

STATE BOARD OF ELECTIONS BOARD MEETING

Friday, August 29, 2008

MINUTES

PRESENT: Albert S. Porter, Chairman
Bryan A. Schneider, Vice Chairman
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ABSENT: Wanda L. Rednour, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Specialist II

Chairman Porter called the meeting to order at 10:32 a.m. with seven members present and led everyone in the pledge of allegiance. Member Keith held Member Rednour's proxy.

The Chairman announced that the amended agenda calls for the Board to recess and convene as the State Officers Electoral Board. Vice Chairman Schneider so moved to recess to the State Officers Electoral Board at 10:33 a.m. Member Smart seconded the motion which passed unanimously by ayes in unison.

The meeting of the State Board of Elections resumed at 10:35 a.m. with a roll call of 7 members present and Member Keith holding Member Rednour's proxy.

Executive Director White presented the minutes with one revision on page 5 which incorporates a list of committees who did not appeal a penalty and final orders were issued. Those committees are Friends of Salas; Voices of Worth; Citizens for Michael Wolczyk; Citizens for Mike Powers; Friends of the Park District; Illinois Business PAC; and Greviskes for Judge. Member McGuffage moved to adopt the minutes be adopted and approved. Vice Chairman Schneider seconded the motion which passed unanimously by ayes in unison.

Mr. White indicated that the agenda was amended with a report on the Premier voting system which is under Item A number 4.

The Director said that the Board was meeting on the last business day of August to certify to the election authorities the candidates for the November election ballot, a statewide referendum for a constitutional convention which arises every 20 years, and two retention judges' certifications. Member Keith moved to certify the candidates and the call of the constitutional convention as it appears on the official certification presented to the Board by the staff subject to any subsequent court order affecting the certification of the candidates contained therein and with the exception of Tom Shrier, Democratic candidate for State Representative in the 106th District; Rich Garling, Democratic candidate for State Representative in the 52nd District; and Miriam Shabo, Republican Candidate for State Representative of the 80th District with the consideration of the certification of these three candidates to be the second motion ; and understanding that the Republican candidates for President and Vice President have not been certified to us and that we have a meeting next week to deal with that certification. Member Brady seconded the first motion to certify all the candidates except the three named. The motion passed unanimously by ayes in

State Board of Elections Minutes

August 29, 2008

Page #2

unison. Member Keith moved to certify the name of Tom Shrier, Democratic candidate for State Representative of the 106th District; Rich Garling, Democratic candidates for State Representative in the 52nd District; and Miriam Shabo, Republican candidate for State Representative in the 80th District consistent with the order of Judge Kelley even though the objection to the nominating petitions have not been decided by a majority vote of the State Officers Electoral Board. Member Keith explained that the certification would have only their names and party affiliation, and there would not be any indication that an objection was pending. Member Smart seconded the motion. The motion passed by 5-3 with Members Brady, Walters and Vice Chairman Schneider voting no. Member Keith continued with his third motion regarding certification. He indicated that Mr. Allen, an Independent candidate for Senate in the 23rd Legislative District has faxed a withdrawal. Member Keith motion was that staff has the authority to accept the original withdrawal and remove him from the certification if received prior to Friday, September 5th without the necessity of a Board meeting to ensure that the appropriate election authorities can proceed with setting up their ballot without waiting for the September 5th Board meeting. Member McGuffage seconded the motion which passed unanimously. Member Keith confirmed that execution of the certification is recognition of the vote of the Board and not a change of vote from the three members who voted against the motion.

Director White directed the Board to pages 10 and 11 of the packet regarding planning and conducting judges of election schools. This information was submitted for informational purposes.

Mr. White related good news regarding the \$2 million Election Data Collection Grant program. He thanked Member McGuffage for his effort to receive authorization to set up a special non-appropriated fund for spending authority to receive the funds from the federal grant. The treasurer's office has been notified and the trust fund is in Harris Bank in Chicago. The contract with Catalyst Consulting can now be finalized. The application has been prepared and submitted by Chief Fiscal Officer Mike Roate and we anticipate the grant in Illinois shortly. He indicated that a conference call with the sister states who have also received the award will take place shortly to bring us up to date. Mr. White personally thanked the staff for pursuing this, the Board for their support and particularly Member McGuffage for interceding which allowed us to move ahead with the authority from the Comptroller and to receive these funds. Member McGuffage thanked Messrs White and Roate for staying on top of this problem, getting it moving and in place right away. Questions on timing, budget and ownership of any product were discussed. Mr. White asked for a motion to rescind a request for an opinion from the Attorney General regarding the spending authority. Vice Chairman Schneider so moved, Member Smart seconded the motion which passed unanimously by ayes in unison.

The final item regarding preparations for the November General Election was added and is an update to a voting system issue. Premier, formerly Diebold, acknowledged that a programming error occurred in Ohio that may have caused votes to be dropped during electronic transfer of that voting data. Voting Systems Director, Dianne Felts, contacted the 63 jurisdictions that utilize Diebold/Premier and Premier advising them that the Board would be discussing this issue at this meeting. Ms. Felts met with the Premier representation and came up with directives for the election authorities that are the same that the product advisory notice from Premier was to their clients and customers. Ms. Felts assured the board that if the election authorities follow the directives there will be no problem in Illinois. The Board asked Doreen Nelson, Assistant Executive Director of the DuPage Election Board, if she was comfortable using the system in November and she answered affirmatively. Further she said that they had been given excellent support when they took over managing the system themselves. The Board offered their support of Ms. Felts and asked that she create directives for the 63 counties that use the Premier/Diebold system and they would sanction them at the next meeting.

Mr. White directed the Board to page 15 containing a letter from the American Association for People with Disabilities, Common Cause, Demos, and the League of Women Voters nationally and Illinois regarding veterans'

rights to register to vote in November and in future elections. Ms. Sylvia Tillman, Vice President of the League of Women Voters of Illinois and Sergio Estrada, representing the Illinois Department of Veterans Affairs were present in this matter. Ms. Tillman asked that the IDVA agree to be designated as a voter registration agency in the state of Illinois. Mr. Estrada indicated that four nursing homes they control receive federal per diem from the federal VA. The Chairman responded that the SBE is not in a position to order a federal agency to either conduct voter registration or refrain from doing so. Mr. Sandvoss concurred with the Chairman's comment and noted further that he did not believe the Board has the authority to designate federal agencies as voter registration facilities. But they could support a position to encourage voting registration activity.

Mr. White introduced the second voting systems issue. He said that Ms. Felts is asking that certifications in effect for the primary only be extended through the November general election. Mr. Bob Sawicki, Assistant Director of the Chicago Board of Elections was present and available to answer questions. Ms. Felts reported that the modification concerned static electricity which was corrected by changing to noncoded screws. She stated that getting the modification through the EAC was moving very slowly and certification would not be ready by the general election. Mr. Sawicki indicated that modifications made worked well. Member Keith moved to continue modification certification through the general election scheduled for November, 2008. Member Brady seconded the motion which passed unanimously by roll call vote.

The legislative update was briefed by Cris Cray, legislative liaison, who was present in the Springfield office via telephonic call. Ms. Cray indicated that all elections bills, except for three, have been signed. Senate Bills 2190 and 2191, both campaign disclosure related were expected to be signed shortly. She said that the election bill that was not signed that was amendatorily vetoed was the ethics act and the Executive Order has not yet been posted. Rupert Borgsmiller, Steve Sandvoss and she met with legislative caucuses to discuss Act Blue legislation and will meet again in September. Ms. Cray indicated that Mike Roate was working on a supplemental appropriation bill which would include the money that was vetoed out and additional money to implement ethics.

Mr. White concluded his report with an update of the fiscal status of the Board. He will have an update at the next meeting and close out the books for FY08 and a beginning status report for FY09. Member Walters asked for clarification of collections. Mr. White answered that funding is returned to the general revenue fund and collections from campaign disclosure fines is directly deposited in the general revenue fund also. In response to a question from Member Smart, Mr. White said that a budget report will be submitted at the September meeting.

Steve Sandvoss, General Counsel began his report with appeals of campaign disclosure fines and asked to combine items 3A1,2, and 4; an appeal that was included as part of a complaint following closed preliminary hearing; and 08MA007. Ms. Mariyana Spyropoulos said that the filing was timely due to a holiday, but didn't have documentation to prove her case. Mr. Borgsmiller called for copies of the reports and this matter was continued to later in the meeting.

Mr. Sandvoss noted that Mr. Rex Bradfield was present in 08MA007 and 08CD26. Mr. Bradfield agreed to hearing the complaint in open session and offered to make a settlement in both cases. Member McGuffage moved to accept the respondent's offer to settle complaint 08MA007 and 08CD26 in the amount of \$3,000 in disposition of the fine to be paid within 30 days. Member Smart seconded the motion which passed 6-2 with Members Brady and Keith voting against the motion.

The Board returned to *SBE v. Citizens for Mariyana Spyropoulos*, L14382, 08AG003. Retrieved documents showed that the A-1 was due on Friday, January 17; January 21 was a holiday; and the report was received on January 22nd,

State Board of Elections Minutes

August 29, 2008

Page #4

one day late. Member Keith moved to approve the recommendation of the hearing officer and the general counsel and deny the appeal. Member Brady seconded the motion which passed unanimously by roll call vote.

The General Counsel continued with *SBE v. Citizens to Elect Brenda L. Thompson*, L13794, 07AE050, an appeal carried over from June; *SBE v. Citizens for Donald India*, L14105, 08DS270; and *SBE v. Committee to Elect LaVetta Williams Judge*, S9437, 08DS273. Member Keith moved to adopt the recommendations of the hearing officer and general counsel and to deny the appeals in all three cases. Member Smart seconded the motion. Vice Chairman Schneider presided in the Chairman's absence and asked if there was any discussion on the motion. Hearing none, he asked for roll call. The motion was adopted by 8-0.

For informational purpose, the following campaign disclosure items were submitted: potential ballot forfeiture for 2008 of which there were none; and payment of civil penalties which shows committees have made payments up through and including July 11 of this year.

Mr. Sandvoss presented the Voting System Approval Application Fee Structure proposed rule for the Board's consideration. After discussing changes to a few words and specifying that the fee has to be paid before testing begins were complete, Member Keith moved to send the rule on with the changes that Ms. Felts would be helpful in clarification. Member Brady seconded the motion which passed 8-0 by roll call vote.

Vice Chairman Schneider moved that the Board recess and convene in Executive Session for purposes of considering cases filed and heard following a closed preliminary hearing, for pending litigation and personnel matters. Member Smart seconded the motion which passed by 8 ayes in unison. The Board recessed at 12:34 p.m.

The Board returned to open session at 1:42 p.m.

Member Keith stated that since they were back in open session and having voted on the prevailing side, he moved to reconsider the action taken on 08AG003, Citizens for Mariyana Spyropoulos. Member Brady seconded the motion which passed 8-0 by roll call vote. Member Keith explained that he understood that Ms. Spyropoulos wanted to make additional presentation which is why he asked for its reconsideration. Ms. Spyropoulos made a settlement offer of 5% of the fine, but did not realize that the fine was reduced as low as statutorily possible. Mr. Sandvoss stated that the original motion would stand; that the motion to reconsider was granted, but the Board decided not to change the terms of the original motion which was to deny the appeal and reduce it to 10%.

The Chairman continued 08CD036 to the October 20th meeting in Chicago.

As to *SBE v. Citizens for David Webb*, 08CD007; and *SBE v. Friends for David Webb Jr.*, 08CD010, Vice Chairman Schneider moved to find that the complaints were filed on justifiable grounds, that the committee has until September 30th to file all the necessary reports. If they do so by September 30th, the matter will be concluded other than the ordinary review by staff of the adequacy of those filings; and that if such reports are not on file by September 30th, the matter will be placed on our agenda for our October meeting. These matters were ratified by the second of Member Keith and passed unanimously by 8 yeas in unison.

A short discussion was had by the board regarding the special video conference meeting on September 5th.

The Board recognized Ms. Jean Kazmarek, co-chair of Illinois Ballot Integrity Project, DuPage Chapter. She read a statement and asked the Board to recommend that the Attorney General move forward on her complaint. Several

State Board of Elections Minutes

August 29, 2008

Page #5

Board Members advised Ms. Kazmarek that the Board of Elections is not the proper place for her complaint and made suggestions for her to consider.

Vice Chairman Schneider moved the Board stand adjourned until Friday, September 5 at 10:00 a.m. when the Board will meet via videoconference. Chairman Porter seconded the motion which passed unanimously.

The Board adjourned at 2:09 p.m.

Dated: September 23, 2008

Respectfully Submitted,

Daniel W. White, Executive Director

Darlene Gervase, Administrative Specialist II