

STATE BOARD OF ELECTIONS
Regular Board Meeting
January 18, 2011

MINUTES

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

ALSO PRESENT: Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The regular meeting of the State Board of Elections was called to order at 10:45 a.m. with seven Members present in Springfield and Member Porter was present in Chicago via videoconference.

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

The minutes from the November 23 and December 3 meetings were presented with revisions as noted. Member Smart moved to approve the minutes as submitted. Vice Chairman Rednour seconded the motion which passed unanimously.

The Chairman indicated that General Counsel Steve Sandvoss was filling in for the Executive Director who was recovering from a recent medical procedure.

The first order of business was certification of the April 5, 2011 Consolidated Election ballot for candidates for members of regional board of school trustees and trustees for the Fox Waterway Agency in McHenry and Lake Counties only. The General Counsel presented a copy of the certification for the Board's signature and indicated that no objections were filed to any of the candidates. Member Smart moved to certify the ballot and Member Brady seconded the motion. Mr. Sandvoss also asked the Board to include in the motion authorization for staff to accept candidate withdrawals between today and January 27, which is the last day to certify. Members Smart and Brady agreed to the change in the motion which passed by roll call vote of 8-0.

The General Counsel gave a brief report on the Advisory Committee Meeting and noted that attendance was very low. However, a post election review was discussed and the status of the Department of Justice intervention and resulting consent decree was given. Concerns regarding the county clerk's stipend reduction to 50% were expressed and the clerks indicated they would support a supplemental request. Election judge reimbursements, jurisdictions conducting primary elections and legislation was discussed as well. The General Counsel stated that the MOVE Act and consent decree did not apply to the February and April local elections as they are not federal elections. However, it was the general consensus to encourage the election authorities to adhere to the deadlines contained in the Election Code for the local elections and staff was directed to send a reminder to them regarding the deadline. Staff was also directed to inquire of those jurisdiction that are conducting primary elections as to whether they timely sent out absentee ballots..

An update on the February 22, 2011 Consolidated Primary Election was presented and it was noted that twenty-five municipalities were holding a primary election. Staff election day assignments for both offices were included and the General Counsel indicated he would be in the Chicago office as well. A request was received from the East St. Louis Board of Election Commissioners for a staff member to monitor their election and a listing of election judge training schools was presented for informational purposes.

The General Counsel presented the General Election day precinct reporting survey. As instructed by the Board, Dianne Felts sent out a survey to all of the election authorities requesting information about election night results reported after 2:00 a.m. and the reasons for late reporting. All jurisdictions responded and only two jurisdictions, Cook County and the Chicago Board of Election Commissioners, reported election returns after 2:00 a.m. Cook County experienced technical issues which required the ballots to be rerun through the machine. Chicago Board encountered instances of late reporting due to some human error which were described in their letter to Ms. Felts on pages 21-22 of the Board packet. Basically, they had instances where some cartridges (memory cards) were not transferred to the counting center; some technical issues similar to Cook County and the judges in a couple of precincts locked the cartridges in the election supply carrier. Overall, given the amount of precincts in both jurisdictions, the amount of errors was low and they do improve with each election. Discussion ensued among the Board concerning the Constitutional amendment's placement on the ballots in Cook County and the Chicago Board of Elections. The Board directed Ms. Felts to contact both jurisdictions to thank them for their responses, ask for more detailed clarification on the issues they experienced and to offer the assistance of the SBE if needed to help improve the process.

A report on the University Grace Period Pilot Program was presented. This statutory program mandated each designated election authority to conduct grace period registration and early voting in a high traffic location on the main campus of each university within the election authority's jurisdiction. This mandate is set to automatically repeal on March 2, 2011. Several jurisdictions participated in the program and provided a report to the SBE that included the number of early voting ballots cast and counted and the number of grace period ballots cast and counted. The General Counsel answered questions regarding some of the numbers on the chart and said he would send the letter to the new General Assembly as well if it had not already been sent to them. Discussion ensued about procedures for early voting, grace period registration and voting and mailing of ballots outside of the University Grace Period Program. Kyle Thomas verified that under the Pilot Program the applications were received and then double-checked back at the election authority's office because of the lack of resources at the campus voting locations to check their own database or the state database. Under normal circumstances the database is checked at the time the application is received.

The General Counsel discussed his testimony at a House Elections Committee hearing regarding the cause of delay in the transmittal of absentee ballots to military and overseas voters for the November 2010 election. Mr. Sandvoss summarized his testimony by giving a brief synopsis of the MOVE Act and answered questions concerning a report compiled by Cris Cray reflecting the receipt of absentee ballot applications and the transmittal of the ballots to the voters. Representatives from Cook, Mason and St. Clair counties testified as well. There were some suggestions to change the provision in the Election Code that now requires ballots to be available no later than 60 days before the election, to 45 days to make it consistent with the federal law.

There was another suggestion to possibly expedite the judicial review process for ballot objections and some language that would make it clear that ballots are to be available on the deadlines regardless of any pending litigation involving potential candidates who might appear on the ballot. The General Counsel pointed out that the consent decree requires the State Board of Elections (SBE) to undertake an investigation that would include contacting each election authority that had delinquent ballots and the preparation of a report to submit to the Department of Justice. Staff will also forward such report to the Board.

The General Counsel presented the proposed legislative agenda for the Spring session. A trailer bill in response to Senate Bill 3012 changes various election filing dates and addresses ballot access challenges as well. Another bill includes a request from the sponsors of the Uniform Military and Overseas Voters Act (UOCAVA) to add members of the National Guard to its definition of "member of the United States Service." Due to recent legislation requiring the joint election of the Governor and Lieutenant Governor, a bill to amend the Business Entity Registration Act so that the contribution to one would be deemed a contribution to both persons. Legislation has been drafted which proposes to increase the time period that the SBE would have to conduct the jurisdictional conformity check for statewide referenda petition filings. Lastly, the Secretary of State has submitted a bill which would remove the requirement for the S of S to designate its employees to be deputy registrars in order to accept voter registration applications from individuals. Also included for informational purposes were House and Senate calendars of session dates. Discussion ensued on the bill adding National Guard member to the definition of Member of the US Service, and it was agreed that it was not appropriate for the SBE to introduce such a Bill but could comment if asked to do so. Member Keith moved to direct staff to prepare and submit the legislative package as outlined on page twenty-nine of the Board packet except for the military legislation which would be omitted for the time being. Member Brady seconded the motion which passed by roll call vote of 8-0.

Next on the Agenda was the Campaign Finance Reform Task Force that was created by SB 1466. The General Counsel announced the members of the committee as follows: Lindsay Anderson, Chairman of the task force who was appointed by Governor Quinn; William McNary, President of U.S. Action and is also the Co-Executive Director of Citizen/Action Illinois who was also appointed by Governor Quinn; Joseph Seliga, an attorney with Mayer Brown who was appointed by Governor Quinn; Jo Ellen Johnson, counsel for the Senate Republican Leader's Office who was appointed by Senator Christine Radogno; Todd Maisch, from the Illinois Chamber of Commerce, who was appointed by Senator Radogno; Dawn Clark Netsch, a former lawmaker and candidate for governor, who was appointed by Senate President John Cullerton; State Senator Don Harmon who also was appointed by Senator Cullerton; Joan Noak, Mayor of the Village of Romeoville who was appointed by House Republican Leader Tom Cross; Deborah Harrington, Co-Chair of CHANGE Illinois who was appointed by House Republican Leader Cross; State Representative Barbara Flynn Currie who was appointed by House Speaker Michael Madigan; and Mike Kasper, an attorney who was also appointed by Speaker Madigan. The first meeting of the task force committee is scheduled for January 26, 2011 in the SBE Chicago office.

The General Counsel informed the Board of a vacancy on the U.S. Election Assistance Commission (EAC) Standards Board and explained that this Board is made up of 110 members of state and local election officials appointed by the chief state election official of each state. Rupert Borgsmiller, Executive Director of the SBE and chief state election official of Illinois received a resignation from Richard Cowen who previously served as the local election official representative.

Mr. Borgsmiller recommended the appointment of Lance Gough, Executive Director of the Chicago Board of Election Commissioners to the EAC Standards Board. Mr. Gough has agreed to serve if appointed by the Board. Member Smart moved to accept Mr. Borgsmiller's recommendation. Member Walters seconded the motion which passed by roll call vote of 8-0.

The IVRS update was presented for informational purposes and it was noted that duplicate registrations are typically higher right after an election due to the volume of applications that come in after the close of registration.

The General Counsel presented the FY 09 – 10 compliance audit and indicated such audit was completed and the compliance examination approved.

The General Counsel presented the proposed FY11 lump sum expenditure chart which reflects an infusion of two million dollars from the Governor's office and a transfer of excess money from the early voting line item to the election day judge reimbursements line item. Member Keith moved to approve the lump sum allocations presented with the assumption that a new chart will be presented at the next Board meeting. Member Smart seconded the motion which passed by roll call vote of 8-0.

The fiscal report and two year plan of activity was presented for informational purposes.

The General Counsel next presented *SBE v. Coalition for Property Rights, 20951*, 10JS117 which was an appeal of campaign disclosure fines carried over from the December meeting. Mr. Sandvoss reviewed the appeal and stated that the hearing officer recommended the appeal of the penalty that was assessed for the late filing of the 2010 June semi-annual report be denied. The hearing officer also noted that a packet and a reminder letter to file the report had been sent, and they should have been aware of the filing deadline since they had previously been fined for late filing of reports. Steve Aisen was present in Chicago on behalf of the committee and indicated the zip code of a neighboring town shares the same zip code of the committee and postal errors have occurred in the past. Mr. Aisen indicated he intended to close out the committee after today's hearing and offered a settlement agreement of 50% of the fine. Discussion ensued concerning the previous law and how reports are now submitted under the current law. Member Smart moved to accept the settlement offer, pay the fine and dissolve the committee within 30 days. Member McGuffage seconded the motion which passed by roll call vote of 7-1 with Member Keith voting in the negative.

The Chairman presented the following appeals of campaign disclosure fines that the hearing officer recommended be granted for agenda items 3.a.2-12: 2) *SBE v. Committee to Elect James DeLeo, 188*, 10AP032; 3) *SBE v. East Central Illinois Building & Construction Trades Council PAC Fund Committee, 1193*, 10JS221; 4) *SBE v. Citizens to Elect Cheri Neal Ditzig, 12684*, 10JS043; 5) *SBE v. Belvidere Education Association PAC, 13177*, 10JS044; 6) *SBE v. Committee to Elect Lawrence Walsh, 13254*, 10AP040; 7) *SBE v. Southwestern IL Laborers District Council PAC, 16301*, 10JS062; 8) *SBE v. Citizens to Re-Elect Mayor Pradel, 20116*, 10JS104; 9) *SBE v. Citizens for Unes, 20175*, 10AP049; 10) *SBE v. Committee to Elect Judge Thaddeus L. Wilson, 22145*, 10AP063; 11) *SBE v. Greg Brownfield for State Rep, 22204*, 10AP065; and 12) *SBE v. Citizens for Dodge, 22246*, 10AP067. The General Counsel concurred with the recommendation of the hearing officer in all these cases and no one was present for any of the respondent committees in the matters. Member Keith moved to grant the appeals for agenda items 3.a.2-12 and as to items 6

and 9 that the amended reports that were recommended to be filed by General Counsel and the hearing officer be filed no later than the close of business on February 25, 2011. Member Smart seconded the motion which passed by roll call vote of 8-0.

The Chairman presented the following appeals of campaign disclosure fines that the hearing officer recommended be denied for agenda items 3.a.13-17, 19-21 and 23-24: 13) *SBE v. Cook County Democratic Women*, 945, 10JS220; 14) *SBE v. Citizens for Delaney*, 14887, 10AP041; 15) *SBE v. Friends of John Sullivan*, 16708, 10AP044; 16) *SBE v. Friends for State Rep Anthony DeLuca*, 17153, 10AP045; 17) *SBE v. Terry Woelfel for Sheriff*, 19398, 10JS092; 19) *SBE v. Friends of Don Jones*, 22142, 10AP062; 20) *SBE v. Friends of Sheila Chalmers Currin*, 22273, 10JS161; and 21) *SBE v. Maureen Berkowitz for Supervisor of Assessments*, 22336, 10AP072. The General Counsel concurred with the recommendation of the hearing officer in all these cases and no one was present for any of the respondent committees in these matters. Member Smart moved to deny the appeals. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented an appeal where the hearing officer recommended the appeal be denied for agenda item 3.a.18, *SBE v. Citizens for O'Bannon, III*, 21908, 10JS138. The General Counsel concurred with the recommendation of the hearing officer but for a different reason in that he felt there was lack of sufficient evidence as opposed to the fact that Rule 100.125 is not available to this particular respondent. Member Keith moved to deny the appeal based on the General Counsel's recommendation. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented agenda item 3.a.22, *SBE v. Committee to Elect Paul Mitchell*, 224400, 10AP078 and summarized the appeal. The hearing officer recommended the appeal be denied and the General Counsel concurred. Attorney Adam Lasker was present in Chicago as a substitute counsel for Paul Mitchell who represents the committee. Mr. Lasker indicated that Mr. Mitchell had just received the hearing officer's report this past Saturday and asked the matter be continued to the next Board meeting. Without objection, the Board ordered the matter be placed on the February 23, 2011 Board meeting agenda. The Chairman also noted for the record that Mr. Lasker's appearance today was limited just for purposes of the motion.

The Chairman presented committees who failed to comply with a Board order. Agenda item number 3.a.36, *SBE v. Treasurers & Ticketsellers Union*, 10CD050 was removed from the agenda as it was not ripe for disposition. No one was present on behalf of the committees for the following agenda items 3.a.25-35 and 37: 25) *SBE v. 22nd Ward Independent Political Organization*, 10CD012; 26) *SBE v. 16th Ward Regular Democratic Org.*, 10CD013; 27) *SBE v. Friends of Frank McPartlin*, 10CD043; 28) *SBE v. The Committee to Elect Tracy McLeMore*, 10CD067; 29) *SBE v. Friends of Murfin & Sarkees*, 10CD038; 30) *SBE v. Friends for Booker*, 10CD036; 31) *SBE v. Wakefield for Waukegan*, 10CD029; 32) *SBE v. Committee to Elect James Larry Karraker*, 10CD027; 33) *SBE v. Citizens United for Change in the 20th Ward*, 10CD024; 34) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 10CD021; 35) *SBE v. Citizens for Pam Cap*, 10CD017; and 37) *SBE v. REALTORS PAC of IL*, 10CD045. The General Counsel recommended the aforementioned committees be assessed a \$5,000 penalty for failure to comply with a Board order. Member Keith moved to assess a fine of \$5,000 with the fine to be reduced to \$2,500 if the reports are filed and the fine paid by the close of business on February 25, 2011. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a listing of committees who face ballot forfeiture for the April 2011 election due to fines that are due and owing. It was noted that the listing of committees is sent to each respective jurisdiction notifying the election authority of the ballot forfeiture if such persons filed to run as a candidate. Discussion ensued on the possibility of a candidate on the listing forming another committee for a different office in a different jurisdiction. It was agreed that staff would send the entire ballot forfeiture listing to all of the election jurisdictions for information and action if necessary. Discussion continued concerning the active committees versus the active/final committees pending appeals listings. Without objection the Chairman directed staff to not include the "active/final committees pending appeal" section of the potential ballot forfeiture listing on future Board meeting agendas.

The General Counsel presented a listing of assessments necessitating a final Board order for the committees included on pages 221-222 of the Board packet. Member Keith moved to continue the matters to the April Board meeting agenda. Member Brady seconded the motion which passed by roll call vote of 6-2 with Members Smart and Walters voting in the negative. Without objection the Chairman directed staff to look into other options for addressing pending appeals, final orders and how they affect ballot forfeiture, possibly by rule or legislation if appropriate.

Member Keith moved to recess to executive session to consider complaints following closed hearings and a litigation update. Member McGuffage seconded the motion which passed unanimously. The meeting recessed at 1:00 p.m. and reconvened at 1:45 p.m.

Upon reconvening, a second roll call was taken with seven Members present as noted in the first roll call. Vice Chairman Rednour left the meeting at 1:35 p.m. and Member Keith held her proxy.

As to Case 10CD001 pending in the Appellate Court for the First District, Fourth Division, Member Keith moved to direct the General Counsel to confer with the Attorney General regarding questions and clarifications as discussed in executive session. Member Brady seconded the motion which passed by roll call vote of 8-0.

As to the case of *SBE v. Friends of Alderman Madeline Haithcock*, 08CD036, Member Keith moved to accept the advice of the Attorney General and close the file without any further action. Member Brady seconded the motion which passed by roll call vote of 8-0.

As to *Shepherdson v. Citizens for Tom Morrison*, 10CD075, Member Keith moved to accept the stipulated settlement presented by parties through their counsel and order parties and their counsel to achieve compliance with all the terms of their stipulated settlement including payment of a fine in the amount of \$3,250, such compliance to be completed prior to the Board's meeting on February 23, 2011. Member Brady seconded the motion which passed by roll call vote of 8-0.

As to *Woodward v. Friends of Marla Wilson*, 10CD084, Member Keith moved to dismiss the complaint for want of prosecution. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed the proposed amendment to the BEREPA rulemaking which

provides an opportunity for businesses that are currently registered with the SBE to declare themselves inactive if the business does not have an existing contract and the time period in which they are under an obligation to update their registration has expired, or the bid was not accepted and they don't have any current contracts. This would allow the business to opt out of the system and not be required to have any further updating responsibilities and, thus, lifts the contribution prohibition. The General Counsel summarized Member Keith and Brady's suggestions and indicated that JCAR would most likely determine that the SBE lacks authority to provide an amendment to the rule. It was determined that staff would continue to work on the process of an amendment to the rule, draft legislation to address the matter and report back at the February Board meeting.

The General Counsel gave an oral update on the status of campaign finance reform rulemaking. He informed the Board that JCAR did not object to SBE's rulemaking and they also provided the material necessary to submit it to the Secretary of State's Index Division for publication in the register which will thereby make the rulemaking officially adopted.

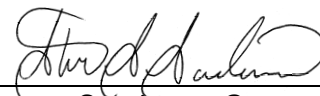
The Chairman moved on to other business and noted that the Executive Director had requested a later starting time for the February 23, 2011 meeting due to the election being conducted the day prior to the meeting. It was agreed by all to begin the February 23 meeting at 12:00 p.m.

With there being no further business before the Board, Member Keith moved to adjourn until Wednesday, February 23, 2011 at 12:00 p.m. in Chicago and Springfield via videoconference or call of the Chairman, whichever occurs first. Member Brady seconded the motion which passed unanimously. The meeting adjourned at 1:50 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Steven Sandvoss, General Counsel