

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, August 18, 2003
Chicago, Illinois**

MINUTES

PRESENT:

**John R. Keith ,Chairman
Jesse Smart, Vice Chairman
William McGuffage, Member
David E. Murray, Member
Philip O'Connor, Member
Albert Porter, Member
Wanda L. Rednour, Member
Elaine Roupas, Member**

ALSO PRESENT:

**Dan White, Executive Director
Colleen Burke, General Counsel
Rebecca Glazier, Assistant to Executive Director**

The regular monthly meeting of the State Board of Elections was called to order at 11:05 a.m. with eight members present.

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

Chairman Keith then presented the minutes of the July 1 regular monthly Board meeting. Member O'Connor moved to approve the minutes as presented. Vice Chairman Smart seconded the motion which passed unanimously.

The Executive Director presented a report on the in-house HAVA training workshop held for staff. This workshop provided staff with an overview of the federal legislation, its impact and requirements, as well as the State Plan and status of the statewide voter database project. SB 428, the pending HAVA legislation was also discussed. Mr. White recognized staff involved in the coordination of the meeting.

Mr. White also reported on the public hearings July 15 in Springfield and July 16 in Chicago. One person testified at the Springfield hearing and seven testified at the Chicago hearing. Mr. White thanked Chairman Keith for presiding over the Springfield hearing and Vice Chairman Smart for attending in Springfield. He thanked Member Roupas for chairing the Chicago hearing and Members O'Connor and McGuffage for attending that hearing. Mr. White noted that additional comments were received to supplement the public testimony and there were a large number of comments on

cumulative voting. The written comments were reviewed and taken into consideration as the State Plan was revised.

The Executive Director then presented the revised State Plan to the Board and explained the most notable change was with the budget. It was simplified and put in a format as to what was authorized and what was appropriated. There were approximately 18 revisions to the plan. Vice Chairman Smart moved to adopt the plan as amended. Member Rednour seconded the motion. Member O'Connor noted that staff has done a yeoman's service for the general public and this plan is a very impressive piece of work. He further indicated that the SBE ought to give some further thought to the cumulative voting. Member Murray complimented staff and everyone who participated. The motion was called and passed by roll call vote of 8-0. Chairman Keith thanked all staff and public groups who helped formulate the plan and indicated it will also be available for another comment period. The Executive Director indicated that the Plan will be sent to the Federal Election Commission who will hold it until the Election Assistance Commission is up and running. The EAC will then publish in the Federal Register. In response to a question, Mr. White indicated the administrative complaint procedure would return for the Board's approval in the form of rules. Discussion continued on HAVA monies as well as the Election Assistance Commission.

The Executive Director reminded the Board that we have already applied for the waiver for the punch card buyout. Mr. White then requested approval for a waiver of the statewide voter registration system until 2006. Member Murray moved to seek a waiver of the statewide voter registration system until 2006. Member Roupas seconded the motion. Mr. White indicated that the system should be up and running by April 2004 depending on SB 428 as we are planning on using HAVA money to complete the system. However, HAVA requires it to be ready January 2004 so we need to seek the waiver. The waiver will not hold up the project. The motion was called and passed by roll call vote of 8-0.

The Executive Director presented for discussion several options for the distribution of the punch card buyout money. Mr. White indicated a decision did not have to be made today. Chairman Keith suggested seeking comments from the election authorities before making a final determination. The different options were discussed and Mr. White noted that front end safeguards are more

desirable for the accounting requirement. After further discussion, Member Murray moved to seek the advice of the election authorities as to the different options and advise them any purchases or agreements they may enter into in the meantime are at their own peril, and staff also provide a calendar of completion dates. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented for discussion a legislative report. Chairman Keith noted that a request was received from the Governor's office to meet by conference call this morning to discuss SB 428. However it was rescheduled for 3:30 this afternoon in-person with Chairman Keith and Vice Chairman Smart attending with the Executive Director. If for some reason the Governor chooses to amendatorily veto SB 428 we will request a commitment that SB 82 be passed and signed during veto session. SB 82 would be a backup to establish the fund. Discussion continued on SB 428 and it was agreed to continue with the agenda and return to this for further discussion.

Cris Cray discussed SB 1586 the Open Meetings Act which has an effective date of January 1 and will require an audio or video tape of executive session meetings. She further discussed SB 699 which also amends the Open Meetings Act but the changes are much more troublesome for the SBE as it refers to attending meetings electronically. Ms. Cray further reported that HB3412, rewrite of the Gift Ban Act, has not yet been signed. Following discussion, Member Murray moved to urge the Governor to consider amending items in SB 699 which would prevent the State Board of Elections from dealing with electoral board meetings and campaign disclosure matters under the 7 day calendar in a timely manner. Vice Chairman Smart seconded the motion. Discussion continued and the General Counsel agreed that the issue with the electoral board and disclosure meetings is of great concern and felt that this would be a significant burden on our budget as travel expenditures would increase greatly. The motion was then called and passed by a vote of 8-0.

The Executive Director presented for Board consideration a request for a voting system modification for Election Systems and Software in-precinct optical scan system. Dianne Felts explained that the modification was to the "ballot on demand" feature of the in-precinct M100 optical scan system. This means the printer can print out an absentee ballot on demand. Judd Ryan,

representative from ES&S, indicated the printer can print 30 pages a minute. Ms. Felts indicated over 3,000 ballots were run with no errors. This is less expensive for the election authority and also more convenient. Ms. Felts asked for interim approval with the condition that a notice be sent with the mail absentee ballots, and in person, indicating the voter cannot fold the ballot unless on the pre-scored area of the ballot. If it is folded on the oval, it miscounts. Member Murray moved to approve the modification as presented by staff. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The Executive Director discussed the FY04 budget appropriation and indicated it was reduced to last year's spending levels. An additional \$220,000 was restored upon request for the increase in our IDEA appropriation. The budget will be extremely tight and spending will have to be watched closely. The biggest challenge will be with personal services and also with the under funding of the retirement line item. We have been given assurances that we will receive a supplemental in the fall to fix this oversight. Discussion ensued on the two percent transferability as well as HAVA monies. Mr. White explained that some vacancies will be filled, but not all.

The Executive Director presented the fiscal status report for the period ending July 31 indicating a final FY 03 report will be available in September as we are still in the lapse spending stage. It appears we will end the year in good shape and will be able to meet all obligations, except for \$20,000 in legal fees. The two year plan of staff activity for the months of August and September was presented for informational purposes.

The General Counsel presented five campaign disclosure complaints following public hearing. No parties were present in any of the matters. Ms. Burke discussed the complaints indicating they were for failure to file the December 2002 semi-annual report. The hearing officer recommended, and the General Counsel concurred, that these complaints be found filed on justifiable grounds, but since reports have been filed, no further action be taken and appropriate fines be assessed accordingly. Member Smart moved to accept the recommendation of the hearing officer and General Counsel. Member Roupas seconded the motion. Before the final vote was taken, Member Murray questioned how the fines are determined. Rupert Borgsmiller explained that the assessments themselves are

based upon the amount of days late that the reports were filed. This is set by rule and staff has no authority to change the calculation. However, these committees will be given an opportunity to appeal the assessment which could be set aside or reduced according to the hearing officer or the Board. The motion was then called and passed by roll call vote of 7-0-1 which Member Murray voting present. Following the vote on the motion, discussion ensued on the notification of the committees of their late filings. Mr. Borgsmiller indicated every attempt possible is made to get the notices to the committees.

The General Counsel presented two campaign disclosure complaints following public hearing that were issued for failure to file timely reports. No one was present for either complaint. The hearing officer recommended, and the General counsel concurred, that the complaints be found filed on justifiable grounds but as the reports have since been filed, appropriate penalties be assessed. Member Smart moved to adopt the recommendation of the hearing officer and General Counsel. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented one remaining complaint following closed preliminary hearing. Ms. Burke indicated the complaint was issued as allegedly there was an incomplete final report filed. Ms. Burked concurred with the hearing officers' recommendation that the Board issue an order commanding respondents to file the necessary corrections, that being the respondent did file a final report on September 21, 2001, however that report did not contain a complete listing of contributions and expenditures. Vice Chairman Smart moved to approve the recommendations. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a status report on *Donahue v. Moreno*, 02CD70 and reviewed the recent activities regarding the audit. Rupert Borgsmiller indicated that Mr. Moreno is anxious to proceed with the audit. However, the audit firm that was chosen (Pandolfi, Topolski & Weiss) has not actually engaged this audit yet and has not been timely in contacting the parties. Discussion ensued on different options that might be taken to proceed with this audit. Member O'Connor then moved to reconsider the motion that adopted the present order on 02CD70 and this be placed on the September agenda for further consideration. Member McGuffage seconded the motion which passed unanimously.

The General Counsel presented a final report on *SBE v. Committee to Elect Eileen Marie Geary*, 01CD31 and reviewed the background of the complaint. Ms. Burke indicated that Ms. Geary was prohibited from handling the financial affairs of her committee when she was a judicial candidate. There are many inconsistencies in the reports which were eventually filed by her treasurer. The recommendation of the hearing officer and General Counsel was that no further action is necessary as the reports were filed but since they were not filed in a timely manner, the appropriate civil penalty be assessed, which of course the committee could appeal. Member O'Connor moved to adopt the recommendation of the hearing officer and General Counsel. Member Roupas seconded the motion which passed by roll call vote of 7-1 with Member Murray voting in the negative. Member Murray had questioned why Ms. Geary was allowed to be reimbursed for a \$1,000 loan made to the committee prior to being assessed the fine.

At this time, discussion returned to SB 428. Cris Cray reviewed the discussions she had with the Governor's office and the Bureau of the Budget as she indicated the need for this bill to be signed by the Governor. Mr. White indicated that the Governor's office is considering an amendatory veto of the bill. If this happens, several issues would have to be promulgated by rule. Chairman Keith then indicated if the Governor does end up vetoing the bill, staff should prepare rules to implement HAVA and have these available for consideration at the September meeting.

Member Murray discussed the use of the Executive Director's state car and the position of the Governor on state cars. Chairman Keith asked that a report be prepared on the specifics of the state car, and this be placed on the September agenda.

Member Roupas moved to recess to executive session to discuss the following campaign disclosure complaints following closed preliminary hearing: 1) *SBE v. Committee to Elect John Baricevic*, 03CD26, and 2) *SBE v. Committee to Elect Rex Piper*, 03CD27. Vice Chairman Smart seconded the motion which passed unanimously. The meeting recessed at 1:17 p.m. and reconvened at 1:25 p.m.

Upon reconvening, Member Porter moved to adopt the recommendation of the hearing officer and General Counsel to find the complaints (03CD26 and 27) were filed on justifiable grounds and no

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

Member Roupas then moved to recess to executive session to discuss pending litigation and personnel matters. Member Rednour seconded the motion which passed unanimously. Meeting recessed at 1:27 p.m. and reconvened at 2:08 p.m.

Upon reconvening, Member Roupas moved to direct the General Counsel to proceed with the Champaign County issue as discussed in executive session. Member Porter 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, September 15, 2003 at 11 a.m. in Springfield.

With there being no further discussion, Member Roupas moved to adjourn. Member Porter seconded the motion which passed unanimously. The meeting adjourned at 2:10 p.m.

Respectfully submitted,

Rebecca L. Glazier
Assistant to Executive Director

Daniel W. White
Executive Director