

STATE BOARD OF ELECTIONS  
Regular Board Meeting  
Monday, March 19, 2012

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

ABSENT: Charles W. Scholz, Member

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

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The meeting convened at 10:30 a.m. with seven Members present. Member Scholz was absent and Member Byers held his proxy. The Chicago office was connected via videoconference.

The Executive Director indicated the minutes from the February 22 meeting were not ready for consideration and that they will be placed on the April Board meeting Agenda.

The General Counsel presented settlement offers for Agenda items 2.a.1-2: 1) *Citizens for Lyle*, 14153, 11AJ043 and 2) *Friends for Proco Joe Moreno*, 20809, 11DQ-CL001. He noted that the two matters could be considered together since both submitted payment plans in writing and had included a good faith payment as well. The General Counsel recommended to accept the payment plans and further recommended that if the committees fail to make timely payments that the full penalty would be due and owing no later than the last business day of the month following the month in which the delinquency occurred. Member Rice 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 appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.3-10: 3) *SBE v. United Home Owners/Good Gov't Party*, 4271, 11AJ086; 4) *SBE v. Village Manager Assn. of Oak Park*, 4301, 11AJ087; 5) *SBE v. Silverstein for Senator*, 13356, 11AS018; 6) *SBE v. Citizens for Patricia Gira*, 17447, 11AJ102; 7) *SBE v. Friends of Steve Dove*, 20304, 11SQ026; 8) *SBE v. Citizens for Chris Crawford*, 22593, 11SQ147; 9) *SBE v. Friends of Lisa Ciampoli*, 23080, 11SQ198; and 10) *SBE v. Dove for Senate*, 23836, 11SQ236. He also noted that he did not concur with the hearing officer recommendation to deny the appeal for Agenda item 2.a.24, *SBE v. McAvoy for Alderman Committee*, 17306, 11SQ120 and asked that the matter be included with the appeals noted above. Vice Chairman Smart moved to accept the recommendation of the General Counsel to grant the appeals for the above matters. Member Byers seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.11, *SBE v. Bureau County Republican Central Committee*, 331, 11MA045 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. Gary Welbers was present on behalf of the

respondent committee and stated that the committee's reports have been accurately corrected and asked for leniency since the committee has approximately \$48.00 in their fund. Vice Chairman Smart moved to deny the appeal but waive the penalty. Member Byers seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.12-13: 12) *SBE v. Illinois Vendors PAC*, 399, 11AJ019 and 13) *SBE v. Illinois Vendors PAC*, 399, 11SQ007. He concurred with the hearing officer recommendation to deny the appeals. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer to deny the appeals for the above matters. Chairman McGuffage seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.14, *SBE v. Illinois AFL-CIO COPE*, 405, 11MA089 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal due to a lack of adequate defense and assess a fine of \$1,000. Timothy Drea was present on behalf of the respondent committee and said this was a bookkeeping error and, to his knowledge, it is the first time the committee has had a violation since 1980. Mr. Drea asked the Board for leniency and requested a suspension of the fine. Member Byers moved to grant the first appeal and deny the second appeal but stay the fine as a first time violation. Chairman McGuffage seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.15, *SBE v. ITW Sate PAC*, 488, 11MQ037 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal due to a lack of adequate defense and assess a penalty of \$2,400.00. Brock Wanless was present on behalf of the respondent committee and said the committee made an inadvertent error and had electronic filing issues. The committee is inactive but all required reports are up to date. Vice Chairman Smart moved to grant the appeal and noted that a previous penalty will remain stayed. Member Rice seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.16-17: 16) *SBE v. Citizens for Skoien State Committee*, 1681, 11SQ014; and 17) *SBE v. Citizens for Tom Bennington*, 7703, 11SQ025 and concurred with the hearing officer recommendation to deny the appeals. No one was present for the respondent committee in either matter. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for both matters. Member Byers seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.18, *SBE v. Friends of Rick Faccin*, 10108, 11AS015 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense and stay the penalty as it was a first offense. Rick Faccin was present for the respondent committee and said he did not want to have the violation on his record. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Rice seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.37, *SBE v. Friends of Dan Wright*, 23235, 11MA124 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal and assess a civil penalty for the late-filed reports because at least three months had passed before the late reports were filed; however, he noted that the

penalty will be abated if the committee remains dissolved for a period of two years. Dan Wright was present on behalf of the respondent committee and asked the Board to grant the appeal because the committee experienced electronic filing issues and work and personal obligations delayed his ability to quickly seek the assistance required. Vice Chairman Smart moved to grant the appeal based on the electronic filing defense. Member Byers seconded the motion, which passed by roll call vote of 8-0.

The General Counsel informed the Board that the parties for Agenda items 2.a.27 & 38, *SBE v. Mark J. Gernigin Campaign*, 18746, 11MQ039 and *SBE v. Jane Adams for Carbondale Committee*, 23430, 11SQ211 requested the matters be placed on the next Board meeting Agenda because they were not able to be present today.

The General Counsel presented the following appeals for Agenda items 2.a.19, 20, 22, 26, 28-32, 34-36 and 39: 19) *SBE v. Ben Pettie CPA for County Auditor*, 12020, 11SQ105; 20) *SBE v. PCI Political Account*, 12467, 11AS017; 22) *SBE v. Kaneland Referendum Committee*, 15909, 11SQ055; 26) *SBE v. Illinois Assn. of Chiefs of Police PAC*, 17441, 11SQ067; 28) *SBE v. Friends of Tara McAnarney-Gibbs*, 18978, 11SQ074; 29) *SBE v. Cerda for Clerk*, 19913, 11MQ008; 30) *SBE v. Friends of Eugene Williams*, 19769, 11SQ080; 31) *SBE v. Friends of Arnold R. Crater*, 20287, 11AQ083; 32) *SBE v. Harper College Adjunct Faculty Assoc.*, 20930, 11SQ098; 34) *SBE v. Rotheimer for Lake County Board*, 21282, 11SQ247; 35) *SBE v. Friends of Maureen Kelly*, 22377, 11MA117; 36) *SBE v. Carol for Chicago*, 22987, 11AM127; and 39) *SBE v. Committee to Elect Mark Kochan Judge*, 23623, 11AJ121. He concurred with the hearing officer recommendation to deny the appeals and noted that no one was present for the respondent committees. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer. Member Gowen seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.21, *SBE v. HWP Precinct Organization*, 12714, 11MQ003 and noted no one was present on behalf of the respondent committee. The General Counsel concurred with the hearing officer recommendation to deny the appeal. He explained that the fine is based on a fee assessed for every business day the report is late and in this case the fine was based on a 75 day late-fee. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman seconded the motion, which passed by roll call vote of 6-2 with Members Byers and Scholz voting in the negative.

The General Counsel presented Agenda item 2.a.23, *SBE v. Friends of Montelongo*, 16029, 11MA100 and noted no one was present on behalf of the respondent committee. The General Counsel concurred with the hearing officer recommendation to deny the appeal. He clarified that the committee had \$3,500.00 remaining in their fund after paying the accountant for his work. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Rice seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.25, *SBE v. Citizens to Elect Ray Kincaid*, 17409, 11MA105 and noted no one was present on behalf of the respondent committee. The General Counsel concurred with the hearing officer recommendation to deny the appeal. He explained the assessed penalty was high because the report was filed 76 days late and the electronic filing defense typically applies when the committee attempts to resolve the issue in a timely manner. Vice Chairman Smart moved to accept the recommendation of

the General Counsel and hearing officer. Member Gowen seconded the motion, which passed by roll call vote of 6-2 with Members Byers and Scholz voting in the negative

The General Counsel presented Agenda item 2.a.40, *SBE v. Friends of Miriam Shabo*, 21302, 11MA114 and summarized the matter. He concurred with the hearing officer recommendation to grant in part and deny in part the appeal and stay the assessment of \$925 as this was the committee's first violation. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Coffrin seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.41, *SBE v. Friends for Miles*, 23275, 11MA081 and summarized the matter. He concurred with the hearing officer recommendation to grant in part and deny in part the appeal and stay the fine as a first violation. Ann Marie Miles was present on behalf of the respondent committee and she agreed with the recommendation as well. Member Rice moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman Smart seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.42, *SBE v. Joy Cunningham for Justice*, 23691, 11AS046 and summarized the matter. He concurred with the hearing officer recommendation to grant in part and deny in part the appeal and stay the fine as a first violation. Attorney Richard Means was present on behalf of the respondent committee and he agreed with the recommendation as well. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Rice seconded the motion, which passed by roll call vote of 8-0.

The General counsel presented appeals of contribution limit fines for Agenda items 2.a.43 & 44, *SBE v. Chicago for Rahm Emanuel*, 22989, 11MQ-CL013 and *SBE v. Citizens for Powell, Brady & Cardella*, 23388, 11MQ-CL011 and concurred with the hearing officer recommendation to grant the appeals. Charles Cardella was present on behalf of *Citizens for Powell, Brady & Cardella* and agreed with the recommendation as well. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer in both matters. Member Rice seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.45 & 46, *SBE v. Citizens for Viverito*, 6053, 11MQ-CL010 and *SBE v. Citizens to Elect Judge Brendan Maher*, 23566, 11SQ-CL004. No one appeared for the respondent committees. He concurred with the hearing officer recommendation to deny the appeals. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer in both matters. Member Gowen seconded the motion, which passed by roll call vote of 8-0.

The General Counsel presented civil penalty assessments and contribution limit penalty assessments requiring a final Board order for the committees included on pages 222-230 of the Board packet. Member Rice moved to issue final Board orders for those committees listed. Member Coffrin seconded the motion, which passed by roll call vote of 8-0.

A listing of payment of civil penalties was presented for informational purposes.

Member Rice moved to recess to executive session to consider complaints following closed hearing, litigation and personnel matters. Member Byers seconded the motion, which passed unanimously. The meeting recessed at 11:50 a.m. and returned to open session at 1:10 p.m.

Upon reconvening, a second roll call was taken with seven Members present as noted in the initial roll call.

As to Agenda item 2.a.50, *Zurek v. Democratic Party of Leyden Township*, 11CD212, Member Schneider moved to deny the motion for reconsideration for the reasons stated by the General Counsel in his report. Member Byers seconded the motion, which passed by roll call vote of 8-0.

As to Agenda item 2.a.51, *Moreno v. Friends of Jesse Ruben Juarez*, 12CD014, Member Schneider moved to find the complaint was filed on justifiable grounds and order that the matter proceed to a public hearing. Member Coffrin seconded the motion, which passed by roll call vote of 8-0.

As to Agenda item 2.a.52, *Moreno v. 1<sup>st</sup> Ward Committeeman Fund*, 12CD015, Member Schneider moved to find the respondent be deemed to have waived any deficiency with respect to service of the complaint by virtue of his appearance and that the matter be held over for a closed preliminary hearing within 30 days. Member Byers seconded the motion, which passed by roll call vote of 8-0.

As to Agenda item 2.a.53, *Barack v. Neighbors for Gregory Emmett Ahern, Jr.*, 12CD016, Member Schneider moved to accept the withdrawal of the complaint provided by the complainant. Member Byers seconded the motion, which passed unanimously.

Member Schneider moved to direct Executive Director Borgsmiller to offer the position of Director of Election Information to Jane Gasperin effective immediately. Member Coffrin seconded the motion, which passed by roll call vote of 8-0.

The Report of the Executive Director began with Mr. Borgsmiller giving an update on the March 20, 2012 General Primary Election preparations and noting that staff assignments were included in the Board packet. He noted that St. Clair County requested SBE staff presence in their counting center so Jamey Sims will travel there to assist them. He also stated that a series of Press Releases were distributed and that Assistant Executive Director Jim Tenuto conducted a pre-election meeting with various agencies in Chicago. Dianne Felts spoke about voting system pre-testing and indicated that four jurisdictions (Clinton, Marshall, Piatt and Washington Counties) underwent testing and they were some of the best tests ever conducted. The listing of election judge training schools was presented and Mr. Borgsmiller noted this is a service we provide free of charge to the jurisdictions and more schools will be conducted prior to the November General Election.

Mr. Borgsmiller presented a draft recommendation on how to handle candidate withdrawals following certification and asked the Board to consider adopting it as official Agency policy. He deferred to Ken Menzel to present the matter. Mr. Menzel stated that several election authorities received late withdrawals and were looking for guidance from us on how to proceed during the Primary. In response, staff sent notice to those affected jurisdictions suggesting a certain course of action and recommended that each jurisdiction review the matter

(and the accompanying materials) with their own legal counsel. Mr. Menzel said that staff recommended that jurisdictions not tally or report any votes for late-withdrawn candidates in the canvass and to post notices along with specimen ballots in the polling places and early voting sites to inform the voters of the late withdrawal. Chairman McGuffage moved to adopt the recommendation as official State Board of Elections' policy for all future elections. Member Coffrin seconded the motion, which passed by roll call vote of 8-0.

Mr. Borgsmiller presented a brief update on the military and overseas ballot process and said that the transmission of ballots to military and overseas voters by the jurisdictions went very well. He noted that once the Agency is no longer operating under the Consent Decree he will send out a press release indicating such.

Next on the Agenda was the presentation of the method for random sampling of signatures for constitutional amendments. Mr. Borgsmiller asked Becky Glazier to report on the State of Wisconsin's procedures for review of signatures on constitutional amendment petitions. Ms. Glazier said she, along with Cris Cray and Eric Donnewald, met with Kevin Kennedy, Director and General Counsel of the Wisconsin Accountability Board, to discuss their petition review process regarding petitions for the recall of Governor, Lt. Governor and six Senate seats. She explained that in Wisconsin the petition is reviewed for format, a count is taken of signatures with legible addresses that are within the required district, and the signature line on each signature sheet is checked to make sure that the sheets were circulated within the statutory timeframe. A database of names from the petition is created and the signatures are checked against that database so that a signature is stricken only if it appears fictitious, is a duplicate that appeared more than once on the petition, was collected outside of the timeframe for gathering signatures, or if the address is illegible. Ms. Glazier explained that a person does not have to be a registered voter to qualify as a petition signer because Wisconsin conducts election day voter registration. The process in Illinois is much different because Illinois statutes require random sampling of signatures on constitutional amendments and have stricter requirements for signers of petitions.

Mr. Borgsmiller presented a proposal submitted by Richard G. Schuldt, Director of the Center for State Policy Leadership at the University of Illinois-Springfield. The proposal contained a recommendation for estimating the number of unique, valid signatures on citizen initiated petitions for amendments to the Illinois Constitution. Eric Donnewald noted that Public Act 97-0081, amending Section 28-11 of the Election Code, states that "signatures on petitions for constitutional amendments initiated pursuant to Article XIV, Section 3 of the Illinois Constitution need not be segregated by election jurisdiction. The Board shall design an alternative signature verification method for referenda initiated pursuant to Article XIV, Section 3 of the Illinois Constitution." Mr. Schuldt explained the proposal is a 5% random sampling of the total signature lines to create a high confidence level and low error rate. The outline of the proposal presented by Mr. Schuldt is as follows: 1) Identify the number of signature lines on the petition; 2) Estimate the "simple maximum" number of valid signatures according to the line count; 3) Estimate the maximum number of valid signatures, subtracting estimated duplicates/replicates, using the 5% sample; 4) Estimate the minimum number of valid signatures, subtracting estimated duplicates/replicates, using the 5% sample; and 5) Use the 10% random sample if the results are too close to call. Discussion ensued on the technical nature of the proposal and Mr. Schuldt responded to inquiries. Member Schneider moved to approve the procedure as outlined in the proposal. Member Coffrin seconded the motion, which passed by roll call vote of 6-1-1 with Member Byers voting in the negative and Member Scholz voting present.

Mr. Borgsmiller presented the legislative update. He indicated that he testified in front of the Senate Appropriations Committee on March 7<sup>th</sup> and they did not have many questions regarding the budget. A meeting is scheduled for April 16<sup>th</sup> with the House Appropriations Committee and both the Senate and House have basically agreed to the same revenue estimates for which they're going to craft their budget. Cris Cray reported on election bills and noted that five were alive in the House at this time and the Senate was scheduled to hear election bills later this week. Mr. Borgsmiller indicated that the Agency was asking for a lump sum budget again this year as well.

Ms. Cray informed the Board that the National Conference of State Legislatures have once again asked the Agency to help host their conference to be held in Chicago on August 6-9, 2012. She will provide more information once it becomes available.

Brent Davis gave an update on the electronic canvass project and said he met with the Chicago Board and Cook County to conduct a demonstration of the program and guide them through the process. Both jurisdictions were pleased with the program and Mr. Davis noted that the four test jurisdictions (Chicago Board, Cook County, Peoria Board and Logan County) were on target to use the electronic canvass in the March 20 General Primary Election.

Kyle Thomas reported on the IVRS and said there were a record low number of duplicate matches as a result of jurisdictions conducting their purges. He noted that Alexander County's percentage of registered voters versus census data has dropped because they have utilized resources available to them through Public Health's IVRS system to clean up the rolls by identifying death records of registered voters.

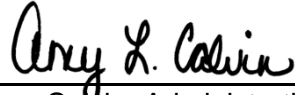
Mr. Thomas gave a brief update on the election management system and said he provided a diagram of what the actual system would look like at the last meeting held on February 24<sup>th</sup>. The attendees requested the diagram be forwarded to all election authorities for their comments. The next meeting in April will be held in conjunction with the Clerk and Recorder Conference.

Mr. Borgsmiller reviewed the Springfield office relocation expenses chart and said the move went very well and thanked staff for all of their hard work. Mike Roate informed the Board that the total costs for the relocation was approximately \$275,000.00; however, \$100,000.00 of that amount was paid through Central Management Services lease allowance. The cost incurred by the Agency for the move was approximately \$175,000.00 which was less than the original estimate. Mr. Borgsmiller noted that no new items were purchased for the facility.

The fiscal reports and two year plan of staff activity were presented for informational purposes. Mr. Borgsmiller reported that expenses were currently right on target.

With there being no further business before the Board, Member Coffrin moved to adjourn until April 20, 2012 at 10:30 a.m. or call of the Chairman, whichever occurs first. Member Byers seconded the motion, which passed unanimously. The meeting adjourned at 2:55 p.m.

Respectfully submitted,



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Amy Calvin, Administrative Assistant II



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Rupert T. Borgsmiller, Executive Director