideration because it appears the committee may have been over assessed. Staff left to review the committee's file.

Chairman Keith presented appeals where the hearing officer recommends the appeals be granted in part and denied in part - agenda item 3(c)(2)(d)52-58. Vice Chairman Smart moved to accept the hearing officer and General Counsel's recommendation on all cases. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Discussion returned to 02AP17 and Michael Kasper, who represented the committee, indicated the record was lengthy but the committee stipulates that the amount is correct. Member Murray moved to accept the recommendation of the hearing officer and General Counsel. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented assessments, pages 334-339 of the Board packet, where staff has recommended final orders be issued and referred to a memo distributed today (Exhibit A) removing some of the committees on this list as the committees have paid the fine and a final order is no longer needed. Vice Chairman Smart moved to concur with the staff recommendation to send final orders to the committees found on pages 334-339 of the packet excluding those removed as found on Exhibit A. Member Murray seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented complaints following public hearing. Ms. Burke reviewed the activities in *SBE v. Citizens to Elect Kevin Gallaher*, 04CD10 and indicated the hearing officer recommended the complaint be dismissed but the respondent be ordered to file all future reports electronically. If the committee fails to comply, the committee be assessed a penalty not to exceed \$5,000 for failure to comply with a Board Order. Ms. Burke concurred with the recommendation. No one was present in this matter. Member Murray moved to accept the recommendation of the hearing

officer and General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel summarized the activities in *SBE v. Citizens to Elect Barbara Reyes*, 04CD20 and concurred with the hearing officer's recommendation that the Board order the committee to file the two reports within ten business days of the order and if they fail to comply a civil penalty not to exceed \$5,000 be assessed. It was agreed that a specific date would be inserted in the order rather than ten days. No one was present in this matter. Member Murray moved to accept the recommendation of the hearing officer and General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The Board agreed to continue *SBE v. Cicero Regular Democratic Organization*, 04CD24 to the August 27 meeting at the request of the General Counsel.

The General Counsel presented *SBE v. IL Progressive Leadership Political PAC*, 04CD27 and summarized the activities of the complaint. Ms. Burke concurred with the recommendation of the hearing officer that the committee file the report within ten business days and if they fail to do so, a civil penalty not to exceed \$5,000 be assessed. It was agreed that a specific date would be inserted in the order rather than ten days. Member Murray moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

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

Vice Chairman Smart then moved to recess as the State Board of Elections and reconvene as the State Officers Electoral Board. Member Roupas seconded the motion which passed unanimously. Meeting recessed at 1:25 p.m. and reconvened at 1:50 p.m.

Upon reconvening, Member Murray asked for a status report on the collective bargaining issue and also the ethics training for Board members and staff. Vice Chairman Smart moved to recess to executive session to discuss campaign disclosure complaints following closed preliminary hearing,

personnel matters and litigation. Member Schneider seconded the motion which passed unanimously.

Meeting recessed at 2:00 p.m. and reconvened at 3:00 p.m.

Member Murray moved that in the matter of *SBE v. Citizens for Deyon L. Dean*, 04CD16, to accept the recommendation of the hearing officer and General Counsel and the matter be found filed on justifiable grounds but no further action be taken. Member McGuffage seconded the motion which passed by roll call vote of 8-0. (Member Murray voted Vice Chairman Smart's proxy as he had stepped out of the room.)

Member Schneider moved that in the matter of *SBE v. Central Illinois Democratic Women, Inc.*, 04CD33 to find that the complaint was filed upon justifiable grounds and the matter should proceed to a public hearing. Member Murray seconded the motion which passed by roll call vote of 8-0. (Member Murray voted Vice Chairman Smart's proxy as he had stepped out of the room.)

Member Murray then moved that in the matter of *SBE v. 17th District Democratic Victory Fund*, 04CD34, to accept the recommendation that the complaint was filed on justifiable grounds and no further action be taken but a fine of \$4,700 be imposed. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Member Porter moved to accept the recommendation in the matter of *Saewert v. GP Mailing Service*, 04CD37 that the complaint was not filed on justifiable grounds and a violation did occur, but the respondent was not the violator. Member Roupas 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 Friday, August 27, 2004 at 11 a.m. in Chicago.

With there being no further discussion, Vice Chairman Smart moved to adjourn until 9 a.m. on July 26 for a conference call. Member Roupas seconded the motion which passed unanimously. The meeting adjourned at 3:10 p.m.

Respectfully submitted,

Rebecca L. Glazier

Assistant to Executive Director

Daniel W. White
Executive Director