

STATE BOARD OF ELECTIONS
Regular Meeting
Monday, March 18, 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 10:30 a.m. via videoconference with seven Members present. Vice Chairman Smart and Members Byers, Coffrin and Scholz were present in Springfield and Chairman McGuffage and Members Rice and Schneider present in Chicago. Member Schneider held Member Gowen's proxy until his arrival at 10:40 a.m.

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

Vice Chairman Smart moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board to approve the minutes from the March 7 meeting. Member Scholz seconded the motion which was agreed to without objection. The meeting recessed shortly after 10:30 a.m. and reconvened at 10:32 a.m.

Member Byers moved to approve the minutes from the February 20 and March 7 meetings as presented. Member Scholz seconded the motion which passed unanimously.

The General Counsel indicated that Agenda item 2.a.1, a motion for reconsideration from *SBE v. Cass County Republican Central Committee*, 5050, 12SQ022, would be placed on a future Board meeting Agenda.

The General Counsel presented the following appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.2-3: *SBE v. Friends for Lawson*, 18257, 12AS022; and *SBE v. Citizens for David J. Soll*, 24118, 12SQ166. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that an appeal for Agenda item 2.a.5, *SBE v. Citizens to Elect William S. Boyd*, 23872, 12MQ298 would be considered at a future Board meeting.

The General Counsel presented the following appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to deny the appeals for Agenda items 2.a.4 & 6: *SBE v. Citizens for Michael Harn*, 22327, 12AS029; and *SBE v. Lincoln Land Building & Construction Trades Council PAC*, 24650, 12D1006. No one was present on behalf of the respondent committees. Member Scholz 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 Agenda item 2.a.7, *SBE v. Committee to Elect Bill Berry, 19193*, 12MA103 and indicated he did not concur with the hearing officer recommendation to grant in part and deny in part. He recommended that the appeal be denied as to all three delinquently filed reports because he felt the electronic defense was applicable in this case. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 7-0 with Member Byers recusing himself from the matter.

The General Counsel presented the following committees that failed to comply with Board orders for Agenda items 2.a.8-27:

- 8) *SBE v. Pulaski County Republican Boosters Club*, 12CD022;
- 9) *SBE v. 1st Ward Young Democrats*, 12CD034;
- 10) *SBE v. votedebby.com*, 12CD036;
- 11) *SBE v. Friends for Michelle Chavez*, 12CD037;
- 12) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 12CD041;
- 13) *SBE v. Citizens United for Change in the 20th Ward*, 12CD047;
- 14) *SBE v. Taxpayers United for Fairness*, 12CD049;
- 15) *SBE v. Coalition for Property Rights*, 12CD054;
- 16) *SBE v. Committee to Elect Gary Nowak*, 12CD056;
- 17) *SBE v. Friends of Frank Calabrese*, 12CD059;
- 18) *SBE v. Citizens for Marijan*, 12CD061;
- 19) *SBE v. Working People's Campaign Committee for Elections of Honest Governors*, 12CD068;
- 20) *SBE v. The Committee to Elect Tracy McLeMore*, 12CD069;
- 21) *SBE v. Vargas for 43*, 12CD084;
- 22) *SBE v. St. Clair County Constitution Party*, 12CD085;
- 23) *SBE v. All Citizens for Matthew Johnson*, 12CD086;
- 24) *SBE v. Butler for Alderman 29th Ward*, 12CD099;
- 25) *SBE v. People's Choice PAC*, 12CD100;
- 26) *SBE v. Education First Party*, 12CD108;
- 27) *SBE v. Friends of Loree Washington*, 12CD112.

He recommended the Board assess a civil penalty of \$5,000 against each committee for failure to comply with said orders. No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above noted matters. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented complaints following closed hearing for Agenda item 2.a.31, *Stern v. Friends of the Schools*, 13CD099 and the parties present waived the confidentiality requirement and agreed for the matter to be heard in open session. The General Counsel summarized the complaint and concurred with the hearing officer recommendation that the complaint be found to have been filed on justifiable grounds, however, since the amended D-1 was filed that no further action be taken on the matter other than to direct the committee to timely file future amendments. Member Scholz moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 7-0 with Vice Chairman Smart recusing himself from the matter.

Member Schneider moved to recess to executive session to consider complaints following closed hearing and personnel matters. Member Byers seconded the motion which passed unanimously. The meeting recessed at 11:02 a.m. and reconvened at 12:05 p.m. Upon reconvening, the Board took a 15 minute break then returned to the meeting at 12:25 p.m.

As to Agenda item 2.a.29, *Zurek v. Friends of Barrett F. Pedersen, et al.*, 13CD091, Member Schneider moved that counts 1 and 2 were not filed on justifiable grounds and no further action be taken and count 3 was filed on justifiable grounds and the committee be ordered to amend their December 2012 quarterly report within thirty days from today and if they do, no further action will occur, but if they do not comply then a public hearing will be ordered. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.30, *Zurek v. Your Village Your Voice Party*, 13CD098, Member Schneider moved that the late filing of the A-1 allegation was filed on justifiable grounds but no further action be taken other than referral to staff for review and assessment of civil penalty if necessary; with respect to the timing of the filing of the amendment to the statement of organization allegation, it was found to have been filed on justifiable grounds and no further action be taken; and with respect to the signing of the amendment to the statement of organization allegation, it was found not to have been filed on justifiable grounds and no further proceedings be ordered. Chairman McGuffage 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 cycle and said that the February 26 Consolidated Primary Election and Special Primary Election in the 2nd Congressional Election were conducted and a minimal amount of phone calls were received by staff.

Dianne Felts discussed the late precinct reporting survey and noted that only one jurisdiction, Chicago Board of Election Commissioners, had two precincts that reported after 2:00 a.m. This was due to not turning off the machine before pulling the memory packs. Per their normal policy, the ballots were rerun at 1:00 p.m. on the next day.

The April 9 Election Day assignments were presented and the Executive Director said that the new phone call routing system worked very well during the February Primary Election. One request has been received for staff assistance in the field for the April 9 Election and that is being considered at this time.

The Executive Director discussed a request from the Clerk of the U.S. House of Representatives asking for unofficial election results from the Special Election in the 2nd Congressional District. The SBE has provided this information previously for the special elections in 2009 and 2011 noting that the results were 'unofficial.' Vice Chairman Smart moved to approve the request, seconded by Member Coffrin which passed by roll call vote of 8-0.

Cris Cray gave an update on the 2013 Consent Decree and said the second to last report was submitted to the Attorney General's office this past Monday and the final report is due in June. The Department of Justice did not have any questions about the report.

A listing of election judge training schools with attendance figures was presented for informational purposes.

Ms. Cray began her legislative update and said that two pieces of legislation were introduced dealing with on-line voter registration and Senator Harmon's bill was included in the Board packet. Staff will be meeting with the Governor's office again and some language will be added to the bill, including an effective date of January 1, 2015 and that the SBE will be able to prepare Rules for establishing and maintaining the online voter registration system. Ms. Cray noted that the first appropriations committee is scheduled for Wednesday and staff will have to prepare some figures for the cost of the system. The Executive Director said that it is difficult to come up with figures but will look into the costs of other sole source contracts that have been utilized to make enhancements to the IVRS. He also said that staff is working closely with the local election authorities and the

Secretary of State so all the bases are covered in the projected costs. It was noted that twelve states have implemented online voter registration and two additional states have passed legislation.

Kyle Thomas reported on the IVRS update and said that duplicated matches decreased again this month as expected due to the election authorities cleaning up the voter registration rolls for the upcoming election. He said that not much has changed in the census data versus registered voters in certain jurisdictions. Staff is still assisting East St. Louis and Clark County is in the process of conducting another purge.

The Executive Director presented the FY14 Board Meeting Schedule and indicated that calling of cases for any objections filed will take place at the December 17 meeting in Chicago. The January 9 meeting has been moved to Chicago to certify the ballot and consider objections. Vice Chairman Smart moved to approve the schedule as presented on page 82 of the Board packet. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The Executive Director discussed SBE compliance with the IL Procurement Code and indicated that several items of correspondence were received from Matt Brown, the Chief Procurement Officer for General Services of the Executive Ethics Commission. Mr. Brown is of the opinion that SB 51 also applies to the SBE based on an Attorney General opinion issued to the State Board of Education stating they are subject to the Procurement Code. Staff met with Mr. Brown and pointed out that the SBE voluntarily complies with the Procurement Code and the Agency has not received any external audit findings. The Executive Director recommended the SBE seek an opinion from the Attorney General's office regarding the matter. Discussion ensued regarding SBE's independence and exemption as a constitutional Agency. The Executive Director said if we have to comply it will not impact our budget as the individuals assigned would not be SBE employees but assigned on a part-time basis by Mr. Brown. Member Scholz moved to request an opinion from the Attorney General's office then withdrew his motion. After further discussion, Member Rice moved to inform Mr. Brown that the Board feels that the Attorney General opinion is not applicable to the SBE and that the SBE is covered by the Procurement Code only to the extent that they, like other state constitutional offices that do not report to the Governor, are obligated to develop a procurement process at least as restrictive as that in the Procurement Code and are confident that obligation has been satisfied, therefore, all procurements are in compliance with applicable law. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The reports of fiscal activity for the month of February were presented and the Executive Director said that expenditures are on target and will continue to be monitored.

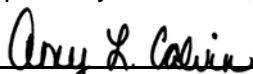
The two year plan of staff activity was presented for informational purposes.

Next on the Agenda was comments from the General Public and the Chairman indicated that Sharon Meroni, Executive Director of Defend the Vote has requested to speak to the Board regarding election integrity. Ms. Meroni expressed her issues and concerns in Cook County regarding absentee voting processes, nursing home voting during the Special Primary Election in the 2nd Congressional District, ballot security, training of election judges and development of a statewide audit assessment program. The Chairman directed Ms. Meroni to submit her written report to Ken Menzel for his review.

The Executive Director said there would be a need for a Special Board Meeting to address complaints following closed hearing. After discussion it was agreed by all to schedule the meeting for Thursday, April 4 at 3:00 p.m. in Chicago and Springfield via videoconference.

With there being no further business before the Board, Member Schneider moved to adjourn until 3:00 p.m. on Thursday, April 4, 2013. Chairman McGuffage seconded the motion which passed unanimously. The meeting adjourned at 1:30 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director