

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, November 15, 2004
Springfield, Illinois**

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
Bryan Schneider, Member**

ALSO PRESENT:

**Dan White, Executive Director
Steve Sandvoss, Acting 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. with eight members present.

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

Chairman Keith presented the minutes of the October 15 special meeting and noted that the October 25 regular meeting minutes would be included in the December packet. Member Murray moved to approve the October 15 minutes. Member Rednour seconded the motion which passed by roll call vote of 7-0-1 with Member Roupas abstaining.

The Executive Director discussed the November 2 General Election noting that it was the first presidential election since the close 2000 presidential race and it was closely scrutinized. Illinois saw a record number of registered voters and although there are no exact figures yet, it was a very heavy turnout. While both offices were extremely busy with phone calls most were of a routine nature and no significant irregularities were reported. We did we experience some new problems related to the large number of voters, such as running out of ballots in some areas and long lines of voters waiting to cast ballots. Director White thanked staff for the many hours and effort put in. In response to a question from Member Roupas, Mr. White indicated that Homeland Security activated the Illinois Terrorism Center in case of an emergency. Fortunately nothing happened. Staff was assigned to several jurisdictions throughout the state. Pat Freeman indicated that the election authorities and SBE staff will be looking for clarification on some different issues, including provisional voting.

Director White reported on the use of the VISTA website and noted that 99 jurisdictions are using this website for the notification requirement for provisional voting. The remaining jurisdictions are using a system of their own.

Director White reported that 117 schools were conducted for approximately 8,000 election judges.

Dianne Felts discussed the pretests of voting systems. One major problem was encountered in Hamilton County with their counting machine but it was fixed on the Sunday before election day. Staff remained in Hamilton County through the election in case there were further problems on election night. There were a few small problems in other jurisdictions. Ms. Felts indicated that staff tests every precinct, but not necessarily every machine in every jurisdiction. On behalf of the Board, Member Murray expressed his appreciation to staff and the election authorities for running the elections so capably and expressed confidence in them. In response to a question from Chairman Keith, Ms. Felts indicated that in the case where the vendor refused to correct the problem, the ballot order was correct. It was on the sheet that the totals are printed upon that the order for the judicial offices was not correct. Counsel advised that we could not force the vendor to change.

Ms. Felts discussed election night problems and indicated that the White County Clerk is looking for guidance as she had major problems that evening with the new optical scan equipment. The ballots were jamming and some of the ballots were too wide and she had to have a printer trim some of them. It rained all day in White County so it could have been a problem with humidity or it might have been a situation where the printer had a different stock of paper. Ms. Felts indicated she had not been able to discuss with the vendor as he was on vacation but that we will try to get something worked out. Member Schneider suggested Ms. Felts contact the vendor and get a report from them on the problems and this be placed on the January agenda for discussion.

The Executive Director indicated that a survey has been sent to all election authorities requesting information on a number of issues including: 1) absentee ballots for military and overseas voters, 2) provisional voting, and 3) over and under votes.

The Executive Director presented a preliminary proposal for the SBE 2005 legislative package. These are for informational purposes only today and will be placed on the December agenda for

further discussion. They will be included on the January agenda for final action. Member McGuffage suggested that an appropriation be attached to the legislation that allows for the University of Illinois trustees to be elected since the SBE will be drawing the map. Discussion ensued on SB 2933 which is the clerk's bill on the statewide voter registration database.

Director White reported that Illinois is again ranked one of the top states following the second annual review of campaign finance disclosure programs completed by the Campaign Disclosure Project. Illinois was ranked number one last year but was ranked number five this year. Illinois campaign disclosure law led to the lower ranking. The Board agreed that Director White should meet with Rupert Borgsmiller and Cris Cray and share this information with the legislative leaders and chairmen of the election committees.

The Executive Director presented for informational purposes the FY 05 fiscal status report, the HAVA funding report, and the two year plan of activity for the months of November and December.

Steve Sandvoss indicated today was the first of two hearings to be held on the proposed amendment to Part 204 of Title 26 regarding the Source Code Rule. No outside parties were present. Mr. Sandvoss indicated he did receive a written statement from a vendor who currently has no voting systems in Illinois and he would take this into consideration.

Mr. Sandvoss reported on the status of the administrative complaint procedure rules which are mandated by the Help America Vote Act of 2002. The procedures have been submitted to JCAR but will not technically be in effect until they are published in the Register.

Chairman Keith presented *SBE v. Peoria County Republican Central Committee*, 04CD34. Annette Mills, Peoria County chairman, was present on behalf of the committee. Mr. Sandvoss indicated this was a motion for reconsideration on a civil penalty assessed for failing to timely file a report. The motion for reconsideration was granted in October. Ms. Mills reviewed the background of the Committee and its activities noting that the former chairman had left the state for six months and no one else received any of the notices. Ms. Mills realized they are responsible as an organization but asked the Board to look at the circumstances as they operated for several months with no guidance. After further discussion Member Murray moved to accept the committee's proposal of a \$450 assessment. Vice Chairman Smart seconded the motion which passed by roll call vote of 6-2.

Member Porter and Chairman Keith voted in the negative. Chairman Keith indicated although he had empathy he did not believe that old fines should be reduced.

Discussion ensued on the qualifications of the committees' treasurers. Ms. Mills indicated she would talk with the State Republican Party about the by-laws and the need for some vehicle to take a party official out of office if he/she is not doing their job.

Chairman Keith presented *SBE v. Committee to Elect Phil Jacob for Sheriff, 04AP8*. Shayne Aldridge was present on behalf of the committee. Mr. Sandvoss discussed the matter indicating it was an appeal of a civil penalty and he concurred with the hearing officer's recommendation that the appeal be granted. Vice Chairman Smart moved to accept the recommendation and grant the appeal. Member McGuffage seconded the motion which passed by roll call vote of 8-0. Member Murray noted his appreciation that Mr. Aldridge appeared at the meeting.

Member Porter then moved to recess to executive session to discuss personnel and litigation matters. Vice Chairman Smart seconded the motion which passed unanimously. Meeting recessed at 12:25 p.m. and reconvened at 1:10 p.m.

Chairman Keith presented *Richard Kelly v. Jason Tabour, 04CD65*. Mr. Tabour was present. As this follows a closed hearing, Member Roupas moved to recess to closed session to discuss six campaign disclosure matters and the third party complaint – all following closed preliminary hearing. Meeting recessed at 1:10 p.m. and reconvened at 2:00 p.m.

Chairman Keith presented *SBE v. Committee to Elect Fred Frederking, Jr., 04MA10*. Richard Brown was present on behalf of Mr. Frederking. Mr. Frederking was also present. Mr. Sandvoss discussed the committee's activities and the failure to file various reports. The hearing officer's recommendation is that the appeal be denied for lack of a recognizable defense. The issue is whether money given by the candidate himself would constitute carrying him over the \$3,000 threshold. Mr. Brown indicated that Mr. Frederking raised under \$3,000 but would pay for expenses out of his own pocket. He did not realize using his own money should be reported. Mr. Frederking came to him for advice and had all of his records and came forward to file. Discussion ensued on the reports and the money raised and what he used of his own money. There was never over \$3,000 collected in each reporting period. Member Porter moved to accept a \$500 settlement offer. Discussion ensued on the

statutes regarding assessment of fines and the Administrative Rules as it relates to the fines. As there was no second to Member Porter's motion, Vice Chairman Smart moved to grant the appeal. Member McGuffage seconded the motion. The motion failed with a roll call vote of 4-4 with Members Murray, Roupas, Schneider and Chairman Keith voting in the negative. Member Murray then moved to accept an offer of \$1,500 to settle the matter. Member Porter seconded the motion which passed by roll call vote of 6-2 with Member Rednour and Vice Chairman Smart voting in the negative.

Chairman Keith presented *SBE v. Madison County Democratic Team 04AP45*. Rick Faccin was present on behalf of the committee as was Matt Melucci. Mr. Sandvoss reviewed the activities of the committee and indicated they failed to timely file an A-1 report. The respondent did not attend the hearing. The appeal affidavit indicates that the check in question was for rent and was not used for any political purposes. The hearing officer felt it was not relevant and recommended the appeal be denied. The fine can be reduced to ten percent and as a first time violation be stayed. Mr. Faccin indicated they did not receive notice of the hearing. He discussed the background of the Team noting that the check was payment of a sub-lease for and not used for anything to do with the election. After further discussion Member Murray moved to grant the appeal. Member Porter seconded the motion which passed by roll call vote of 7-0-1 with Chairman Keith recusing himself from this matter.

Chairman Keith presented *SBE v. Citizens to Elect David Young, 04CD28*. No one was present in this matter. Mr. Sandvoss reviewed the activities of the committee and noted that no one appeared at the hearing. It is brought before the Board so a civil penalty can be assessed for failure to comply with the September 20, 2004 Board order. Mr. Sandvoss indicated that a penalty not to exceed \$5,000 be assessed. He recommended a penalty of \$500 which is in addition to a separate \$2,000 penalty. Vice Chairman Smart moved to accept the recommendation of the Acting General Counsel. Member Rednour seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had left the room.

Chairman Keith presented *SBE v. Independent Candidates, 03AC68*, an appeal of a civil penalty. No one was present on behalf of the committee. Mr. Sandvoss reviewed the activities of the committee and concurred with the hearing officer's recommendation that the appeal be granted. Member Porter moved to follow the recommendation of the Acting General Counsel. Member Roupas

seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had left the room.

Chairman Keith presented *SBE v. David Hyde for State's Attorney*, 04AP6, an appeal of a civil penalty. No one was present on behalf of the committee. The hearing officer recommended the appeal be granted but this should serve as notice to the committee. Mr. Sandvoss agreed with the recommendation. Member Murray moved to accept the recommendation of the hearing officer and Acting General Counsel. Member Porter seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had left the room.

Chairman Keith noted that *SBE v. Scott County Democratic Central Committee*, 04JS115 would be held over to the January meeting at the request of the committee.

Chairman Keith presented *SBE v. Committee to Elect Joseph Cantore*, 04JS110, *SBE v. Champaign County Democratic Majority*, 04DS136 & 04GP5, *SBE v. Friends of Dan Gibbons*, 04AP5, *SBE v. Friends of Timothy Michael Kelly*, 04AP47, and *SBE v. Friends of Paula Yensen*, 04AP54. Staff noted a clarification on page 253 in the disclosure packet the date should read December 2003. The General Counsel concurred with the hearing officer's recommendation that the appeals be denied. Vice Chairman Smart moved that these appeals be denied. Member Porter seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had left the room.

Chairman Keith presented *SBE v. Madison County Republican Central Committee*, 04JS85. Mr. Sandvoss discussed the committee's activities and the committee's defense that there was a power outage and the report could not be transmitted. The hearing officer recommended the appeal be denied and a \$50 penalty be assessed and because it is not the first filing offense relating to A-1's an additional \$525 fine be added to the penalty. Mr. Sandvoss agreed that the appeal should be denied but felt a smaller penalty would be warranted. Member Murray moved to assess a penalty of \$102. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Chairman Keith then entertained a motion that the matter of *SBE v. Richard Kelly v. Jason Tabour*, 04CD65 be found filed on justifiable grounds and no public hearing be held in accordance with action taken in closed session; the matters of *SBE v. Citizens for Robert Hughes*, 04CD43, *SBE v. 17th*

District Democratic Victory Fund, 04CD46; SBE v. Committee to Elect Edwin Belz Judge of the Circuit Court of Cook County, 04CD54; SBE v. Kaneland Referendum Committee, 04CD56; and SBE v. Friends to Elect John Hayden, 04CD62 be acted upon in accordance with action taken in closed session. Vice Chairman Smart moved that the matters of be dealt with in accordance with the action in closed session. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Member Murray moved that in the matters of *SBE v. People to Elect Belinda Bronson, 04CD39; SBE v. Amigos/Friends of Ray Diaz, 04CD40; SBE v. Waukegan Township Republican Organization, 04CD44; SBE v. Illinois People First, 04CD47; SBE v. Citizens for Jesse Granato, 04CD49; SBE v. Citizens for Derrick Prince, 04CD52; SBE v. The Illinois Business PAC, 04CD55; SBE v. Oswego Schools Referendum Committee, 04CD57; SBE v. East St. Louis City Democratic Central Comte., 04CD58; SBE v. O'Connor for Treasurer, 04CD59; SBE v. Committee to Elect Charles Powell Jr., 04CD60; SBE v. Central IL Democratic Women, 04CD61/04CD33;* be found filed upon justifiable grounds but no further action is necessary in accordance with action taken in closed session. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented for Board consideration campaign disclosure final orders. Mr. Borgsmiller explained that these committees were assessed penalties for late A-1's and did not appeal. Member Murray moved to reduce to ten precinct for first time violations in the matters of Citizens to Elect Robert Bank, Reform PAC of IL, Citizens for Rauschenberger, and Friends of Barbara McGowan. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Member Roupas then moved to assess a penalty in accordance with the amounts listed on page 293 of the Board packet in the matters of 20th Ward Reg. Democratic Org., Countywide Radio Authority, National Federation of Ind. Business, and Citizens for Mike Smith. Member Rednour seconded the motion which passed by roll call vote of 8-0.

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

Vice Chairman Smart discussed early voting noting that there was extensive coverage on this before election day. He wondered if it is something that Illinois should consider. It was agreed that this be placed on a future advisory committee agenda.

Member Murray moved to return to executive session to discuss pending litigation. Vice Chairman Smart seconded the motion which passed unanimously. Meeting recessed at 3:25 p.m. and reconvened at 3:50 p.m. It was noted that Members Murray and Roupas left the meeting during executive session.

The next regular meeting of the State Board of Elections will be held on Friday, December 3, 2004 at 12 noon in Chicago.

With there being no further discussion, Member Rednour moved to adjourn. Member McGuffage seconded the motion which passed unanimously. The meeting adjourned at 3:50 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director