

STATE BOARD OF ELECTIONS
Board Meeting
Thursday, January 19, 2006
Springfield, Illinois

MINUTES

PRESENT:

Jesse Smart, Chairman
Wanda L. Rednour, Vice Chairman
Patrick Brady, Member
John R. Keith, Member
William McGuffage, Member
Albert Porter, Member
Bryan Schneider, Member
Robert Walters, Member

ALSO PRESENT:

Dan White, Executive Director
Steve Sandvoss, General Counsel
Becky Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:35 a.m. with seven members present. Member Brady was delayed and Chairman Smart held his proxy.

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

Vice Chairman Rednour moved to recess as the State Board of Elections and reconvene as the State Officers Electoral Board. Member Schneider seconded the motion which passed unanimously. Meeting recessed at 10:38 a.m. and reconvened at 11:00 a.m. with all members present. Member Brady arrived via telephonic hookup at 10:50 a.m.

Chairman Smart presented the minutes of the December 20 regular monthly Board meeting, January 4, January 9 and January 12 special meetings. Director White referred to a request received from the Illinois Ballot Integrity Project that the December 20 minutes be amended to reflect statements made from Bob Wilson at that meeting. Chairman Smart felt that the public should not be amending State Board of Elections meeting minutes and Member Keith suggested instead they be made a part of the record. Member Keith referred to substantive changes he had made to the December 20 minutes prior to the meeting today which may have not been circulated to the Board members. He then moved to amend the December 20 minutes and approve all minutes as submitted and amended. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The Executive Director indicated that the second petition filing period just concluded and 54 candidates filed in the special judicial candidate filing period which was January 3 through January 10. This filing period is to fill judicial vacancies that occurred between November 28 and December 19. Director White indicated that one objection was filed with regard to this filing and also that he conducted the lottery this morning for simultaneous filings during this filing period.

The Executive Director presented for informational purposes a listing of election judge schools to be presented by staff for the March 2006 primary.

The Executive Director indicated the Legislature is in session and the Governor presented his State of the State address yesterday. Cris Cray discussed election bills and indicated she has supplied the Board members with a list of all SBE bills and all other election bills that have been introduced to date. Discussion ensued on SB 1681 which refers to the judicial subcircuits and would retain two and eliminate three of the additional vacancies.

The Executive Director presented for Board consideration the FY 2007 budget appropriation request. He thanked staff, and specifically Mike Roate, who have been meeting for several months on the finalization of the appropriation request. Director White summarized the budget submission which reflects a significant increase from last year's request for the following reasons: 1) judges of election reimbursement is higher because of three elections; 2) the state paid retirement contribution is a higher percentage, and 3) a request for four additional staff due to additional demands being placed on the SBE pursuant to federal and state mandates. The funding remains at a responsible level and staff will seek bipartisan support from the legislature as we proceed through the budgetary process. Discussion ensued on the federal funds and Mike Roate indicated that the EAC has retained a consultant to review state submissions on the indirect cost program to recoup federal funds. Vice Chairman Rednour moved to approve the appropriation request as submitted. Member McGuffage seconded the motion which passed by roll call of 8-0. Chairman Smart voted Member Brady's proxy as he left the meeting at 11:25 p.m.

Director White presented the certification for the March primary ballot for Board approval. Mark Mossman, Director of Election Information, discussed a situation with the certification where a

person has submitted two sets of petitions for the same office and a withdrawal was not received for either of the petitions. Mr. Mossman indicated that notification of the dual filings was given to him. An objection was filed to the first set of petitions. Discussion ensued on certifying the candidate pending an objection for the first set of petitions. The statute requires the certification of the first set of petitions and the second set be not certified. Member Keith moved that the six remaining cases from the Electoral Board docket be included in the certification with "objection pending" included next to their names. These matters are: *Patterson v. Barrett*, 05 SOEB GP 505; *Stupec v. Kanhai-Zamora*, 05 SOEB GP 506; *Boisvert v. Howard*, 05 SOEB GP 508; *Goetten v. Giannoulis*, 05 SOEB GP 509; *Cattron v. Schock*, 05 SOEB GP 510; and *Sesso, et al., v. Giannone*, 05 SOEB GP 512. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Member Keith then moved not to accept the second set of petitions filed by James Patrick Murphy on January 10 for the position of circuit judge in Cook County for the Stuart Nudelman vacancy due to a dual filing and upon no notice of any designation of petitions requested of Mr. Murphy and according to statute the first set of petitions be the ones accepted. Member Schneider seconded the motion which passed by roll call vote of 8-0.

Director White circulated the official copy of Sangamon County's certification for Board signatures. Member Schneider moved to certify the candidates on the ballot for the March 21, 2006 primary election. Member Porter seconded the motion which passed by roll call vote of 8-0.

Director White reminded the Board it is the Board's policy to meet to accept or not accept withdrawals of candidates so it may be necessary to meet again in a special meeting. Mr. Joseph Morris was present for the objectors in two objections (*Godawa v. Beaubien*, and *Eisenberg v. Ludvigsen*) and indicated he was present to support the recommendations of the hearing officer in these two matters.

The Executive Director presented an update on the voter registration system and indicated that Kyle Thomas has prepared a plan to upgrade 56 jurisdictions that have been identified as needing technology improvements to bring them up to speed so they can communicate with the statewide system. Director White indicated funds have already been set aside so there is no need for Board

action but rather he wanted to keep the Board aware the staff is moving ahead quickly to upgrade these systems.

Director White discussed a telephonic meeting last week with the Department of Justice and explained their interest was in two areas: 1) the statewide database and 2) voting system accessibility. Detailed explanations were provided in that meeting and follow up information is being provided to them.

The Executive Director presented for informational purposes 1) the FY06 fiscal report for the period ending December 31, 2) the fiscal report for the Help Illinois Vote Fund, and 3) the two year plan of activity for the months of January and February.

Dianne Felts, Director of Voting Systems and Standards, discussed agenda items 2 (b) 1 and 2 regarding certification of Hart Inter Civic Ballot Now Scan and Hart Inter Civic E-Slate indicating that the vendor has withdrawn their applications for both systems. Ms. Felts indicated the vendor would probably submit a new application on Friday and staff would begin testing both systems again. Chairman Smart asked if this would be ready for the special meeting scheduled for January 27. Neil McClure, Vice President of Hart, was present and indicated he would look into having it ready for that agenda.

The General Counsel presented a complaint following a public hearing in the matter of *SBE v. Friends of Dorothy Reid*, 05CD82. Mr. Sandvoss reviewed the complaint filed for failing to file electronic reports. The respondent failed to appear at the closed and public hearings. The hearing officer recommended that by default a violation occurred and pursuant to the authority of the Division of Campaign Disclosure enter an order that it deems appropriate. He further recommended the Board issue an order that the respondent comply by filing the report at issue electronically within ten business days of the date of the order and failure to do so would require the respondent to appear before the Board and show cause as to why a civil penalty not to exceed \$5,000 should not be issued against them. Vice Chairman Rednour moved to accept the recommendation of the General Counsel. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for Steve Kim*, 05JS088, an appeal of a civil penalty. Mr. Sandvoss reviewed the activities of the committee indicating this was a carryover from the December meeting. The chairman of the committee claimed he had filed the report electronically and had received confirmation of doing so. The hearing officer recommended the appeal be granted but also noted that she attempted to determine whether or not the respondent had the documentation he claimed to have. Mr. Sandvoss recommended that the respondent be required to submit the documentation that forms the basis of his defense to the hearing officer for review and determination as to whether or not the appeal should remain granted or be denied. Mr. Borgsmiller indicated it was continued from the December meeting to get the documentation from the respondent. Member Keith moved to continue this matter to the February meeting and advise the committee there is a continuing request for documentation and if no response or documentation is received it will be the intention of the Board to disagree with the hearing officer's recommendation. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. South Suburban Coordinated Democrats*, 05AC002, an appeal of a civil penalty. Mr. Sandvoss reviewed the activities of the committee and concurred with the hearing officer's recommendation that the appeal be granted contingent on the filing of an amended 2005 semi-annual report reflecting the accurate date of the receipts in question and that the amended report be filed within 30 days of the final Board order. Vice Chairman Rednour moved to adopt the recommendation of the General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Vote 4 Beth Kaim*, 05JS071, an appeal of a civil penalty. Mr. Sandvoss reviewed the activities of the committee and indicated the hearing officer has recommended the appeal be granted because the committee was not required to file. The committee filed only because they were desiring to obtain voter registration tapes that are only available to active political committees. Mr. Sandvoss disagreed with the hearing officer's recommendation to the extent that committees that are not required to file and filed not because they thought they had to file, but rather they knew they were not required to file but did so for the purpose of obtaining a benefit, should

be held to the campaign disclosure laws that apply to all other active political committees to file reports on time and failure to do so should result in a penalty. Member Keith moved to adopt the recommendation of the General Counsel and deny the recommendation of the hearing officer and deny the appeal for reasons stated. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for Hutchinson*, 05JS166; *SBE v. Welvaert for Mayor Campaign*, 05AE028; *SBE v. Park for State's Attorney*, 05JS176; *SBE v. IUOE Local 649 PAC*, 05AC001; *SBE v. The Alliance PAC*, 05JS152, appeals of campaign disclosure fines. Mr. Sandvoss concurred with the hearing officer's recommendation that the appeals be denied. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel in the above matters and deny the appeals. Member Walters seconded the motion which passed by roll call vote of 8-0.

Rupert Borgsmiller presented an update on the ballot forfeiture issue indicating Derrick Prince is the only remaining candidate with any outstanding fine. Mr. Borgsmiller reviewed Mr. Prince's explanation of what transpired and he contends that he filed this report and has now submitted a copy of his time stamped report. Staff had no knowledge of the filing of this report. Mr. Borgsmiller indicated that if staff had this report in possession a penalty would not have been assessed and he would not now be a part of the ballot forfeiture. Director White indicated that he requested the original and that the document in question was faxed by the BGA who Mr. Prince has filed some sort of complaint. Discussion continued on the time stamp and the appeal affidavit being time stamped with the same exact time. Member Keith moved to continue this matter for one week and advise Mr. Prince of the meeting on February 8 and he provide further evidence or an affidavit to prove it was filed on that date and the Board will consider it and amending the certification accordingly. Member Schneider seconded the motion. Discussion continued on the event surrounding the supposed filing and where the document has been since December of 2004. The motion was called and passed by a vote of 8-0. Member Walters had stepped out of the room and Chairman Smart voted his proxy.

The General Counsel presented an issue involving a final order issued to Citizens Activated to Change Healthcare. The committee filed a report and at the same time filed a request for hearing.

They filed this before the assessment was sent out and the appeal got set aside. Mr. Sandvoss indicated this would be a staff initiated request to vacate the original Board order and allow consideration of the request for hearing. Member Porter moved to vacate the Board order. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he has stepped out of the room.

Rupert Borgsmiller presented for informational purposes satellite downlink seminar schedule, and a listing of committees that paid civil penalties.

Member Walters indicated in a southern jurisdiction a judge decided not to run for retention and is now running for office in his own vacancy and questioned if there was anything that prohibits this. It was indicated there is nothing that prohibits it specifically.

Mr. Borgsmiller presented a request for a payment plan from the Citizen's to Elect Jon Stewart and discussed the proposed payment arrangements. He recommended a \$200 payment be made within ten days and the remaining eleven payments be paid by the 28th of each month with the rest being paid in December 2006. Member Porter moved to accept the payment plan with the stipulations Mr. Borgsmiller outlined. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Smart discussed comments EAC Chairman DeGregorio made at a recent conference and a proposed letter to be sent by the Board regarding these comments. Director White indicated he spoke with Chairman DeGregorio and asked him to contact him with any insights or problems. It was suggested that the Congressional leadership be copied on this letter.

Discussion ensued on a pending request of the Attorney General for an opinion on out of state attorneys and the General Counsel indicated that rules have not yet been adopted by JCAR and would prefer waiting until they are adopted and then withdrawing the request of the Attorney General. Discussion ensued on the 2004 request of the EAC for direction which has never been acted on and is a moot point. Member Keith asked the General Counsel to take action that he may remove it from the General Counsel's activities list.

Member Keith moved to recess to executive session to *SBE v. KIDS Committee*, 05CD090, a complaint following closed hearing. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Meeting recessed at 12:30 p.m. and reconvened at 12:35 p.m.

Member McGuffage moved to ratify action taken in executive session. Vice Chairman Rednour seconded the motion which passed unanimously.

Discussion ensued on the additional judgeships and certification of such. The House did not vote on it today and the Senate is gone for two weeks. There is the possibility some candidates will win in the primary and if the legislation to abolish these judgeships becomes effective there could be a lawsuit.

A special meeting of the State Board of Elections will be held on Friday, January 27 at 11 a.m. in Chicago. The next regular meeting of the State Board of Elections will be held on Tuesday, February 21, 2006 at 10:30 a.m. in Chicago.

With there being no further discussion, Member Keith moved to adjourn. Vice Chairman Rednour seconded the motion which passed unanimously. The meeting adjourned at 12:40 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director