

STATE BOARD OF ELECTIONS BOARD MEETING
Tuesday, February 19, 2008

MINUTES

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

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Specialist II

Chairman Porter called the meeting to order shortly after 10:30 a.m. and led everyone in the pledge of allegiance. Member Brady arrived at 10:33.

To accommodate members of the audience, Chairman Porter called matters out of order. Mr. Lance Gough, Executive Director of the Chicago Board of Election Commissioners, was recognized. He thanked the Board for the support the agency has given them and offered a review of the election. Mr. Gough indicated that they reached an early voting milestone of 81,000 and project 150,000 for the November General Election. Provisional ballots were under 7,000 overall. Mr. Gough concluded that he wanted to thank everyone at the SBE for their support to a successful primary. Chairman Porter said the Board was very happy to have him present his report.

Director White presented the minutes of the January meeting and read the changes suggested by Member Keith. Member McGuffage asked to delete a sentence on page 4, 2nd paragraph, the 2nd sentence from the bottom regarding election judge stipends. Member Smart moved to approve the minutes with the corrections proposed by Members Keith and McGuffage. Member Keith seconded the motion which passed unanimously by roll call vote.

The Chairman called the matter of *SBE v. Friends of Judy Sterns*, L14206, 07MA018, an appeal of campaign disclosure fines which was carried over from the January meeting. The hearing officer recommended the appeal be denied and General Counsel Steve Sandvoss concurred with that recommendation. Mr. Richard Means was present for the respondent committee and stated that the mistakes were unintentional. Further, he compared this complaint to two from 2006 which he claimed had the same facts and asked that the fine be abated as they were in those cases. Mr. Sandvoss disagreed as the two complaints from 2006 involved PACs, not a candidate's committee. He recommended that the appeal be denied, and the committee assessed \$4,314 in fines that are immediately due and owing. Member Keith so moved and Member Brady seconded the motion which passed 7-1 with Chairman Porter dissenting.

The Chairman called *SBE v. Citizens for Cappelman*, L13487, 07AC053 and recognized Mr. James Cappelman for the respondent. Mr. Sandvoss indicated that a Motion to Reconsider a January 23, 2008 Final Order ordering the committee to pay a \$1,200.00 fine was filed by the respondent. Mr. Cappelman stated that he believed all A-1s had been timely filed until he received a letter on January 28, 2008. Mr. Rupert Borgsmiller, Director of Campaign Disclosure, stated that notices of failure to file were mailed to both the Chairman and Treasurer on December 18, 2007, the addresses were correct and neither notice was returned. The General Counsel recommended that the Motion to Reconsider be denied on the grounds that the address was correct and the notice was not returned. He reasoned that it was possible that the letter was received and lost in the shuffle. Mr. Brady reminded Mr. Cappelman that his obligation exists independent of receiving notice. Member Smart moved to accept the recommendation of the General

Counsel and deny the Motion to Reconsider. The motion was seconded by Member McGuffage and passed unanimously.

Mr. White began his report with a review of the February 5, 2008 General Primary Election, the earliest primary election in Illinois history. He said that the state of Illinois had a good election and while there were some normal problems, the election was very well administered. A record number of 3 million votes (41% of registered voters) were cast which is a 50% increase from the last presidential primary election. The Director acknowledged that an extensive state public information campaign informing Illinois voters of the early primary date, early voting and grace period registration may have added to its success. He added that the special Congressional election in the 14th District will be held Saturday, March 8th and commended those counties in the 14th Congressional District. Mr. White asked Mark Mossman, Director of Election Information, if he would like to add to the Post Election Day Report. Mr. Mossman, present by telephonic conference call, stated that most calls received on Election Day were routine in nature. He stated that a troubling, statewide problem was "federal office only" ballots were issued to voters and he thought that the fact that the packaging and ballots were the same color as the regular ballots may have confused the election judges. Vice Chairman Schneider asked if there were statutory changes that would be necessary to implement. Mr. Mossman indicated that addressing the issue of color where a federal-only ballot could be a different color than the regular party ballot may require legislation and that he will quickly complete his report and recommendations and submit them to Director White. Messrs. White and Mossman said they will also follow up with the advisory committee.

Mr. White indicated that the results of 3 pre-tests were contained on pages 14 and 15 of the board packet and asked Dianne Felts, present by teleconference call, for her comments. Director Felts said that with the help of her staff and other staff members from other divisions, they marked over 11,000 ballots to test the 3 jurisdictions. Further that it is a long, tedious process when testing the AutoMARK or touch screens. Only three small jurisdictions were tested, but it was tripled because there were the Democratic, Republican and Green Party primaries in each jurisdiction. Greene County had many problems, several of the touch screen machines needed to be recalibrated and one froze up and needed to be rebooted and recalibrated. Problems in the 19th congressional district ensued due to the need for a write-in line. The problem was corrected after the vendor's rep changed the program for the second time. The touch screen machines did not have this problem in the 19th. Other problems were: the memory card would not upload for two precincts; one precinct had to be reconfigured due to a write-in line added after the initial program was compiled; and misspelling of a name for a precinct committeeman's office on the tabulator's tape and two ballot set up errors prior to the pre-test. In Menard County, 5 of the Auto-MARK machines malfunctioned; one machine had program card malfunction; two had belt problems. All of the Auto-MARK machines had been serviced prior to the test and no errors on the scan tabulators. Shelby County had one touch screen freeze up but recalibration corrected the problem and there were no errors on the scan tabulators. Vice Chairman Schneider asked if we currently notify other jurisdictions using the same equipment that problems occurred in pre election testing. Director White responded that they will make this information available to the election authorities so they are made aware of equipment irregularities before the next general election.

Election judge training school information was submitted for informational purposes.

We are very early in the spring session which is an emergency session, Mr. White said. However, it seems that some election issues will be addressed. The Election Committee did meet last week and vote a part of the omnibus election bill addressing signature issues in DuPage County. That was the only action taken by the committee. Cris Cray continues to work on our legislative package.

Director White presented a report on the first meeting of the Election Day Voter Registration Commission which met on Wednesday, February 13, 2008 in the Springfield office. Mr. James Ascot was elected Chairman of the commission and the SBE shall provide staff and technical assistance. The next meeting is in June and we will continue to support them. This commission has a short lifespan as its work must be completed by January 1, 2009.

The Executive Director was pleased to present the findings of the State Compliance Audit for the Fiscal years 2006 and 2007 and noted that there were three findings, but only two made it into the final

written synopsis. The first finding, non-compliance with HAVA provision for a computerized centralized statewide voter registration list, is an ongoing project and we expect to be in full compliance by mid year. The second finding was non compliance with an Election Code provisions to give written notice to the central committee chairmen of established political parties of the time and place of the 5% precinct random selection prior to the Consolidate Primary. This has been addressed and we have provided the appropriate notice for the primary election. The last finding, inaccurate Grant and/or Contract Analysis Form filing with the Comptroller's office was a one time misunderstanding of reporting a Secretary of State's HAVA grant refund and will not be repeated. Mr. White gave credit to the entire staff that responded to the auditors, and special recognition to Administrative Services Director Jim Withers and Chief Fiscal Officer Mike Roate. Having only three findings is a remarkable achievement and because of the lack of significant findings we will not be required to appear before the Legislative Audit Commission. Mr. White indicated that he will continue to update the Department of Justice and the EAC on the progress of the unique identifier and felony matching.

Concluding the Report of the Executive Director were fiscal status reports and the two year plan of staff activity presented for information purposes.

General Counsel Sandvoss continued his report with three new Appeals of campaign disclosure fines. Mr. Sandvoss agreed with the hearing office and recommended the appeals be granted. Member Smart moved to adopt the recommendations of the hearing officer and general counsel and grant the appeals in *SBE v. Citizens for Carina Sanchez*, L13751, 07AC055; *SBE v. Friends to Elect Toni Foulkes*, S9334, 07A048; and *SBE v. Citizens for Heather Alderman*, S9386, 07AE047. Member McGuffage seconded the motion which passed unanimously.

Mr. Sandvoss presented four new appeals of campaign disclosure fines wherein the hearing officer recommended the appeals be denied. The General Counsel agreed with the hearing officer and recommended the appeals be denied and a fine assessed. Member Smart moved to deny the appeals and assess the fines in concurrence with the General Counsel's recommendation. Member Rednour seconded the motion which passed unanimously. Appeals were denied in *SBE v. Friends for Julius Anderson*, L13825, 07JS120; *SBE v. Citizens for an Independent Streamwood*, L14167, 07AE045; *SBE v. Friends of Susie Barber*, L14299, 07MA031; and *SBE v. Classroom Teachers Council IPACE*, S9385, 07MA026.

A request for payment plan was received from the Citizens to Elect Alvin Parks, Jr. The fine assessed is \$4,120, the committee has submitted an initial payment of \$1,120 and proposed to pay ten monthly payments of \$300 each commencing in March 2008. Member McGuffage moved and Member Schneider seconded the motion to accept the payment plan proposed. The motion passed 8-0.

Payments of civil penalties were submitted for informational purposes.

Vice Chairman Schneider moved to recess to executive session to discuss litigation and personnel matters. Member Rednour seconded the motion which passed by 8 yeas in unison. The meeting recessed at 11:55 a.m.

The Board returned to open session at 12:02 p.m.

Member McGuffage had two announcements. The Chicago Bar Association has invited the SBE to present a resolution honoring Mike Lavelle, one of the original SBE Board members as well as a renowned attorney involved in Election law for over 40 years. The date will be in early March and Mr. McGuffage will keep the Board advised.

Member McGuffage announced that a seminar on Federal Election Law and Ethics will be held on Tuesday, March 18 at the University Center across from the Harold Washington Library. A detailed analysis will be given on the Voting Rights Act and 4 hours of Ethics Credit will be awarded to attorneys under MCLE requirements. He indicated that it is open to anyone who would like to attend and the cost is \$325. If anyone wanted more information they should contact him directly.

There being nothing further before the Board, Vice Chairman Schneider moved to adjourn until Friday, March 7, 2008 or the call of the Chair. Member Rednour seconded the motion which passed unanimously. The meeting adjourned at 12:08 p.m.

Dated: February 22, 2008

Respectfully Submitted,

Daniel W. White, Executive Director

Darlene Gervase, Administrative Assistant II