

**STATE BOARD OF ELECTIONS
Regular Board Meeting
Tuesday, August 17, 2010**

MINUTES

PRESENT:

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

ALSO PRESENT:

Daniel W. White, Executive Director
Rupert Borgsmiller, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Specialist II

The regular meeting of the State Board of Elections was called to order via videoconference means at 9:10 a.m. with seven Members present. Chairman Schneider and Members Keith, McGuffage, Porter and Smart were present in the Chicago office and Member Walters was present in the Springfield office. Vice Chairman Rednour was connected via teleconference. Member Brady joined the meeting at 9:20 a.m. in Chicago.

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

The minutes of the July 6 and 19 meetings were presented with revisions noted. Member Smart moved to approve the minutes as presented. Member Keith seconded the motion which passed unanimously.

Member Smart moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Porter seconded the motion which passed unanimously. The meeting recessed at 9:15 a.m. and reconvened at 10:55 a.m. A second roll call was taken with all members present as noted above and then Board recessed for approximately five minutes to prepare for the report of the Executive Director.

The Executive Director gave a brief overview of the Special U.S. Senate Election and stated there was nothing new to report from the report at the August 6 meeting. As indicated in the Board packet a new date of November 24th was set to certify the results of the special election so it was agreed that the November Board meeting would be moved from the 15th to the 23rd to accommodate the certification. The General Counsel indicated discussion was had among the Attorney General's office and some election authorities and the general consensus was to treat any write-in candidate that has filed for the full six-year senate term also would be included as a write-in candidate for the unexpired term unless they specifically stated in writing that they did not wish to be. This has not yet been presented to the judge.

The Certification of the November 2, 2010 General Election ballot was presented for consideration. The Executive Director explained that there were four copies of the certification that would need to be signed. The first was the Statewide Constitutional Amendment that calls for a vote to amend the constitutional to allow for recall of the office of the Governor. Two copies of the retention ballot were also included because the jurisdictions now have the option to not use the boxes on the ballot in order to utilize more space, so it is appropriate to ask the Board to consider both types of retention certifications. Lastly, a copy of Sangamon County's ballot was presented for certification which is a sample of what would be sent to each election authority with the candidates in their respective jurisdictions. The Executive Director also asked the Board to extend the staff's authority to make any amendments pursuant to any additional objections, withdrawals or payment of civil penalties to the certification up until the actual certification date of August 20 and indicated this was a normal past practice of the Board and staff. Member Smart moved that the ballot certification for the November 2, 2010, General Election as presented by staff be approved and adopted and that the staff be directed to issue the certification to the Illinois election authorities no later than 5 p.m. on Friday, August 20, 2010, and to make any revisions to such certification necessitated by candidate withdrawals, filing of resolutions to fill vacancies in nomination, decisions of electoral boards impacting candidates included in the certification, and any payment of civil penalties assessed under Article 9 of the Election Code, such payments must be received no later than 12 noon on Friday, August 20th, and indicate on such certification any objections that are currently pending. Member McGuffage seconded the motion. Member Keith clarified the motion to include that if any appeals are denied today and the penalty is upheld and those penalties are not paid by noon on Friday, then the staff will have the authorization to and would strike the candidate's name from the certification. Members Smart and McGuffage both agreed to add Member Keith's clarification to the motion which passed by roll call vote of 8-0.

It was agreed to postpone agenda item 2.a.3 Modifications to Dominion Voting Equipment WinEDS 4.0.172, HAAT100 2.6.34 and HAAT Listener 1.7.4 to the August 27 Board meeting.

The election judge training schools were presented for informational purposes and the Executive Director noted that a number of schools were already scheduled and staff will conduct those schools as outlined on the schedule.

Next was a legislative update and the Executive Director informed the Board that HB 4842 required the SBE to publish the Internet's Voter Guide before each general primary election as well as the general election and explained the Governor used his amendatory veto message to eliminate the requirement that a voter declare party affiliation when voting at a general primary election. House Bill 5206 authorized the county clerks to use an electronic system for reporting deaths in order to purge their voter registration records. The Governor used his amendatory veto to broaden this legislation to

allow citizens initiatives to be raised by petition concerning ethical standards or conduct of campaign finance reform. The legislature is scheduled to meet on November 16 and it is not known if these bills will be considered in the special session.

The IVRS update was presented for information purposes and it was noted that duplicate voter registrations have decreased dramatically and expected to further decline as election day approaches.

The Executive Director presented the Cost Control and Spending Reduction Plan and explained it was a compilation of cost saving measures and ideas submitted by the Division Directors and includes initiatives the agency can implement to do its part in addressing the fiscal crisis in the State of Illinois. Without objection, the Chairman advised the Executive Director to forward Member Keith's proposals to the all of the Board and agency staff for review and report back at the September meeting.

The Executive Director discussed the lump sum update and informed the Board that the FY10 chart reflects a slight increase for the phone system and transfer of funds for early voting assistance to the election authorities. All FY10 lump sum funds will be totally expended. The FY11 Lump Sum Appropriation Chart was presented and the Executive Director noted that staff is still compiling information for a report on the county clerk's stipend as to what payments are being made to other local governmental officers, the agency's legal obligation, if any, to pay the stipend even though it is underfunded. A report will be available at the September Board meeting.

The fiscal reports were presented for informational purposes. The agency will meet all of its FY10 fiscal obligations and funds will be returned to the State Treasurer. Very little spending has occurred in FY11 and an initial report will be available once the FY11 spending allocation is approved. HAVA spending has been minimal and grant requests are being reviewed and disbursed accordingly. Member Keith commented on the HAVA site audit visit reports and thought they were well done and served a useful purpose.

The two year plan of staff activity was presented for informational purposes.

The General Counsel presented *SBE v. Fair Illinois Committee*, S9193, 10DS238 which was a carryover from the July meeting and reviewed the case. The recommendation of the hearing officer was that the appeal be denied for lack of an adequate defense and that the explanation given by the chairman does not justify why it took almost two months past the deadline for the report to be filed. He noted that the committee chairman had been in that position since 2007 and, as a result, should have had access to the bank records prior to the current reporting period. The recommendation then was to assess the civil penalty. The General Counsel stated that the penalty was paid in full this morning, therefore, he recommended no further action be taken. Attorney Michael Kasper was present on behalf of the committee and he concurred. Member Keith moved to adopt the recommendation of

the hearing officer and General Counsel and no further action be taken. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for David Webb*, L10269, 10MA009 which was also a carryover from the July meeting and summarized the matter. The hearing officer recommended the appeal be denied and assessed a penalty for lack of an adequate defense and based on the fact that the committee treasurer that was listed was responsible for ensuring that the reports are filed. And if they delegate that to another person, they assume risk if that person fails to do the responsibilities as they were asked to do. The General Counsel concurred with the recommendation. David Webb, the committee chairman, was present in Chicago and indicated that everything was up to date at this time. He felt a \$30,000 was a lot of money to come up with and asked for a settlement offer of \$5,000 that would be paid within five days. After discussion, Member McGuffage moved to accept the \$5,000 settlement offer which is 15% in the matter. Member Porter seconded the motion which failed by roll call vote of 3-5 with Chairman Schneider and Members Brady, Keith, Smart and Walters voting in the negative. Member Porter moved to accept a settlement offer of \$10,000, with \$5,000 to be paid within five business days and the remaining \$5,000 within sixty calendar days. Member McGuffage seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

The General Counsel presented *SBE v. Lake County Republican Federation*, S923, 10AP006 and *SBE v. Friends of Todd Stroger for President of the Cook County Board of Commissioners*, S9283, 10AP017 and indicated he concurred with the recommendation of the hearing officer to grant the appeals. Attorney John Fogarty was present on behalf of the Lake County Republican Federation committee and indicated he concurred as well. Member Porter moved to accept the recommendation of the hearing officer and General Counsel and grant the appeals. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for Tom Morrison*, S8902, 10AP015 and reviewed the matter. The hearing officer recommended the appeal be denied and the penalty be reduced down to 10% of the original assessment which would be \$1,300 plus the \$50 stayed fine for a total penalty of \$1,350. The General Counsel concurred with the recommendation. Attorney John Fogarty and the Treasurer of the committee, Drew Veeneman were present in Chicago. Mr. Fogarty indicated that the committee tried in good faith to file the A-1 within the 24 hour timeframe but did experience difficulties with the IDIS software. Mr. Veeneman explained it was his first time filing an A-1 and found it was a different process than the D-2 reports and after searching through all of the help files he could not find the instructions that were needed. He apologized for the late filing but felt he made the best good faith effort he could to comply. Member Brady felt there was an honest technical issue involved and moved to accept the case as a harmless technical error and grant the appeal.

Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Citizens for Susan Kennedy Sullivan for Judge, S10172, 10MA017* and summarized the case. The hearing officer recommended the appeal be denied both as to the assessment for the late D-1 filing and the assessment for the Schedule A-1 filing as well. The General Counsel concurred with the recommendation as to the \$200 assessment which actually was a \$2,000 assessment but reduced 10% to \$200. He did not concur in terms of the assessment for the statement of organization because he felt the committee relied on their attorney to handle their filings and when the candidate found out it was not she took immediate action to correct the problem. Attorney Andy Raucci was present on behalf of the committee. Mr. Raucci discussed the details of the case and asked the Board to consider that the fine be stayed along with the \$200 on the A-1 as recommended by both the hearing officer and the General Counsel. Member Smart moved to accept the recommendation of the General Counsel and grant the appeal with respect to the deficiencies concerning the formation of the committee and deny the appeal with respect to the A-1 violation, triggering a fine in the amount of \$200 which is stayed pursuant to standing orders. Member McGuffage seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

A list of committees that face potential ballot forfeiture was presented for informational purposes. It was noted that not every committee on the list is on the General Election ballot. Mr. Borgsmiller indicated that there are no committees remaining on the list that are running for an office that was certified by the State Board of Elections.

The General Counsel presented a listing of committees that were assessed civil penalties and did not appeal and asked the Board to issue final orders for the committees listed on page 94 in the Board packet. Member Keith 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 July 14, 2010 through August 4, 2010.

The General Counsel presented a request for a payment plan from the 34th Ward Regular Democratic Organization. They would like to pay their \$5,000 assessment in \$1,000 installments to be completed by the end of this year and enclosed a check for \$1,000. Member Keith moved to accept the payment plan provided each monthly payment must be paid by the last business day of the month. Member Porter seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to recess to executive session to discuss pending litigation and personnel matters and the motion passed unanimously. The meeting recessed at 12:45 p.m. and reconvened at 1:55 p.m. A second roll call was taken and Members were present as noted in the first call with the exception of Vice Chairman Rednour and Member Porter who left the meeting during

executive session. Members Keith and McGuffage held their proxies respectively.

Member Keith moved to direct the Executive Director to implement salary increases for FY11 on the division by division average of 2.5% and not to exceed 2.5%. Member Brady seconded the motion which passed by roll call vote of 7-0-1. Vice Chairman Rednour (by proxy) passed on the vote.

With there being no further business before the Board, Member Keith moved to adjourn until 9:00 a.m. on August 27, 2010 or call of the Chairman, whichever occurs first. Member Smart seconded the motion which passed unanimously. The meeting adjourned at 2:00 p.m.

Respectfully submitted,

Amy Calvin, Administrative Specialist II

Daniel W. White, Executive Director