

STATE BOARD OF ELECTIONS
Board Meeting
Monday, May 22, 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 10:50 a.m. with eight members present. Members Brady and Schneider were connected via telephone.

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

Chairman Smart presented the revised minutes of the April 21 regular monthly Board meeting reflecting Member Keith's comments. Member Walters moved to approve the minutes as revised. Member Porter seconded the motion which passed by roll call vote of 8-0.

The Executive Director noted an addition to the agenda regarding certification of Republican State Central Committeemen and also a tentative schedule for hearing potential objections following filling of vacancies and new party filing.

Director White discussed the statewide advisory petition filed on May 8 and the activities following the filing. Staff conducted a single jurisdiction conformity check of the signatures on the petition. The petition must be bundled by jurisdiction and approximately 64,000 pages were filed. Proponents of the statewide question have the opportunity to present evidence as to the conformity of any purported nonconforming signatures at a public hearing to be held today. Eric Donnewald spearheaded the project noting that of the 347,912 signatures submitted, 337,124 were conforming. He discussed the activities of the conformity check and thanked SBE staff and temporary help for the

work on the project. At this time Chairman Smart opened the public hearing. No one was present to give testimony on this issue. Chairman Smart commended staff for the long hours put in on the project. The next step will be a random sample which will be conducted on May 26. This will project whether a valid number of signatures exists to allow it to be certified to the ballot. The deadline for filing objections is July 7, 2006. Director White indicated the petition is advisory and the proponents have supplied each election authority with a copy of the petition. The question as it will be presented to the voters is "To secure and preserve the benefits of marriage for our society and for our future generations of children, a marriage between a man and a woman is the only legal union that shall be valid or recognized in this State." The General Counsel indicated a motion was not necessary as the state provides for the procedure.

Director White presented an updated State Plan indicating that although no additional HAVA funds have been received and none are anticipated, the current plan was revised to reflect current HAVA activity and recent compliance. The plan was distributed to all HAVA State Planning Committee members and placed on the website one month ago. Chairman Smart opened the public hearing with two appearances filed. Jill Zwick, Office of the Secretary of State, indicated that on page four the Plan should reflect that the Secretary of State's office has entered into an intergovernmental agreement with the Social Security Administration as required by HAVA. Cheryl Jansen, Equip for Equality, reviewed the written comments submitted by Equip for Equality for the record. She thanked Director White for taking these comments into consideration for further revision. The public hearing was closed and the State Plan will be on the June agenda for Board consideration.

Director White indicated that the Election Code requires the Board to certify winning candidates elected at county conventions for the office of State Central Committeemen of Illinois congressional districts for political parties that operate under Alternative A of Section 7-8. This only applies to the Republican State Central Committee. The Board has not done this in recent years and it is unclear whether the Board directed staff to perform this ministerial function at some point. In response to a question from Member Walters, Mr. Mossman indicated that a list of the vote totals for each candidate for State Central Republican Committeeman for each congressional district would be

sent to the Board members. The General Counsel indicated that there is an issue as to whether the party rules are in compliance with statute but did not believe that the State Board of Elections was the responsible party to make any determination in this matter. Member McGuffage moved to authorize staff to perform this ministerial function and certify the results as submitted and this authorization would apply only to this election. Member Schneider seconded the motion which passed by roll call vote of 6-2 with Member Walters and Vice Chairman Rednour voting in the negative,

Member Porter returned to the discussion on the HAVA state plan and the comments made today. He was concerned that appropriate attention be made to the citizens with disabilities. Director White indicated that Ms. Jansen's comments were word for word with the written comments submitted and staff has met to make appropriate revisions.

Director White discussed the advisory committee meeting this morning. There was a good representation of election authorities present. Election day problems and activities were reviewed, discussions centered on early voting, testing of equipment, programs with equipment, future legislative issues, and a canvassing problem was resolved. In the future if a voter is not in the right precinct on election day the judges are to direct them to the correct precinct rather than permit them to cast a provisional ballot. An update on the statewide voter registration database was presented as well as discussion on HAVA funds. The next meeting will be on September 18.

Director White indicated the Governor signed the appropriation and the SBE budget passed with a three percent increase. The judges of election stipend received an increase and an alteration to the pension formula made a revision necessary to the SBE budget. The four new positions requested in the budget were not included but we will be able to maintain on-going operational functions. In response to a question Director White indicated we did not lose the five existing vacant positions. Discussion ensued on the vacant positions, funding available and salary increases for staff.

Cris Cray distributed all election bills that were presented and discussed those that saw action. SB 1445 has items that will affect the SBE but the majority lies with the election authorities. SB 585 relates to the Open Meetings Act and it will require a quorum of members to be physically present at any meeting. Meetings can also be held at a video conferencing facility. This will take effect

January 1, 2007.

Director White presented a meeting schedule for FY 07. Member Keith suggested revising the March and April dates if necessary to deal with campaign disclosure issues. Vice Chairman Rednour moved to approve the schedule as presented. Member Walters seconded the motion which passed by roll call vote of 8-0.

Potential objection hearing dates were presented and the Board agreed to set the dates as follows: 1) for objections to resolutions to fill vacancies in nomination the meeting will be held by conference call on Tuesday, June 6, 2006 at 9 a.m., and 2) for objections to new party petitions the meeting will be held Tuesday, July 11, 2006 at 9 a.m.

Director White presented an informational report on the remodeling activities that recently took place in the Springfield office and thanked Jim Withers and staff for coordinating the undertaking. A letter will be sent to the building owners conveying Board and staff appreciation.

The Executive Director presented for informational purposes 1) the FY06 fiscal report for the period ending April 30, 2) the fiscal report for the Help Illinois Vote Fund, and 3) the two year plan of activity for the months of May and June.

Member Keith questioned the status of the Chicago Board of Election Commissioners HAVA funding and if it had been spent. Mr. Keith asked that a report be included on the May agenda of any jurisdictions that have outstanding funds.

The General Counsel presented appeals of campaign disclosure fines listed on the agenda as 3.a.1-12 and indicated his concurrence with the hearing officer's recommendation in all except for agenda item 10. Vice Chairman Rednour moved to accept the recommendation of the hearing officer and General Counsel to grant the appeals in the matter of *SBE v. Monroe County Democratic Central Committee*, 06DS079 and *SBE v. ICA PAC*, 06GP037. No one was present in these matters. Member Brady seconded the motion which passed by roll call vote of 8-0.

Agenda items 3. a. 3, 4, 6 and 10 were removed from group consideration for further discussion.

The General Counsel presented appeals of campaign disclosure fines where the hearing officer has recommended the appeals be denied. No one was present on these matters. Member Keith moved to accept the recommendation of the hearing officer and General Counsel and deny the appeals in the matters of *SBE v. Sheriff Fischer Committee*, 06GP48, *SBE v. Friends of Eric Breeze*, 06CD103, *SBE v. Community Citizens Referendum Committee*, 06MA012, *SBE v. Washington County Democrat Club*, 06DS104, *SBE v. Friends for Pat Laramore*, 06GP030, and *SBE v. Committee to Elect Fred Frederking*, 06GP25. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Member Keith discussed *SBE v. Carla Bender for Circuit Clerk*, 06DS08 and questioned the difference between a smudged postmark and an affidavit with a person indicating the report was mailed on a certain date. The General Counsel indicated that in the former case there was at least a postmark and in this matter nothing was received. No one was present in this matter. Member Brady felt that evidence indicates the report was filed with the county and perhaps the copy to the SBE was lost in the mail. Member Brady moved to accept the appeal in this matter. Member Walters seconded the motion. Member Keith indicated he would vote in favor of the motion because there are no rules that will cover this in place at this time. The motion was called and passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Jeff Lair for Sheriff*, 06MA10. David McCollum was present on behalf of the committee and indicated that there was confusion within the committee with the filing obligations and would like to work with the Board to reduce the fines. Mr. Sandvoss indicated there are three reports at issue but all were filed at one time. Based on the situation if there are multiple reports the statutes indicate there is to be separate assessments. He suggested if the Board was inclined to grant leniency to agree with the hearing officer's recommendation with regard to the first assessment since it was the first report and grant the appeal as to the pre-election report and the semi-annual report so there is one assessed violation which can be stayed as a first violation because the Board would be granting the second and third. Discussion ensued on possible resolution of the amount of the fine. Member Porter felt the Board has an inherent authority to settle cases and Member McGuffage agreed and felt the Board also has administrative discretion. Member McGuffage

then moved to use the Board's inherent authority and administrative discretion as a quasi judicial Board and deny the appeal and agree with the recommendation of the hearing officer and General Counsel and accept a settlement offer of 25% of the original finding which would amount to an assessment of \$880. Vice Chairman Rednour seconded the motion which passed by roll call vote of 7-1 with Member Keith voting in the negative.

Member Schneider left the meeting at 12:30 p.m. and Chairman Smart held his proxy for the remainder of the meeting.

The General Counsel presented *SBE v. Nuessen for Mayor*, 05AC005 and 05AD071. Member Keith questioned the 10% reduction of the fines as there are two separate instances of fines. No one was present in this matter. Previously there was a structured scale where the first was a 10% reduction and the second would be different. Discussion ensued on previous cases. Member Keith moved to accept the recommendation of the hearing officer and General Counsel and deny the appeal, reduce the fine to 10% on the first violation which would be \$100, and to reduce the fine on the second violation to 50% which would be \$2,500 for a total assessment of \$2,600. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. County Clerks & Records Special Action Fund*, 06DS050 and indicated this was a postmark defense and a first violation. No one was present in this matter. He recommended the appeal be granted rather than denied as recommended by the hearing officer. Vice Chairman Rednour moved to grant the appeal. Member Walters seconded the motion which passed by roll call vote of 8-0. Mr. Sandvoss also indicated he would have a proposed rule for the Board to consider on the postmark issue at the June meeting.

The General Counsel presented for informational purposes a listing of 1) committees that were assessed civil penalties for delinquent filings, and 2) committees that paid civil penalties.

The General Counsel presented for Board consideration a proposed rule that was brought to his attention by a member of the public. This rule would allow for procedures for members of the public to suggest rulemaking to the State Board of Elections as mandated by Section 5-145(b) of the Administrative Procedure Act. Member Keith questioned Section 1551.100 (d)(1) and it was indicated

the intent was to limit the requests to be presented only at a regular monthly Board meeting. Mr. Sandvoss indicated he would revise language to reflect that “a request would be considered at the next regular Board meeting unless it is received within 10 days of the next meeting and then it would be held at the second meeting following submission.” In response to a question the General Counsel indicated that Section 5/145(b) was meant to apply to any member of the public whether there is a real interest or not. Member Keith moved to adopt the proposed rules with the technical correction to be made by staff as indicated by discussion. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for Board consideration an update to existing rules with technical changes to FOIA. Vice Chairman Rednour moved to approve the rules. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for Board consideration language for the proposed rule that governs Non-profit Organizations under 10 ILCS 5/9-7.5. Mr. Sandvoss indicated language presented today takes into account comments received at the last two meetings. He noted that redundant language in Sections 100.10(j) and 100.130(b) “that is registered with the Illinois Secretary of State” will be stricken and in Section 100.130(e) the first sentence “Except as provided in subsection “e” should read “as provided in subsection “g”. Member Porter requested Section 100.130(e)(4) be removed from the rule. Discussion ensued on the language and it was agreed wording would be added in Section 100.10(j) after the stricken language as “a corporation organized under the Illinois Not-For-Profit Organization Act and on file with the Illinois Secretary of State.” Member Keith moved to adopt the rule as an emergency rule and the language presented with the removal of (e)(4) of 100.130, with the submission of (g) instead of (e) for the subsection reference of (e) at 100.130, and with the definitions in paragraph j of 100.10 and paragraph b of 100.130 to be modified as discussed with that modification to be confirmed by the General Counsel, Member Brady and Member McGuffage to contain the intent of the Board, and with the elimination of Section 100.130(e)(4). Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Member McGuffage moved to recess to executive session to discuss pending litigation and personnel matters. Vice Chairman Rednour seconded the motion which passed unanimously. Meeting recessed at 1:00 p.m. and reconvened at 1:40 p.m.

Vice Chairman Rednour moved to take action as discussed in executive session and authorize the General Counsel to seek assistance from the Attorney General on litigation, and the Board will be making recommendations on evaluations for the Executive Director and General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The next regular meeting of the State Board of Elections will be held on Monday, June 12, 2006 at 10:30 a.m. in Chicago.

With there being no further discussion, Member Rednour moved to adjourn. Member McGuffage seconded the motion which passed unanimously. The meeting adjourned at 1:45 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director