

STATE BOARD OF ELECTIONS
Board Meeting
May 17, 2010
Springfield, Illinois

MINUTES

PRESENT: Bryan Schneider, Chairman
Wanda Rednour, Vice Chairman
Patrick Brady, Member
John R. Keith, Member
Jesse Smart, Member
Robert Walters, Member

ABSENT: William McGuffage, Member
Albert Porter, Member

ALSO PRESENT: Dan White, Executive Director
Rupert Borgsmiller, Asst. 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 10:40 a.m. with six members present. Members McGuffage and Porter were absent and Member Keith held both proxies.

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

The Executive Director indicated there was no need to recess as the State Officers Electoral Board today as none of the five cases are set for disposition at this time. The General Counsel indicated the cases would be ready for disposition at the June Board meeting.

The Executive Director presented revised minutes of the April 14 regular meeting. Member Smart moved to approve the minutes as revised. Vice Chairman Rednour seconded the motion which passed unanimously.

The Executive Director presented proposed campaign finance reform rules and indicated they were published for public comment to be taken at today's meeting. Additional public hearings will be held in DeKalb on June 2 and in Edwardsville on June 3. Chairman Schneider opened the hearing for comments. Cindy Canary and David Morrison were present on behalf of the Illinois Campaign for Public Reform. Mr. Morrison reviewed the comments from the Campaign for Public Reform and thanked the Board and staff in transforming the new law into functioning rules. He discussed areas in the proposed rules that they felt should be revised or clarified. In response to a question, Mr. Morrison indicated that with regard to the section referring to giving from family

members that the proposed rules do more in practice than he believes the statute or staff intended. Chairman Schneider closed the public hearing.

The Executive Director presented a revised HAVA State Plan indicating the plan was distributed to the HAVA State Planning Committee and published for public comment to be taken at today's meeting. Chairman Schneider opened the hearing for comments. No one was present to address the State Plan and no written comments were received. Member Keith discussed his questions and suggested adding the interest earned on HAVA funding into the section regarding such funding. Chairman Schneider then closed the public hearing. Member Keith moved to approve the revised HAVA State Plan and submit the Plan with any technical corrections that have been mentioned including any nonsubstantive corrections staff feel appropriate. Member Smart seconded the motion which passed by roll call vote of 8-0.

Director White discussed the Advisory Committee meeting held this morning. Chairman Schneider and Member Smart attended the meeting along with a small group of election authorities. Topics discussed included legislation, vote centers, electronic canvassing, the statewide database and MOVE, a letter from the Brennan Center regarding NVRA implementation, and IACREOT participation. House Resolution 1219 was discussed and Cris Cray indicated she would inform the sponsor that this was discussed at the Advisory Committee meeting as well as the Board meeting.

The Executive Director indicated the new SBE website debuted in April and Information Technology staff was present to demonstrate the newly designed website. Steve Flowers introduced Jason Kilhoffer, Joe Knoedler and Erick Pitchford who were instrumental in developing the website. Mr. Kilhoffer demonstrated the new website and explained many of the new features. Chairman Schneider expressed appreciation to everyone who assisted in getting the website up and running.

Director White presented an update to the BEREP matter that was discussed at the April meeting. In response to action requested at the April meeting it was noted that the Department of Central Management Services (CMS) indicated that the letters were not posted in the Illinois Register, a letter was prepared and distributed to the four legislative leaders and the Governor on BEREP lacking enforcement provisions, and CMS has not promulgated any rules. Mr. Borgsmiller indicated he has been trying to get in touch with Lynn Carter, CMS Deputy General Counsel, to demonstrate to them what is available on the website and how they can use it to check information for enforcement.

Director White indicated that Cris Cary distributed a summary of election legislative issues, a summary of all election related legislation and the legislative veto session calendar. The legislature

had indicated they would adjourn on May 7 but did not. The Senate passed a budget bill but the House has not. The legislature is scheduled to return but a date has not been set. Cris Cray discussed the legislation that has gone to the Governor's desk and the veto schedule. The FY 11 budget as passed by the Senate Bill 859 contains a 55% cut from the FY 09 budget.

The Executive Director indicated he and the General Counsel reviewed executive session minutes from October 2009 through March 2010 and with the exception of four items indicated on page 26 of the packet, there is no need to keep confidential the remaining executive session minutes that were reviewed. Member Smart moved to make available executive session minutes as discussed. Member Brady seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented for informational purposes the IVRS update. Kyle Thomas discussed the number of duplicate registrations indicating these numbers will go down as the election authorities work to remove duplicates from the list through the summer.

Director White presented the lump sum update noting the new column which reflects FY 10 year to date spending. Mr. White proposed transferring \$30,000 from other lump-sum items for the purpose of updating the telephone system. This is necessary because the cost has increased since the approval process was initiated. Discussion ensued on CMS being involved in the phone purchase and Mike Roate indicated that state statute requires this to ensure all telecom systems are compatible. Member Keith moved to approve the transfer of \$30,000 as requested by Director White. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented for informational purposes the FY 10 fiscal status report for the period ending April 30, the FY 10 fiscal report for the Help Illinois Vote Fund, the FY 10 fiscal report for the EAC Data Collection grant, and the two year plan of activity for the months of May and June.

The General Counsel presented *SBE v. 1st Ward Democratic Committeeman Fund*, 10DS171, a motion for reconsideration. No one was present concerning this matter. Mr. Sandvoss recommended the motion be granted on the basis the committee had submitted a change of address with us and it crossed paths with the hearing notice and the committee has indicated it did not get notice of the hearing. Member Brady moved to accept the recommendation of the General Counsel and allow this matter to be reconsidered. Member Smart seconded the motion which passed by roll call vote of 6-2 with Members Keith and Walters voting in the negative.

The General Counsel presented *SBE v. Southland Success PAC*, 10DS201, a motion for reconsideration. No one was present concerning this matter. Mr. Sandvoss recommended the motion be granted because the Chairman/Treasurer had become ill causing the appeal to be filed

one day late. Member Brady moved to accept the recommendation of the General Counsel and grant the motion for reconsideration. Member Smart seconded the motion which passed by roll call vote of 6-2 with Members Keith and Walters voting in the negative.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer recommended be granted for agenda items 3.a.3-13: 3) *SBE v. Citizens to Elect LaShawn K. Ford*, 10DS131; 4) *SBE v. Oakton Community College Faculty Assn. PAC*, 10DS017; 5) *SBE v. Friends of Mel Paris*, 10DS031; 6) *SBE v. Save South Shore Bay*, 10DS059; 7) *SBE v. Hawthorn Woods Open Government Party*, 10DS061; 8) *SBE v. Citizens for Matt Bogusz*, 10DS067; 9) *SBE v. Ochsenfeld for State Rep*, 10DS209; 10) *SBE v. Citizens for Steven Robert Verr*, 10DS128; 11) *SBE v. Citizens for Kent Gray*, 10DS135; 12) *SBE v. Circuit Clerk PAC*, 10DS234; and 13) *SBE v. Friends of Dan Sugrue*, 10DS174. Agenda items 3.a.3, 4, 9, 10, 11 and 12 will be taken separately. Mr. Sandvoss concurred with the recommendation of the hearing officer in the five remaining matters. There was no one present concerning these five matters. Member Brady moved to accept the recommendation of the hearing officer and General Counsel in the matters of 3.a.5, 6, 7, 8 and 13 and grant the appeals. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *SBE v. Citizens to Election LaShawn K. Ford*, 10DS131 and disagreed with the hearing officer's recommendation that the appeal be granted because he did not feel this was an issue of electronic filing but rather an erroneous realization it had not been filed. LaShawn Ford was present and indicated he filed the report but the computer did not upload the report. Mr. Sandvoss indicated if this defense had been raised during the appeal process before the hearing officer he would have agreed with granting the appeal. Discussion ensued on the affidavit and the fact that there was no language regarding electronic filing on it. Member Brady moved to follow the recommendation of the hearing officer and grant the appeal. Chairman Schneider seconded the motion which failed by roll call vote of 2-4-2 with Members Keith, Smart, Walters and Vice Chairman Rednour voting in the negative. Member Keith passed the proxy votes of Members McGuffage and Porter.

Member Keith then moved to accept the recommendation of the General Counsel in the matter of *SBE v. Citizens to Election LaShawn K. Ford* and deny the appeal. Member Walters seconded the motion which passed by roll call vote of 5-2-1 with Members Brady and Chairman Schneider voting in the negative. Member Keith passed Mr. Porter's vote.

The General Counsel then discussed *SBE v. Oakton Community College Faculty Association, PAC*, 10DS017. No one was present concerning this matter. Mr. Sandvoss concurred with the hearing officer's recommendation that this appeal be granted. Member Keith questioned

how staff could determine if the filing was mailed in a timely manner and the committee being aware it wasn't received. Discussed ensued on the notification procedures if a report isn't received the day it is due. Member Smart moved to grant the appeal. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *SBE v. Ochsenfeld for State Rep.*, 10DS209 and indicated he disagreed with the hearing officer's recommendation and recommended the appeal be denied but as a first time violation the penalty would be stayed. No one was present concerning this matter. Mr. Sandvoss indicated if a committee elects to file whether it crossed the filing threshold or not they must file subsequent reports. Member Smart moved to accept the recommendation of the general counsel and deny the appeal. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel then discussed *SBE v. Steven Robert Verr, PAC*, 10DS128. No one was present concerning this matter. Mr. Sandvoss concurred with the hearing officer's report as it appears to be an issue with the computer filing. Discussion ensued on IDIS working with VISTA and Member Keith felt the committee had an opportunity to check with staff to receive direction on how to work with the program. Member Brady moved to accept the recommendation of the hearing officer and General Counsel and grant the appeal. Member Smart seconded the motion which passed by roll call vote of 7-1 with Member Keith voting in the negative.

The General Counsel then discussed *SBE v. Kent Gray*, 10DS135. No one was present concerning this matter. Mr. Sandvoss concurred with the hearing officer's report and recommended the appeal be granted. The treasurer purchased a new computer and had difficulties installing the IDIS program and getting existing reports transferred. Member Keith questioned if the computer was purchased in November why they didn't try and remedy the problem before January. Member Brady moved to accept the recommendation of the hearing officer and general counsel and grant the appeal. Vice Chairman Rednour seconded the motion which failed by 3-3-2 with Members Keith, Smart and Walters voting in the negative. Member Keith passed Member McGuffage's and Porter's proxy votes. Member Keith then moved to deny the appeal. Member Smart seconded the motion which passed by roll call vote of 5-2-1 with Members Brady and Chairman Schneider voting in the negative. Member Keith passed Member McGuffage's proxy vote.

The General Counsel then discussed *SBE v. Circuit Clerk PAC*, 10DS234. No one was present concerning this matter. Mr. Sandvoss disagreed with the hearing officer's report and recommended the appeal be denied. The committee had changed the e-mail address and noted the change on the wrong form. The committee has the responsibility of determining and knowing when

reports are due. Member Walters moved to adopt the recommendation of the general counsel and deny the appeal. Member Smart seconded the motion. Discussion ensued and it was noted that the hearing officer did not consider this an electronic filing case. The motion was called and passed by roll call vote of 7-1 with Member Brady voting in the negative.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer has recommended be denied for agenda items 3a.14-38: 14) *SBE v. Citizens for Rush*, 10DS002; 15) *SBE v. Committee to Re-Elect Sally D. Coffelt*, 10DS004; 16) *SBE v. Friends of Frank Beach for Alderman*, 10DS006; 17) *SBE v. Candlewick PAC*, 10DS212; 18) *SBE v. Northlake Independence Party*, 10DS013; 19) *SBE v. TLC Finance Committee*, 09AE014; 20) *SBE v. Northlake Independent's Party*, 10DS024; 21) *SBE v. Friends of Dale Berman*, 10DS039; 22) *SBE v. Vermilion County Young Republicans*, 10DS217; 23) *SBE v. Citizens for Brenda Roosevelt*, 10DS218; 24) *SBE v. Friends of Michael Smiddy*, 09JS256; 25) *SBE v. Citizens for Varga*, 10DS225; 26) *SBE v. What's Best For The Sunnybrook Kids Committee*, 10DS075; 27) *SBE v. The Heart of Bellwood Party*, 09JS241; 28) *SBE v. Dietra Millard Campaign Fund*, 10DS088; 29) *SBE v. Citizens for Simons*, 10DS093; 30) *SBE v. ActBlue Illinois*, 10AP016; 31) *SBE v. CODC – Conference of Democratic Commitment*, 10DS172; 32) *SBE v. Friends for Ledonne*, 10DS179; 33) *SBE v. Friends of Calvin Jordan*, 10DS181; 34) *SBE v. Friends 4 Fred*, 10DS185; 35) *SBE v. New Broadview Tea Party*, 09AE043, 09JS211 & 10D105; 36) *SBE v. Baker for Change*, 10MA006; 37) *SBE v. Wes Hoadley for Sheriff*, 10D112; and 38) *SBE v. Citizens to Elect Judge Patricia Walton*, 10MA008. Agenda items 3.a.15, 19, 22, 23, 29, 30, 34 and 35 will be taken under separate consideration. No one was present concerning these matters. Mr. Sandvoss recused himself from 3.a.34 and indicated that Bernadette Harrington has issued a recommendation in this matter. Member Smart moved to deny the appeals in agenda items 3.a.14, 16, 17, 18, 20, 21, 24, 25, 26, 27, 28, 31, 32 and 33. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *SBE v. Committee to Re-Elect Sally D. Coffelt*, 10DS004 and concurred with the recommendation of the hearing officer that the appeal be denied. No one was present concerning this matter. If the committee chooses to dissolve and remain dissolved for two years the fine will be abated. The committee will be required to pay the fine with what balance they have in their treasury and then dissolve and any remaining fines will be forgiven. Member Brady moved to accept the recommendation of the hearing officer and general counsel and deny the appeal. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *SBE v. TLC Finance Committee*, 09AE014 and concurred with the recommendation of the hearing officer that the appeal be denied. Member Keith

questioned how it was determined the violation resulted from the March donation during the A-1 filing period. Mr. Sandvoss explained that there was a continuous donation starting in January extending through April and believed that an violation occurred at that point during the A-1 reporting period they received a benefit worth \$800 in the form of the in-kind contribution. No one was present concerning this matter. Member Keith moved to accept the recommendation of the hearing officer and general counsel with the modification that the penalty is based upon the nonreporting of an A-1 report for rent for the period of either March 2009 or April 2009 whichever became due that period. Member Smart seconded the motion which passed by roll call vote of 7-1 with Member Brady voting in the negative.

The General Counsel discussed *SBE v. Vermilion County Young Republicans*, 10DS217 and concurred with the recommendation of the hearing officer that the appeal be denied. Dennis Miller was present on behalf of the committee and reviewed the problems with the treasurer of the committee and asked that the penalty be reduced. Discussion ensued and with no objection the matter was continued at the request of Mr. Miller on behalf of the committee so that it can be considered in conjunction with an anticipated additional penalty.

The General Counsel presented *SBE v. Citizens for Brenda Roosevelt*, 10DS218 and indicated that the attorney and chairman of the committee requested a continuance as he could not be present today. With no objection, Chairman Schneider indicated this matter would be continued.

The General Counsel discussed *SBE v. Citizens for Simons*, 10DS093. No one was present concerning this matter. Mr. Sandvoss indicated the hearing officer recommended the appeal be denied because the committee was not required to file electronically, but he believed in this matter that the appeal should be granted based on an electronic filing defense. Member Walters moved to grant the appeal based on the recommendation of the General Counsel. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *SBE v. Act Blue Illinois*, 10DS016 and concurred with the recommendation of the hearing officer that the appeal be denied based on the lack of an adequate defense but the penalty be reduced to 50%. No one was present concerning this matter. Member Keith moved to adopt the recommendation of the hearing officer and general counsel and deny the appeal. Member Brady seconded the motion which passed by roll call vote of 8-0.

Bernadette Harrington, Deputy Legal Counsel, discussed *SBE v. Friends 4 Fred*, 10DS185 and concurred with the recommendation of the hearing officer that the appeal be denied. Fred Spitzzeri was present concerning this matter. Ms. Harrington indicated this was the third time the

committee has used the electronic filing defense. Mr. Spitzzeri discussed the events that happened the night of the filing indicating the report was finally filed at 12:06 a.m. Discussion ensued on the report being six minutes late and on the penalty to be assessed. Member Smart moved to grant the appeal. Vice Chairman Rednour seconded the motion which passed by roll call vote of 5-3 with Members Brady, Keith and Chairman Schneider voting in the negative.

The General Counsel reviewed previous action taken in the matter of *SBE v. New Broadview Tea Party*, 09AE043, 09JS211 and 10D105 and concurred with the recommendation of the hearing officer that the appeal be denied noting that if the Board accepts the recommendation the committee will have an assessment of \$2,483 due and owing. Richard Means was present on behalf of the committee and asked that the civil penalty be entered and stayed for a two year period. Member Brady moved to accept the recommendation of the hearing officer and general counsel and deny the appeal as well as the request for a stay of the penalty. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed *Tisch v. Friends of John Fairman*, 10CD006, a complaint following a public hearing noting that Robert Tisch was the complainant and not the SBE as indicated on the agenda. Mr. Sandvoss indicated that the respondent appeared at the hearing and resolved the issues raised in the complaint to the satisfaction of the campaign disclosure staff. The resolution of the complaint also satisfied the concerns of Mr. Tisch. He further indicated his concurrence with the hearing officer's recommendation and in light of the amendments that were filed and reviewed by disclosure staff that no further action be taken with regard to this committee. Member Brady moved to accept the recommendation of the hearing officer and general counsel that no further action be taken. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a listing of committees that were assessed a penalty and did not appeal and asked the Board to issue final orders to the committees listed on the handout distributed by Mr. Borgsmiller. Member Smart moved to approve final orders for these committees. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for informational purposes a listing of committees that paid civil penalties for the period of March 27, 2010 through May 5, 2010.

Member Keith stated that in light of the grand jury investigation that may involve HAVA funds in Rock Island County, the Board consider addressing the issue whether or not staff should conduct HAVA audits and the manner in which they should be conducted. He also asked that staff prepare proposed rules for electronic filing issues and that these items be placed on the July

meeting agenda. Chairman Schneider granted the request indicating these would be discussed in July.

Discussion ensued on changing the June Board meeting date as the General Counsel will be on a scheduled vacation on the June 15 meeting date. Discussion was held until staff could check hotel accommodations.

Member Keith moved to recess to executive session to discuss personnel matters and pending litigation. Member Brady seconded the motion which passed unanimously. Meeting recessed at 1:30 p.m. and reconvened at 2:18 p.m.

Upon reconvening Member Keith moved to adjourn until 9 a.m. on June 11, 2010 for the regular monthly Board meeting in Chicago and schedule a meeting for July 6, 2010 at 3:30 p.m. in Chicago. Both meetings will be connected via videoconference if equipment is available. Member Brady seconded the motion which passed unanimously. The meeting adjourned at 2:20 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director