

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, March 20, 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
Rebecca 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 eight members present. Member Brady was connected via telephone.

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

Chairman Smart presented the minutes of the February 21 regular monthly Board meeting and February 24 and February 27 special meetings. Vice Chairman Rednour moved to approve the minutes as presented. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The Executive Director indicated that tomorrow begins a new chapter in election administration in Illinois. It will be the first election where early voting was available as well as the grace period registration and voting. Every polling place in Illinois will have at least one piece of accessible voting equipment. Reports received indicated that overall early voting has gone well. Following the election a survey will be sent to all jurisdictions asking for data on the early voting and grace period voting as well as other election related issues. Staff has been in contact with election jurisdictions over the past several months to ensure the delivery of the accessible voting equipment was proceeding smoothly. Chairman Smart indicated that he spoke with JoAnn Thomas, Peoria County Clerk, who indicated one voter who had never voted on her own did so for the first time during

early election and was extremely pleased with the new voting device. A young voter who was blind from youth voted by himself for the first time and was overwhelmed with joy at doing so.

Director White commended Voting Systems and Standards staff as well as other staff who assisted in the certification of voting systems. It was a very challenging and demanding process to get all the equipment tested in a timely manner.

Director White presented an update on the primary election indicating that there are 596 candidates on the primary ballots tomorrow. Illinois has 7,303,004 registered voters, 165,050 more than the 2004 primary election. A listing of election judge schools shows that approximately 4,000 judges have attended SBE judges schools. Voting systems in six jurisdictions are being tested and a revised election day assignment schedule was discussed.

In response to a question, Director White indicated that Fidler Diebold had returned to the ITA to have their current optical scan system tested against 2002 voting systems standards and the test was successful. This resolved the question of whether this system would be 2002 compliant.

Member Brady questioned the use of non-secured boxes being used for delivery of early voting ballots in Cook County. Director White indicated that these may have been used out of necessity because the number of early voting sites was increased at the last minute but that he would follow up with the election authorities after the election.

The Executive Director indicated the Legislature remains on schedule to adjourn on April 7. He testified at the House and Senate appropriation hearings and responded to several questions. The SBE budget request appears to be in good shape. Cris Cray indicated only two of forty-five election bills will be considered. HB 4173 contains language that requires name changes to be included on the ballot, and SB 2340 is the SBE bill which contains technical clean up language. Ms. Cray has been notified that some language will be added to SB 2340 pursuant to Speaker Madigan's office. It was also noted in response to the decision in the Zessar matter legislation will be proposed to resolve this. The League of Women Voter's bill, SB 2397, will not be called this year. This would allow nonpartisan civic organizations to become pollwatchers.

The Executive Director indicated that the U.S. Department of Defense' Federal Voting

Assistance Program (FVAP) notified the SBE that not-for-profit organizations are putting replicas of the Federal Postcard Application on websites and making them available to military and overseas absentee voters. The FVAP has urged us to accept these registrations as a valid registration to ensure that these people have the opportunity to vote. The Election Code indicates that application for an absentee ballot may be made on the "official postcard or on a form furnished by the election authority." Ms. Cray indicated that the legislature will proceed with legislation next session but the legislature felt if the Board took action now it would suffice until legislation was passed. Vice Chairman Rednour moved to adopt a policy to acknowledge and accept replicas of Federal Postcard Application and propose legislation to this effect. Member Schneider seconded the motion but questioned what authority the SBE has to do this. The General Counsel indicated the statute did not provide direct authority and the issue becomes what would be the consequences if an election authority accepts such replica. Discussion ensued on the statutes and the fact that the statute indicates "in the form provided" which may give the Board leeway to do so. After further discussion on the replica forms and consequences if the Board does adopt the policy and the election authority chooses not to follow it, Vice Chairman Rednour withdrew her motion. Member McGuffage then moved to adopt the recommendation of the Department of Defense regarding the use of replica federal post card applications. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Director White presented a status report on the statewide database and discussed new features of the project. Staff met with Catalyst Consulting to discuss details for the enhanced Illinois Voter Registration System last week. Kyle Thomas indicated that Catalyst has prepared a wall size chart that demonstrates work on the project. In response to a question, Director White explained the only issues that remain that makes the Illinois database non HAVA compliant is the unique identifier number and the two-way communication between the SBE and election authorities. Funds are being made available to enhance the technological communication between the SBE and election authorities and the unique identifier will follow. It is time consuming because of the complexity of Illinois and the 110 election jurisdictions of which many of them have older DOS based systems. This will be an on-

going process. Once HAVA funds are no longer available we will have to include state appropriation requests to continue the maintenance of the system.

The Executive Director reported on the two year state compliance audit for fiscal years 2004 and 2005 indicating it was a very good audit with only two findings. The finding relating to the reporting of raffle receipts had already been addressed and a new form has been in use since July of 2005. The second finding was regarding the timekeeping procedures and how time was reported. A revised time sheet has been implemented which reflects positive time spent each day on official state business. Three smaller immaterial findings were also discussed. In response to a question from Chairman Smart, Mike Roate indicated that the federal cost reimbursement proposal for FY 2004 has been submitted to the EAC where it remains for evaluation.

The Executive Director presented for informational purposes 1) the FY06 fiscal report for the period ending February 28, 2) the fiscal report for the Help Illinois Vote Fund, and 3) the two year plan of activity for the months of March and April.

The General Counsel presented an appeal of a campaign disclosure fine in the matter of *SBE v. Citizens for Mark Henrichs*, 05JS172 and discussed the activities of the committee. No one was present in this matter. The hearing officer found that there was not enough correlation of the symptoms of the illness which was the basis of the appeal and the failure to file and recommended the appeal be denied. Discussion ensued on the fine and it was indicated the fine owing is \$1,650. The General Counsel concurred with the recommendation. Vice Chairman Rednour moved to accept the recommendation of the hearing officer and the committee be required to pay the amount owed. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a proposed settlement offer from Friends of Frank Lesko. Frank Lesko and Patrick Daniels were present on behalf of the committee. Mr. Lesko explained the events that transpired that led to the previous treasurer not filing reports and Mr. Lesko not receiving any mailings. Mr. Lesko was not aware of the fines being assessed and as soon as he found out about the missing filings and fines, he appointed Mr. Daniels as the new Treasurer. He indicated the fines owing are \$1,300 and the committee has \$65 in the account. He indicated he could personally pay

\$400 to settle the debt. The office Mr. Lesko holds is on the Springfield Park Board and is not a full time position. Discussion ensued on the lack of jurisdiction because the appeal period had already run its course, and on receipt or non-receipt of correspondence regarding the appeal sent to the committee. It was suggested the committee dissolve and not form a successor committee for a two year period and the fine would be abated. It was indicated that previous committees were given leeway when an appeal was not filed but it was a 10% on A-1's only. If this were taken into consideration the fine would be \$1,282 if it was paid within 30 days. Mr. Lesko withdrew the offer and indicated he would work out a payment plan with staff.

Rupert Borgsmiller presented an informational report on committees that have failed to file required Raffle Reports. Mr. Borgsmiller indicated that committees who applied for and received approved raffle applications must file a separate raffle report. He discussed committees that also did not file an application for a raffle but still had a raffle and questioned whether these should be referred to the appropriate State's Attorney. He asked if the Board wished to take a more active role in enforcement. Member Keith moved to adopt a polity directing staff whenever there is an apparent violation of no license or no application or not reporting, it be referred to the State's Attorney with a copy to the committee. Member Porter seconded the motion which passed by roll call vote of 8-0. Member Keith requested staff to prepare a proposal in giving direction as to what authority the Board has in denying raffle licenses.

Rupert Borgsmiller presented for informational purposes a listing of committees that paid civil penalties.

The General Counsel presented for Board consideration a proposed rule that would implement statutory provisions for Section 19-4 and 20-4 of the Election Code with reference to receipt and dissemination of absentee voting information. Revisions were made pursuant to discussions at the February Board meeting. Member Keith questioned paragraph (d) where language does not clearly indicate a specific user ID for one person or several people on the committee, and paragraph (c) whether the statute requires the ballot type. Member Keith questioned paragraph (g) which has been stricken and the cost that would be incurred to the SBE. Ms. Cray indicated was not included in

legislation but staff was asked in the Senate Local Government Committee to add this language. Member Keith moved to start process of rulemaking for Rule 207.150 present in the packet with clarification in paragraphs (d) and (c) that there is only one password per committee not per officer. Vice Chairman Rednour seconded the motion. Discussion continued and Member Schneider indicated he could not support paragraph (f) regarding addresses where absentee ballots are sent, but was okay with the overall initiative. Ms. Cray the indicated after discussion with IT staff it was indicated that requirements in paragraph (g) which would create a computer program that would keep a record of which political committees access absentee ballot information would cost nothing. The motion was called and passed by a vote of 7-0-1 with Member Schneider voting present.

The General Counsel indicated that language for the proposed rules that will govern Non-profit Organizations under 10 ILCS 5/9-7.5 is still in the drafting process. The language may possibly be distributed by the end of this week and will be on the April meeting agenda for consideration.

Member Keith moved to recess to executive session to discuss a campaign disclosure matter, litigation and personnel matters. Vice Chairman Rednour seconded the motion which passed unanimously. Meeting recessed at 12:30 p.m. and reconvened at 1:15 p.m. Vice Chairman Rednour left the meeting at this time and Member Keith held her proxy.

Member Keith moved that in the matter of *Kohler v. Citizens for Options*, 06CD003 to find the complaint was filed on justifiable grounds but there is no need for further hearing based upon the statutes of the case, and any other matters will be handled internally if appropriate. Member Schneider seconded the motion which passed by roll call vote of 8-0 with Member Keith voting Vice Chairman Rednour's proxy as she had left the meeting.

Member Keith moved to direct the Attorney General in the Zessar case as discussed in executive session. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to direct staff to withdraw the request to the Attorney General for an opinion regarding out-of-state attorneys upon the proposed rule being adopted by JCAR. Member Schneider seconded the motion which passed by roll call vote of 8-0.

Director White noted the need for the May 22 meeting to be relocated due to a possible statewide referendum petition being filed. It was agreed the meeting will remain in Springfield in a site to be determined.

The next regular meeting of the State Board of Elections will be held on Friday, April 21, 2006 at 10:30 a.m. in Chicago.

With there being no further discussion, Member Walters moved to adjourn. Member Schneider seconded the motion which passed unanimously. The meeting adjourned at 1:20 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director