

STATE OFFICERS ELECTORAL BOARD
Meeting Via Videoconference
Tuesday, July 8, 2008

MINUTES

PRESENT: Albert S. Porter, Chairman
Bryan A. Schneider, Vice Chairman
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Wanda L. Rednour, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Specialist II

The special meeting of the State Officers Electoral Board was called to order via videoconference means shortly after 10:00 a.m. Chairman Porter, Vice Chairman Schneider and Member McGuffage were present in Chicago and Members Keith, Smart and Walters were present in Springfield. Member Keith held Member Rednour's proxy until she was connected via teleconference call at 10:02 a.m. and Vice Chairman Schneider held Member Brady's proxy until his arrival in the Chicago office at 10:05 a.m.

Vice Chairman Schneider moved to approve the minutes from the June 9 meeting as presented. Member McGuffage seconded the motion which passed unanimously.

The General Counsel presented objections to resolutions to fill vacancies in nomination for the General Election for the following cases: *Gronewold v. Shrier*, 08SOEBGE100; *Gooch v. Garling*, 08SOEBGE503; *Karmel v. Shabo*, 08SOEBGE50; and *Schultz v. Sugrue*, 08SOEBGE505. It was noted that Michael Kasper, who was an attorney in all four cases was delayed in attending the meeting because he was attending a meeting of the Chicago Board of Election Commissioners. It was agreed by all to move on to the next agenda item and consider these cases later in the meeting.

The General Counsel called the cases and accept appearances for objections to petitions from the independent and new party candidate filing period for the following matters: *Denzler v. Carter*, 08SOEBGE102; *Boltz v. Ferguson*, 08SOEBGE507; *LeBeau v. Stevo*, 08SOEBGE508; and *Haase v. Druck*, 08SOEBGE509. He noted once the Board approves agenda items six and seven, the parties will

then confer with the hearing officer for further scheduling of proceedings.

Next on the agenda was to approve the Rules of Procedure for the State Officers Electoral Board. Member Keith indicated he had previously suggested clarification to the second paragraph of Rule number nine regarding evidence. The General Counsel acknowledged that the changes were incorporated into the Rules and the final version was sent to the Board prior to the meeting. Vice Chairman Schneider moved to approve the Rules with Member Keith's suggested changes. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel asked the Board to authorize the appointment of Ken Menzel to serve as the Hearing Officer for the objections to petitions from the independent and new party candidate filing period. Member McGuffage moved to approve the said appointment. Member Brady seconded the motion which passed unanimously.

The Board returned to objections to resolutions to fill vacancies in nomination for the General Election. The General Counsel presented *Gronewold v. Shrier*, 08SOEBGE100. John Countryman, on behalf of the Objector and Michael Kasper, on behalf of the candidate were both present in Chicago. The objection was filed against Mr. Shrier, who is a democratic candidate for State Representative in the 106th district, on the basis that the Resolution was untimely filed by the candidate in that it was not filed within the three days following the meeting of the managing committee at which the candidate was chosen to fill the vacancy in nomination. The Hearing Officer recommended the candidate's nominating papers be deemed valid. The General Counsel concurred with the recommendation of the Hearing Officer. Mr. Countryman disagreed and indicated that the statute does not clarify business days and, therefore, the resolution should have been filed by March 17th which it was not. Mr. Kasper agreed with the Hearing Officer and indicated that weekend days and holidays are excluded from the three day window as set forth in Section 1-6 of the Election Code and the intent was to allow a certain amount of business days to file. Member McGuffage moved to accept the recommendation of the Hearing Officer and General Counsel. Member Rednour seconded the motion and the roll call vote was 4-4 with Vice Chairman Schneider, Members Brady, Smart and Walters voting in the negative.

Vice Chairman Schneider moved to not accept the recommendation of the Hearing Officer and General Counsel. Member Brady seconded the motion and the roll call vote was 4-4 with Chairman Porter, Members Keith, McGuffage and Rednour voting in the negative. The General Counsel indicated the question as to the name of the candidate's appearance on the ballot would not be raised until the date of certification and that the effect of the Board's decision today is that a ruling failed to be made one way or the other on the objection.

In response to a request from Mr. Kasper, the Chairman agreed to proceed to *Schultz v. Sugrue*, 08SOEBGE505.

The General Counsel presented *Schultz v. Sugrue*, 08SOEBGE505. Michael Kasper, on behalf of the Objector and John Countryman, on behalf of the Candidate were both present in Chicago. The Objection was filed against Mr. Sugrue, who is a republican candidate for State Representative in the 59th district, on the allegations that the Representative Committee met in three separate locations on the same day to nominate candidates for two separate offices and the organizational meeting of the Committee took place outside the 59th district. The Hearing Officer found the meeting took place within the 59th district and recommended the candidate's nominating papers be deemed valid and the General Counsel concurred with the recommendation. Mr. Kasper noted that he took no exception to the recommendation of the Hearing Officer. Mr. Countryman did not comment. Member Brady moved to accept the recommendation of the Hearing Officer and General Counsel. Vice Chairman Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Gooch v. Garling*, 08SOEBGE503. John Countryman and John Fogerty, on behalf of the Objector and Michael Kasper, on behalf of the Candidate were all present in Chicago. The Objection was filed against Mr. Garling, who is a democratic candidate for State Representative in the 52nd district, and alleges the first Resolution was untimely filed as it was filed more than three days following the appointment of the nominee. Subsequent to that the Representative Committee met again and selected Mr. Garling as the nominee but following that meeting submitted Mr. Garling's withdrawal of his candidacy from the original appointment and a

resolution to fill the vacancy after the withdrawal was executed, essentially reappointing him to the same office. The fact that the candidate executed the withdrawal but did not file it meant that there was really no withdrawal, therefore, the Committee was attempting to fill a vacancy that had not yet occurred. The Hearing Officer recommended the nominating papers be deemed invalid and the General Counsel concurred. Mr. Kasper indicated that he felt the nomination was effective because it was carried out in a way that was consistent with the General Assembly in allowing vacancies to be filled. He disagreed with the Hearing Officer's recommendation and the vacancy was filled according to the provisions of the Election Code. Mr. Fogerty agreed with the Hearing Officer in that the first set of nomination papers were improper as they were not filed within the three day timeframe. However, he felt a vacancy was not created until the withdrawal was actually filed with the State Board of Elections and pointed out that a withdrawal is not effective upon execution but when it is actually filed. After lengthy discussion, Member McGuffage moved to not accept the recommendation of the Hearing Officer and General Counsel and the candidate remain on the ballot. Member Keith seconded the motion and the roll call vote was 4-4 with Vice Chairman Schneider, Members Brady, Smart and Walters voting in the negative. Vice Chairman Schneider moved to accept the recommendation of the Hearing Officer and General Counsel. Member Brady seconded the motion and the roll call vote was 4-4 with Chairman Porter, Members Keith, McGuffage and Rednour voting in the negative.

The General Counsel presented *Karmel v. Shabo*, 08SOEBGE504. Michael Kasper, on behalf of the Objector and John Countryman and John Fogerty, on behalf of the Candidate were all present in Chicago. The Objection was filed against Mr. Shabo, who is a republican candidate for State Representative in the 80th district, and alleges the Representative Committee failed to file a Certificate of Organization indicating it was organized and authorized to appoint nominees to fill the vacancy as required by the Election Code. The Hearing Officer recommended the objection be sustained, the nominating papers of Mr. Shabo be deemed invalid and the General Counsel concurred. Mr. Kasper stated the Committee failed to file the Statement of Organization which meant that those individuals on the Committee were not authorized to appoint nominees to fill such vacancy and that the Resolution

was not filed until after the objection period began and expired. Discussion ensued regarding timely filing of documents. Mr. Countryman disagreed with the Hearing Officer's recommendation and felt that all requirements of Section 7-61 were met and the candidate should remain on the ballot. After discussion, Member Brady moved to reject the recommendation of the Hearing Officer and General Counsel. Member Walters seconded the motion and the roll call vote was 4-4 with Chairman Porter, Members Keith, McGuffage and Rednour voting in the negative. Member McGuffage moved to accept the recommendation of the Hearing Officer and General Counsel. Member Rednour seconded the motion and the roll call vote was 4-4 with Vice Chairman Schneider, Members Brady, Smart and Walters voting in the negative.

The General Counsel informed the Board that there were no other cases for the State Officers Electoral Board.

Vice Chairman Schneider moved to recess State Officers Electoral Board until July 21, 2008 at 10:30 a.m. Member Rednour seconded the motion which passed unanimously. The meeting recessed at 11:25 a.m.

Respectfully submitted,

Amy Calvin, Administrative Specialist II

Daniel W. White, Executive Director