

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, September 14, 2007
Springfield, Illinois**

MINUTES

PRESENT: Albert Porter, Chairman
Bryan Schneider, Vice Chairman
Patrick Brady, Member
John R. Keith, Member
William McGuffage, Member
Wanda Rednour, Member
Jesse Smart, 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 10:40 a.m. with eight members present.

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

Chairman Porter presented the minutes of the August 20, 2007 regular monthly Board meeting. Director White discussed revisions submitted by Member Keith and minutes reflecting those revisions were distributed to Board members. Member Smart moved to approve the minutes as amended. Member Rednour seconded the motion which passed unanimously.

The Executive Director reported on the Advisory Committee meeting held just prior to the start of the Board meeting this morning. Chairman Porter led the first meeting of the newly reconstituted committee with thirteen election authorities present. Items discussed included legislative activity, pre-primary election plans and a status report on the statewide database. Director White indicated that the Board has been asked for guidance on what to do in the case of inclement weather or other emergency situations. Although the Board may not have any authority to take action on something of this nature staff will look at other states emergency plans. Member McGuffage noted that years ago Board Member Mike Hamblet introduced a bill on that issue but nothing came of it. Director White noted that he will review other emergency plans and place this on the October agenda for further discussion. The next Advisory Committee meeting is tentatively scheduled for January 22, 2008.

The Executive Director presented an informational update on HAVA funds and noted the steps that are being taken to conform to the federal audit. Letters have been sent or are in the process in collecting interest funds, the Board will seek a supplemental to repay \$3,889 of HAVA funds, and the EAC has been sent revised equipment inventories from election jurisdictions.

A legislative update was distributed to the Board in the Board packet. Director White noted that the attorney fees have been paid in full in the *King case*. Staff is waiting to see the disposition in court on what amount of per diem penalties may be due. Cris Cray indicated the omnibus election bill is now on the Governor's desk and he has 60 days to sign. The veto session will begin October 2. Director White indicated HR 811 is still pending in Congress but support of the bill is diminishing. The State Board of Elections FY 08 budget appropriation request was reduced to FY 07 levels. Director White submitted a proposal for a supplemental to restore funding necessary to fulfill agency mandates. A draft letter was presented which would request that a supplemental be reviewed favorably. Discussion was held on the content of the letter with a suggestion to also include language asking the leadership to override the vetoes and if that doesn't happen pass a supplemental for the SBE budget. A suggestion was made to the language in the draft letter that the word "ensure" be replaced with other language. The content of the letter was discussed at length with varying opinions on whether to ask for an override of the veto and a supplemental at the same time and if doing so would hurt the chances of getting either. Vice Chairman Schneider moved to have the Executive Director prepare a letter to the four legislative leaders that will request consideration of our budgetary needs emphasizing the critical nature of our needs with the letter being agnostic to the greatest extent possible concerning any particular mechanism. Member Smart seconded the motion. Member Keith suggested an amendment to specifically authorize the drafting of a supplemental as well. Vice Chairman Schneider and Member Smart accepted the amendment. Discussion continued on the distribution and intent of the letter. The motion was called and passed by a vote of 8-0. Ms. Cray indicated the letter would be hand delivered on Monday.

Member Keith questioned whether the proposed increases for staff would be better spent in securing one or two new staff members to help with the work load. Director White indicated that by

holding vacancies open it allowed for minimal increases. Mike Roate discussed the funding level and increases and at what salary level a new employee could actually be hired. Director White agreed that the small amount of funding would not be enough to bring in quality people. Member Smart indicated that staff have been asked over the last few years to do more and more and could not support this. If a supplemental does pass there will be funds for additional staff. Member Keith wanted to ensure staff was ready with a response should the legislature question this.

The Executive Director presented the final FY 07 fiscal status report indicating approximately \$980,000 being returned to the State Treasury. Due to the Governor's budget cuts the FY 08 agency divisional budgets are being reallocated and will be sent under separate cover. In response to questions it was noted that interest accumulated on HAVA funds stay in the HAVA fund. Director White noted in regard to the return of funds, staff was very prudent in spending and there were vacancies that went unfilled and the timing of hiring for vacancies allowed funds to remain. Director White also presented the final FY 07 fiscal report for the Help Illinois Vote Fund and the two year plan of activity for the months of September and October.

The General Counsel presented *SBE v. Phillips for Mayor*, a motion for reconsideration. Mr. Sandvoss reviewed the matter indicating Mr. Phillips was involved in a car accident on his way to the July Board meeting and was unable to appear and offer a defense. The Board approved the motion for reconsideration at the July meeting. Chuck Phillips was present and discussed the circumstances relating to his late filing. The personal circumstances that occurred were not a viable defense although Mr. Sandvoss agreed it was hardship case and did not cast doubt upon the defense. The General Counsel recommended the appeal be denied as the report was 11 days late and a \$575 fine be imposed. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel and deny the appeal. The motion died for lack of a second.

Member Smart then moved to grant the appeal. This motion also died for lack of a second.

Mr. Phillips then asked the Board to accept payment of \$287.50 payable in 60 days. Member Schneider moved to accept the offer. Member Rednour seconded the motion which passed by a roll call vote of 5-1-2 with Member Keith voting in the negative and Members Brady and Walters abstaining.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer recommended be granted and noted his concurrence with the recommendation. No one was present in any of these cases. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and grant the appeals in the matters of *SBE v. Matlak 2007 Campaign*, 06AG091; *SBE v. Citizens for Petrelli*, 07AE007; *SBE v. Citizens for Cheryl Axley*, 06AG099; and *SBE v. Neighbors for Naisy Dolar*, 07AE013. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Vote for Sam Cahnman*, an appeal that the hearing officer recommended be denied. Mr. Sandvoss reviewed the activities of the committee indicating that the committee failed to report in a timely manner two contributions resulting in a fine of \$1,000 and a fine of \$10,000. The hearing officer has denied the appeal for insufficient defense but recommended the first time violating be reduced to a 10% assessment resulting in a fine of \$1,100. Sam Cahnman was present with John Gregorich who submitted an affidavit indicating he had encountered problems with his electronic filing. Mr. Gregorich discussed the problems he experienced when attempting to file. He could not get it filed electronically so he tried to fax and also put one under the SBE door when the building was closed. Mr. Cahnman indicated they made a good faith attempt to timely file his recent reports. If the Board does not grant the appeal he asked the Board to take the same action taken in the matter of *SBE v. Chicago Apartment Association PAC* and in the case of *SBE v. Black Illinois Legislative Lobby* indicating in those matters there were numerous violations in each case. Mr. Sandvoss indicated if the Board were to accept this argument they would be overturning precedent that has been around for almost ten years and indicated he was familiar with both cases and felt they were distinguishable. Mr. Cahnman has filed reports before so there can be no argument he did not know how to file. Member McGuffage moved to grant the appeal on the \$1,000 fine and assess the \$100 fine. Member Rednour seconded the motion which failed by a roll call vote of 2-6 with Members Brady, Keith Smart, Walters, Vice Chairman Schneider and Chairman Porter voting in the negative.

Member Smart then moved to accept the recommendation of the hearing officer and General Counsel and deny the appeal. Member Brady seconded the motion which passed by roll call vote of

7-1 with Member McGuffage voting in the negative.

The General Counsel presented agenda items 3.a.6, 7, 8, 9, 10, and 12 and agreed with the hearing officer recommendation that the appeals be denied. Member Smart moved to accept the recommendation of the hearing officer and General Counsel in the matters of *SBE v. Friends of Judy Yeager*, 07CE052; *SBE v. Elect Ruby Lofton*, 07CE059; *SBE v. Highwood 1-2-3 Party*, 07D113; *SBE v. Friends of Diane Jones*, 07D115; *SBE v. Chicagoland Apartment Association PAC*, S8908, 06AG098; *SBE v. Friends of Christopher Newhall*, 06AG104. Member Brady seconded the motion which passed by roll call vote of 7-0-1 with Member Keith recusing himself from the vote for *SBE v. Friends of Judy Yeager*.

The General Counsel presented *SBE v. Citizens for Joe Moore*, 07AE016 and 07AC038 an appeal of a campaign disclosure fine in which the hearing officer recommended it 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 Brady moved to accept the recommendation of the hearing officer and General Counsel. Member Smart seconded the motion. The motion was amended to reflect the report would have to be filed in 30 days. The motion called and passed by a vote of 8-0.

The General Counsel presented for Board discussion the issue of mandatory training for officers of political committees and referred to a memo in the Board packet prepared by Rupert Borgsmiller. Member Keith indicated there would be costs involved. Member Smart concurred and felt with the current financial situation perhaps this should be held over. Discussion ensued on different possibilities on conducting training programs and if it should be mandatory and fines imposed if a committee does not complete the training. Mr. Borgsmiller noted that staff is in the process of revising script based on new legislation. He would take into consideration discussions today and include in the script and bring before the Board at the October meeting. The Board also asked the General Counsel to research current law as to what it will allow the Board to do in terms of mandating training either in advance or as a Board disposition.

The General Counsel presented for informational purposes the payment of outstanding civil penalties and candidates with unpaid fines who face potential ballot forfeiture in 2008.

The General Counsel presented *SBE v. Annual Roosevelt Cocktail Party Committee*, a complaint following closed preliminary hearing. The parties were in the office today working on the report but had left. Mr. Sandvoss felt that the committee should come before the Board and make a statement as to what they are doing to resolve the issues in the complaint. Member Keith moved to continue this matter to the November meeting in Springfield. Member Smart seconded the motion which passed unanimously.

The General Counsel presented a listing of additional judgeships created by the General Assembly. Public Acts 93-1030 and 94-0727 created three additional judgeships in the 12th Judicial Circuit in Will County and allocated them to the 2nd, 3rd and 4th sub circuits within the 12th circuit. Mr. Sandvoss indicated that the judgeships should be designated as Additional Judgeships A in each sub circuit and that the memo was incorrect in designating them as Additional Judgeships A, B and C. The Legislative leadership was contacted and affirmed the positions. These positions are to be filled at the 2008 General Election. Member Schneider moved to declare three additional judgeships designating them as additional judgeships A in each of the three sub circuits. Member McGuffage seconded the motion which passed by roll call vote of 8-0

The General Counsel presented for Board consideration the use of the Department of Revenue's Debt Collection Bureau (DCB) in collecting unpaid civil penalties. Mr. Sandvoss reviewed the conversations Mr. Sturm had with the DCB and requested the Board's feedback to determine if staff should proceed further. The Department of Revenue has indicated that they would not accept the debt as it was not in the best interests of the State. Discussion ensued as to whether it would be beneficial to take staff time and state funds to follow up on these fines. This will only work with a committee that has funds remaining. Member Keith suggested requesting an informal opinion from the Attorney General. Member McGuffage suggested that staff review Section 9-21 and 9-23 to see if it can be made broader. Mr. Sandvoss indicated he would look at the committees that have fines that are due and owing to see what amounts of fines are out there as well as contact the Attorney General's office and bring back to the Board for further discussion at a later date.

Member Schneider moved to recess to executive session to discuss pending litigation.

Member Smart seconded the motion which passed unanimously. Meeting recessed at 1:15 and reconvened at 1:25 p.m.

The next regular meeting of the State Board of Elections will be held on Monday, October 15, 2007 at 10:30 a.m. in Chicago.

With there being no further discussion, Member Walters moved to adjourn. Member McGuffage seconded the motion which passed unanimously. The meeting adjourned at 1:26 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director