

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, January 22, 2013

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened at 10:35 a.m. via videoconference with seven Members present in Springfield. Member Coffrin was present via teleconference.

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

Vice Chairman Smart moved to approve the minutes from the December 18 as presented. Member Gowen seconded the motion which passed unanimously.

Member Schneider moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Scholz seconded the motion which passed unanimously. The meeting recessed at 10:37 a.m. and reconvened at 11:40 a.m.

The General Counsel presented a motion for reconsideration for Agenda item 2.a.1, *SBE v. Friends of Derrick Smith*, 22275, 12AM026 and noted that the matter will be placed on the February meeting Agenda.

The General Counsel presented Agenda item 2.a.2, *SBE v. Hanover Township Election Victory Fund*, 24449, 12AJ074 & 12JQ178 and recommended the motion for reconsideration be granted. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a settlement offer for Agenda item 2.a.3, *SBE v. Mary Schorr Lake 17*, 23736, 12MQ240 and recommended the settlement offer of 50% (\$462.50) be accepted by the Board. Member Byers moved to accept the recommendation of the General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented an appeal of campaign disclosure fines where he concurred with the hearing officer recommendation to grant the appeal for Agenda item 2.a.4, *SBE v. Chicago Police Sergeants Association PAC*, 23385, 12AM104. Vice Chairman moved to accept the recommendation of the General Counsel. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented an appeal of campaign disclosure fines where he concurred with the hearing officer recommendation to deny the appeal for Agenda item 2.a.5, *SBE v. 8th Ward Regular Democratic Org.*, 553, 12MA036. No one was present on behalf of the respondent

committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel indicated that Agenda item 2.a.6, *SBE v. Lake County Life PAC, 22333*, 12JQ089 will be placed on the February meeting Agenda. Agenda item 2.a.7, *SBE v. Project MPAC, 23716*, 12JQ121 was presented and, after discussion, the matter will also be placed on the February meeting Agenda.

The General Counsel presented Agenda item 2.a.8, *SBE v. Citizens for Spitz, 18183*, 11MA055 and reviewed the matter. He concurred with the hearing officer recommendation to grant the appeal in part and deny in part. Ken Spitz was present on behalf of the respondent committee and noted that he is a candidate on the ballot for the upcoming 2013 elections and dissolving the committee would not be an option at this time. He then offered a settlement amount of 50% and indicated he would pay it before the date of certification of the ballot. Vice Chairman Smart moved to accept the recommendation of the General Counsel and the 50% settlement offered by the committee to be paid by January 31, 2013. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.9, *SBE v. Friends of Pamela Leeming, 22436*, 12MA049 and reviewed the matter. He concurred with the hearing officer recommendation to grant the appeal in part and deny in part. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a complaint following public hearing for Agenda item 2.a.10, *SBE v. First Ward Organization, 12CD032* and summarized the matter. He concurred with the hearing officer recommendation to order the filing of the reports and that failure to do so would subject the committee to a civil penalty not to exceed \$5,000 and referral to the Attorney General's office if necessary. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following complaints following public hearing for Agenda items 2.a.11-27 & 29-31:

- 11) *SBE v. Pulaski County Republican Boosters Club, 12CD022;*
- 12) *SBE v. 1st Ward Young Democrats, 12CD034;*
- 13) *SBE v. votedebby.com, 12CD036;*
- 14) *SBE v. Friends for Michelle Chavez, 12CD037;*
- 15) *SBE v. Citizens to Elect Alvin Parks, Jr., 12CD041;*
- 16) *SBE v. Citizens United for Change in the 20th Ward, 12CD047;*
- 17) *SBE v. Taxpayers United for Fairness, 12CD049;*
- 18) *SBE v. Coalition for Property Rights, 12CD054;*
- 19) *SBE v. Committee to Elect Gary Nowak, 12CD056;*
- 20) *SBE v. Friends of Frank Calabrese, 12CD059;*
- 21) *SBE v. Citizens for Marijan, 12CD061;*
- 22) *SBE v. Working People's Campaign Committee for Elections of Honest Governors, 12CD068;*
- 23) *SBE v. The Committee to Elect Tracy McLeMore, 12CD069;*
- 24) *SBE v. Citizens for Cecil Todd Emery for Sheriff, 12CD072;*
- 25) *SBE v. Vargas for 43, 12CD084;*
- 26) *SBE v. St. Clair County Constitution Party, 12CD085;*
- 28) *SBE v. Friends of Brian Sleet, 12CD089;*

- 29) *SBE v. Butler for Alderman 29th Ward*, 12CD099;
- 30) *SBE v. People's Choice PAC*, 12CD100;
- 31) *SBE v. Education First Party*, 12CD108;
- 32) *SBE v. Friends of Loree Washington*, 12CD112.

He concurred with the hearing officer recommendation to uphold the complaints and issue a Board order requiring the delinquent reports be filed within 30 days of the order or face a fine up to \$5,000. No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel in the above noted matters. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.28, *SBE v. Friends of Brian Sleet*, 12CD089 and Brian Sleet was present on behalf of the respondent committee. He asked for clarification as to what reports needed to be filed and indicated that this was the first notice he received since filing the final report. Mr. Sleet said he was told that the final report was the only one that needed to be filed. After discussion, it was agreed to place the matter on a future Board meeting Agenda.

The Executive Director discussed the random audits of political committees and noted the procedures for this year's audits were contained in the memo on pages 226-230 of the Board packet. Sharon Steward reviewed the memo and recommended that the percentage of political committees required to conduct random audits be raised from .5% to 1% and the date of selection be changed from no later than the first business day in February to no later than the first business day in May. She noted that that the date change is due to the committees' difficulties in obtaining CPA's due to tax season and the Board has discretion in determining this date. Discussion ensued regarding the selection process of committees and legislative intent of the statute. Member Rice moved to approve the changes to the Rules as recommended by Ms. Steward. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Adjustments to contribution limits and payment of civil penalties were presented for informational purposes.

After a short break, Member Scholz moved to recess to executive session to consider complaints following closed hearing, litigation and personnel matters. Member Schneider seconded the motion which passed unanimously. The meeting recessed at 12:50 p.m. and reconvened at 1:15 p.m.

As to Agenda item 2.a.36, *Chimenti v. Sandra Bury for Mayor of Oak Lawn*, 12CD138, Member Schneider moved to find the complaint was filed on justifiable grounds but no public hearing is necessary because the matters will be addressed through a subsequent filing. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.37, *Hajer-O'Connor v. Committee to Elect Robert Lovero*, 13CD003, Member Schneider moved to find the complaint was filed on justifiable grounds and the matter proceed to a public hearing. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The Executive Director began his report with an update on the 2013 Elections and said that 17 Democrats and 5 Republicans filed candidate nominating petitions for the Special Election in the 2nd Congressional District. Lotteries were conducted for both the 8:00 a.m. simultaneous filers on the first day and for those who filed between 4:00 p.m. and 5:00 p.m. on the last day of filing. He noted that, to staff surprise, only two objections were filed against candidates in that filing period. Furthermore, he said there were a few minor date modifications to the calendar the Board had

previously approved due to the 2013 Consent Decree that was voluntarily entered into with the Department of Justice.

A listing of jurisdictions who will be conducting Consolidated Primary Elections on February 26, 2013 was included in the Board packet and SBE staff will be available to assist as well.

The Executive Director indicated that the date of certification of candidates for Multi-County Regional Trustees and Fox Waterway Agency Chairman and three Directors for the April 9, 2013 Consolidated Election is January 31, 2013. He asked the Board to grant authority to staff to complete and issue the certification. Member Scholz moved to grant authority to staff for certification on January 31, 2013. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The Executive Director said the SBE is no longer operating under the 2010 Consent Decree and commended staff for communicating with the election authorities regarding the need for compliance and noted that the election authorities did a very good job cooperating with submittal of the information for the reports that were required to be filed. The 2013 Consent Decree directs the SBE to seek a legislative remedy to address the transmittal dates for future special elections. The General Counsel indicated that legislation is being prepared to amend Section 25-7, which is the provision dealing with vacancies in the office of congressman. It proposes increasing the date by which the Governor can set a date of a special election from 115 to 180 days to fill the vacancy. This takes into account the two 45-day transmittal periods for the absentee ballots sent to overseas voters and also provide time for circulation of petitions, filing objections and disposing of the objections for both the primary and the general elections. The General Counsel said it was the intent of staff to get the legislation signed into law prior to the next special election if possible.

The Executive Director informed the Board that staff would again tabulate ballots for the election of Annuitant Trustee of the General Assembly Retirement System for the State Employees Retirement System. SBE has provided this service for many years in the past and SERS is very appreciative of the assistance.

Next was a report on the Advisory Committee meeting and the Executive Director noted that items discussed included the electronic canvassing project, the special congressional election, legislation, MOVE and statewide database updates. It was noted that the SBE did not receive a supplemental appropriation and that funding for election judge reimbursement for the General Election would be approximately 66% and that there would not be any funding for the remaining elections scheduled in FY13 at this time. Furthermore, the appropriation received for the county clerk and recorder stipends would only fund \$5,200 per clerk/recorder and that other county officials stipends are funded through the Personal Property Replacement Tax Fund, which is why they are targeted to receive the full stipend of \$6,500.00 in this fiscal year. The next meeting is scheduled for May 20, 2013.

The Executive Director gave a brief legislative update. The proposed bills have been submitted for drafting and the legislative package is basically the same as last year, except for the new piece of legislation that the General Counsel previously discussed.

The Campaign Finance Reform Task Force conducted two public hearings on independent expenditures and a report will be filed by the end of the month. The next meeting is scheduled for January 28, 2013 at 3:00 p.m. in Springfield and Chicago via videoconference.

Kyle Thomas gave an IVRS update and reported that activity is minimal at this time and that the state's voter history is completely entered from the General Election. He noted that information

will be sent to the Interstate Match System and the number of states now involved in the program has increased to twenty-one.

Mr. Thomas said that Pulaski County is now below 100% for the census voters versus registered voters due to clean up of the system after the election. East St. Louis and Clark County have risen above 100% and staff will assist those jurisdictions throughout the purge process.

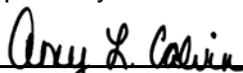
The Executive Director presented the fiscal status reports and noted that the FY12 report was the final one for the year and the Agency expended approximately 87% of the funds. The costs associated with the relocation of the Springfield office were lower than projected and personnel services were also lower than expected. As far as FY13, expenditures are being monitored and are expected to remain below the total appropriated figures.

The two year plan of staff activity was presented for informational purposes.

Next on the Agenda was a follow up item concerning a response to a letter received from Sharon Meroni, Director of Defend the Vote organization. The Executive Director noted that Jim Tenuto and Ken Menzel met with Cook County and the Chicago Board of Election Commissioners (BEC) to review the concerns outlined in Ms. Meroni's letter on page 290 of the Board packet. Mr. Menzel summarized those concerns and said eight were directed at Cook County and three applied to the Chicago BEC. He reviewed the letter that was sent by Ms. Meroni and noted that staff did not find support for the broad allegations that the jurisdictions were engaged in illegal conduct or deviations from the Election Code. Some minor procedural points regarding mail in absentee ballot processing in the Chicago BEC and wording in the Cook County Election Judges Manual had been corrected. The other allegations dealing with processing of absentee ballots prior to election day and election judge staffing in nursing homes in Cook County were discussed. Mr. Menzel said that the majority of the election authorities received approval from their respective state's attorneys on absentee ballot procedures. Going forward, Mr. Menzel recommended staff remain in contact with the two jurisdictions as to the relations between the Cook County Republican Party and the election judge assignments in nursing homes and indicated that no Board action is required on these matters at this time. Ms. Meroni was offered an opportunity to respond and she provided her rebuttal response to Mr. Menzel's findings.

With there being no further business before the Board, Member Byers moved to adjourn until 10:30 a.m. on Wednesday, February 20, 2013 in Chicago. Member Scholz seconded the motion which passed unanimously. The meeting adjourned at 2:30 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director