

STATE BOARD OF ELECTIONS
Regular Board Meeting
Tuesday, May 22, 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
Charles W. Scholz, Member

ALSO PRESENT:

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

The meeting convened at 10:35 a.m. via videoconference with seven Members present. Chairman McGuffage and Members Rice and Schneider were present in Chicago and Vice Chairman Smart and Members Byers, Coffrin, Gowen and Scholz were present in Springfield. Member Smart held Member Schneider's proxy until his arrival at 11:20 a.m.

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

Vice Chairman Smart moved to approve the minutes from the January 12 and April 20 meetings. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a motion for settlement offer from *SBE v. Citizens for Deyon Dean*, 21676, 11MA066 and reviewed the matter. He recommended the Board accept the committee's settlement offer of 50% of the penalty which would be \$7,500 to be paid within twenty-one days. Attorney Burt Odelson was present on behalf of the committee and said that a personal matter prevented the timely filing of the reports and the respondent did not have sufficient funds to pay the entire fine. Vice Chairman Smart moved to accept the recommendation of the General Counsel to approve the settlement offer. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The Chairman presented appeals of campaign disclosure fines where the hearing officer recommended the appeals be granted. The General Counsel noted that Agenda item 2.a.11, *SBE v. Citizens for Tim Elenz*, 23797, 12AD035 should be placed under the denied category and Agenda item 2.a.21, *SBE v. Equal Justice Party (EJP)*, 22403, 11SQ142 should be moved to the granted category. The General Counsel concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.2-10, 12 & 21:

- 2) *SBE v. North Central IL Laborers Council PAC*, 630, 12AD007;
- 3) *SBE v. Illinois Professional Firefighters PEC*, 999, 12DQ017;
- 4) *SBE v. Citizens for Claar*, 4815, 11AJ127;
- 5) *SBE v. Bellwood First Party*, 15371, 11AS069;
- 6) *SBE v. Friends of Sandra Pihos*, 16369, 12AD019;

- 7) *SBE v. Citizens for Donald E. Puchalski*, 19240, 11AS075;
- 8) *SBE v. Friends of Arlene Jezierny*, 21461, 12DQ131;
- 9) *SBE v. Friends of Roderick T. Sawyer*, 22875, 12AD028;
- 10) *SBE v. CARE for 113 Schools*, 23302, 12DQ174;
- 12) *SBE v. Committee to Elect Tom Courtney*, 24000, 12DQ202;
- 21) *SBE v. Equal Justice Party (EJP)*, 22403, 11SQ142.

He also noted that the committee for Agenda item 2.a.6 is also required to file an amendment which should be included in the final order. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer for the appeals noted above. Member Rice seconded the motion which passed by roll call vote of 8-0.

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.11, 13, 14, 15, 17, 18, 19, 20, 22, 23, 24 & 26-29:

- 11) *SBE v. Citizens for Tim Elenz*, 23797, 12AD035
- 13) *SBE v. Warren County Democratic Central Committee*, 77, 12DQ001;
- 14) *SBE v. IL Machinists Non-partisan Political League*, 758, 12DQ015;
- 15) *SBE v. Citizens for Hohnke*, 11201, 12DQ043;
- 17) *SBE v. Volunteers for Delgado*, 11411, 11AS066;
- 18) *SBE v. Friends of Rick Reinbold Campaign Committee*, 15667, 12DQ061;
- 19) *SBE v. Hispanic Majority PAC*, 19748, 12DQ105;
- 20) *SBE v. Value in Building Education*, 19910, 12DQ109;
- 22) *SBE v. Citizens for Sloan*, 22646, 12DQ155;
- 23) *SBE v. Friends of Brian Duewel*, 22661, 12DQ157;
- 24) *SBE v. Friends for Ryan Graves*, 23087, 12DQ168;
- 26) *SBE v. The Advocates for Thornton HS 205*, 23530, 12MA029;
- 27) *SBE v. Albracht for Senate*, 23619, 12AD030;
- 28) *SBE v. Stevenson Political Action Committee for Education*, 23634, 12DQ183;
- 29) *SBE v. Friends of Judge Thomas J. Carroll*, 23827, 12DQ189;

No one was present for the respondent committees in any of the matters. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer and deny the appeals for all of the cases noted above. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that he did not concur with the hearing officer recommendation for Agenda item 2.a.29, *SBE v. Friends of Judge Thomas J. Carroll*, 23827, 12DQ189 and recommended the appeal be granted. Member Rice moved to rescind the earlier motion and accept the General Counsel recommendation to grant the appeal. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.16, *SBE v. Illinois Rental/Purchase Dealers PAC*, 11278, 12DQ044 and concurred with the hearing officer recommendation to deny the appeal. Donna Fally was present on behalf of the respondent committee and said there were issues with the electronic filing software and offered a settlement of 50% of the penalty. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer to deny the appeal and accept the respondent's 50% settlement offer of \$400. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.25, *SBE v. Jane Adams for Carbondale Committee*, 23430, 11SQ211 and concurred with the hearing officer recommendation to deny the appeal but stay the fine as it is a first violation. Jane Adams was present on behalf of the committee and said she thought the report was mailed before she left the country for a short trip but realized when she returned that it had not been sent and then immediately mailed it. She asked that this not appear on her record and was informed that the fine was stayed but if a subsequent violation occurred the fine would be enforced. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer to deny the appeal. Member Byers seconded the motion which passed by roll call vote of 8-0.

An appeal of contribution limits fines for Agenda item 2.a.30, *SBE v. Illinois Democratic County Chairman's Association*, 393, 11DQCL0002 was removed and placed on the June Board meeting Agenda.

The General Counsel presented Agenda item 2.a.31, *Motzny v. Andolino*, 12CD013, which was failure to comply with a board order and recommended a second order be issued requiring the committee to file the amended reports within thirty days of the effective date of said order and failure to file such reports will result in a civil penalty assessment not to exceed \$5,000. No one was present for either party. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

Civil penalty assessments and contribution limit penalty assessments necessitating a final board order were presented. Member Rice moved to issue final board orders for those committees listed on pages 183-190 of the Board packet. 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.

It was agreed to discuss the oversize ballot issue report next and Ken Menzel updated the Board on the progress of the investigation. Ken Gibson from Liberty Systems and Steve Bean, Macon County Clerk were present as well. Mr. Menzel said that ABS Graphics identified a problem with the trimming process in the digital print system and they have designed a fixed width trimming blade unit to address the ballot width issue for future elections. It also appeared that hydroexpansivity (the paper's tendency to expand when exposed to moisture) was a factor in the width problem due to the unusually hot and humid weather on election day. The paper type, weight and thickness and variations in the vendor's manufacturer's manual may also have contributed to the wide ballot issue. Further testing would be required to determine to what extent the paper factors contributed to the problem. Without further testing, Mr. Menzel recommended each election authority obtain the most recent edition of the manufacturer's manual for its voting system and that such manual should also be submitted to the SBE, including subsequent revisions. Each election authority should verify that the vendors and printers supply ballots that comply with the most recent manufacturer's specifications. He also recommended that the election authorities review their ballot storage areas as to the levels of moisture and humidity the ballots will be exposed to and make sure the option for printing the ballot cut marks on each ballot is enabled to make it easier to remedy any future ballot width issues that may occur. Steve Bean showed an example of the trimmed portion and noted that it was such a small width that one could hardly see the difference between the wide ballot and the trimmed ballot. He felt that the unusual humidity was a large factor and he will accept any recommendation the Board determines suitable. Mr. Gibson noted that the paper was delivered weeks to months prior to printing to allow the paper to acclimate to weather

fluctuations and that the printer did in fact miss the trim marks. After discussion, Member Coffrin moved to accept Mr. Menzel's recommendations outlined in numbers 1-4 in his memo on page 235 of the Board packet but not pursue further testing of ballots for paper factors. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a proposed rule with an amendment to SBE's Personnel Rules and indicated it affects the composition of the grievance review committee. The proposed changes allows the Executive Director or Assistant Director to appoint a Chairman of the committee, eliminates the requirement of the Human Resources manager to serve on the committee and strikes the requirement that those Committee members have knowledge or experience in personnel administration or employee relations. He said the specific changes were listed on page 195 of the Board packet and asked for approval of the three amendments. Member Scholz moved to accept the amendments to SBE's Personnel Rules as noted on page 195. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to recess to executive session to consider complaints following closed hearing, litigation and personnel matters. Member Rice Seconded the motion which passed unanimously. The meeting recessed at 11:55 a.m. and returned to open session at 12:45 p.m. A second roll call was taken with all Members present.

Member Schneider moved to accept the recommendation of the General Counsel and hearing officer that the following complaints following closed hearing (Agenda items 2.a.35-39) proceed to a public hearing:

- 35) *SBE v. Pulaski County Republican Boosters Club*, 12CD022;
- 36) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 12CD041;
- 37) *SBE v. Friends of Calabrese*, 12CD059;
- 38) *SBE v. Citizens for Cecil Todd Emery for Sheriff*, 12CD072;
- 39) *SBE v. St. Clair County Constitution Party*, 12CD085.

Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.40, *SBE v. Practical Party*, 12CD082, Member Schneider moved to accept the recommendation of the General Counsel and hearing officer that the matter be referred to staff for imposition of fines. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Next was the report of the Executive Director and Mr. Borgsmiller noted that the Advisory Committee meeting was held prior to the Board meeting. Items discussed included the 5% re-tabulation of early voting devices, the wide paper ballot issue, military and overseas voters, pending legislation, the MOVE Act and statewide database updates and informational reports on the Election Management System and Electronic Canvassing project. The next meeting is scheduled for Monday, September 17, 2012.

The Executive Director presented the required review of past executive session minutes and said the review of minutes since October 18, 2011 was conducted and only one exception was found. Chairman McGuffage approved the release of executive session minutes for the period of November 2011 through March 2012 except for the exclusion listed on page 198 of the Board packet. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage departed the meeting at 12:50 p.m. and Member Rice held his proxy for the remainder of the meeting. Vice Chairman Smart continued the meeting as the temporary Chairman.

For informational purposes, it was noted that Susan Sweeney, a write-in candidate for the office of State Representative in the 55th District, was successfully nominated as the Republican candidate at the General Primary Election with 2,229 votes.

The Executive Director gave an update on resolutions to fill vacancies in nomination and said there are currently nine resolutions filed in Senate districts, eleven filed in Representative districts and one filed in a Congressional district. The last day to file objections is June 11, 2012 and the State Officers Electoral Board (SOEB) will call the cases and accept appearances at its meeting on June 19, 2012.

The filing period for independent and new party candidates is scheduled for June 18-25, 2012 and the last day to file objections is July 2, 2012. The Executive Director indicated that a Special and SOEB meeting will need to be scheduled to call the cases and accept appearances for those objections. It was agreed to schedule a meeting for July 9, 2012 at 10:00 a.m. in Chicago and Springfield via videoconference.

The General Counsel reviewed P.A. 97-681 that adds language to the Election Code that restricts those who have filed a statement of candidacy for a partisan office or voted in the past partisan primary from filing a statement of candidacy as an independent candidate or candidate for another established political party. He noted that an acceptance policy was necessary to enforce the new provisions and suggested the following: 1) Accept all petitions filed and allow the petition objection process to resolve any issues related to the eligibility of an independent or established party candidate to appear on the ballot; or 2) Conditionally accept any petitions filed, and afterwards, determine if such candidates are eligible based on their voting and petition filing history. The General Counsel recommended the first option and asked the Board for approval. Member Coffrin moved to accept option one as SBE policy for acceptance of independent candidate petitions. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

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

Cris Cray began the legislative update and said that a FY13 budget proposal from the Senate Democrats had been received and staff has begun reviewing it. The proposal included full funding for the county clerk stipends but with an overall 4% reduction in operations. Ms. Cray distributed a listing of all election bills and pointed out that HB3188, which restricts FY13 COLA increases for Members of Boards and Commissions, passed and is waiting the Governor's signature. She also noted there is a fifty-one page omnibus election bill and most of it deals with language concerning independent expenditure committees.

The Executive Director indicated there was nothing new to report on the electronic canvass project except that it is moving forward and on track to be fully implemented for the November General Election.

Kyle Thomas reported on the Alexander County voter purge project and said that the County Clerk, Frances Lee, has been very cooperative and everything is running smoothly. SBE staff mailed the ID cards to all registered voters in Alexander County and Clerk Lee has been processing the ID cards as they are returned and preparing R26 forms to serve as a second notice to the

voters. It is expected that SBE staff will complete the mailing of the R26's by June 30, which is the end of the current fiscal year. Mr. Thomas noted that the SBE is also providing similar assistance to Massac County following the same procedures extended to Alexander County.

Mr. Thomas gave a brief IVRS update and noted that duplicate matches were at another record low and the election authorities were doing an excellent job. He said there were now only four jurisdictions above 100% for voting age population versus registered voters. Clark County recently dropped below 100% and he expects Alexander and Massac Counties to drop as well after their purges are completed.

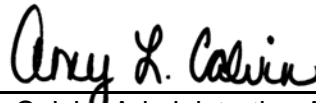
Mr. Thomas indicated the last meeting on the Election Management System (EMS) was held on April 24 in conjunction with the IACO Conference in Springfield and many first time attendees were present. The general consensus is that this is a good project and are awaiting funding to move forward.

The Executive Director presented the fiscal reports for informational purposes and said expenses were right on target and it appeared that some funds will be returned to the general revenue fund at the end of the fiscal year.

The two year plan of staff activity for the months of May and June were presented for informational purposes.

With there being no further business before the Board Member Scholz moved to adjourn until 10:00 a.m. on June 19, 2012. The Board will meet in executive session then return to the open meeting at 10:30 a.m. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 1:20 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director