STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

- AMENDED -

AGENDA
STATE BOARD OF ELECTIONS
BOARD MEETING

Friday, August 29, 2008
James R. Thompson Center – Room 9-040
Chicago, Illinois
10:30 a.m.

Call State Board of Elections to order.

Recess State Board of Elections and convene as the State Officers Electoral Board (agenda & material sent under separate cover).

Recess State Officers Electoral Board and reconvene as the State Board of Elections.

1.   Approval of the minutes from the July 8 special meeting and the July 21 regular meeting. (pgs.1-8)

2.   Report of the Executive Director
    a.   Preparations for the November 4, 2008 General Election;
        1)   Certification of the November General Election ballot; (pg.9)
        2)   Election judge training schools – informational; (pgs.10-11)
        3)   EAC Election Data Collection Grant program update; (pgs.12-13)
        4)   Voting Systems/Premier Update;
    b.   Consideration of request for voter registration in VA facilities; (pgs.14-19)
    c.   Consideration of Sequoia Edge2Plus Model 300 hardware modification; (pgs.20-25)
    d.   Legislative update; (pg.26)
    e.   Fiscal status reports;
        1)   FY08 – month ending July 31 – informational; (pgs.27-34)
        2)   Help Illinois Vote Fund; (pgs.35-40)
    f.   Two year plan of staff activity for the months of August and September – informational. (pgs.41-45)

3.   Report of the General Counsel
    a.   Campaign Disclosure;
        Appeals of campaign disclosure fines – carryover from June
        1)   *SBE v. Citizens to Elect Brenda L. Thompson,* L13794, 07AE050; (pgs.46-51)
        Appeals of campaign disclosure fines – hearing officer recommendation appeals be denied
        2)   *SBE v. Citizens for Donald India,* L14105, 08DS270; (pgs.52-54)
        3)   *SBE v. Citizens for Mariyana Spyropoulos,* L14382, 08AG003; (pgs.55-58)

        4)   *SBE v. Committee to Elect LaVetta Williams Judge,* <u>S9439</u>, 08DS273;
              (pgs.59-69)

<u>Other campaign disclosure items</u>

        5)   Potential ballot forfeiture for 2008 – informational; (pgs.70-71)

        6)   Payment of civil penalties – informational; (pg.72)

<u>Complaints following closed hearing (separate packet)</u>

        7)   *SBE v. Committee to Elect Rex Bradfield,* 08CD026 – appeal of penalty –
              carryover from July; (pgs.1-16)

        8)   *SBE v. Friends of Alderman Madeline Haithcock,* 08CD036; (pgs.17-117)

        9)   *SBE v. Citizens for David Webb,* 08CD007; (pgs.118-126)

        10)   *SBE v. Friends to Elect David Webb Jr.,* 08CD010; (pgs.127-135)

  b.   Proposed rule – Voting System Approval Application Fee Structure; (pg.73-74)

4.   Other business. (pg.75)

5.   Comments from the Chairman and Vice Chairman. (pg.75)

6.   Comments from the general public. (pg.75)

7.   <u>A special Board videoconference meeting is scheduled for Friday, September 5, 2008 at 10:00 a.m. in Springfield and Chicago</u> and the next regular monthly Board meeting is Monday, September 15, 2008 at 10:30 a.m. in Springfield. (pg.75)

8.   Executive Session. (pgs.76-126)

Ohio Voting Machines Contained Programming Error That Dropped Votes

By Mary Pat Flaherty

A voting system used in 34 states contains a critical programming error that can cause votes to be dropped while being electronically transferred from memory cards to a central tallying point, the manufacturer acknowledges.

The problem was identified after complaints from Ohio elections officials following the March primary there, but the logic error that is the root of the problem has been part of the software for 10 years, said Chris Riggall, a spokesman for Premier Election Solutions, formerly known as Diebold.

The flawed software is on both touch screen and optical scan voting machines made by Premier and the problem with vote counts is most likely to affect larger jurisdictions that feed many memory cards to a central counting database rapidly.

Riggall said he was "confident" that elections officials through the years would have realized votes had been dropped when they crosschecked their tallies to certify final elections results and would have reloaded cards so as not to lose votes. Ohio Secretary of State Jennifer Brunner has said no Ohio votes were lost because the nine Ohio counties that found the problem caught it before primary results were finalized.

As recently as May, Premier said the problem was not of its making but stemmed from anti-virus software that Ohio had installed on its machines. It also briefly said the mistakes could have come from human mistakes. Further testing by Ohio elections officials and then high volume tests by Premier uncovered the programming error.

"We are indeed distressed that our previous analysis of this issue was in error," Premier President Dave Byrd wrote Tuesday in a letter that was hand-delivered to Brunner. Premier and Brunner are in an ongoing court battle over the voting machines and whether Premier violated its contract with the state and warranties. Half of the Ohio's 88 counties use the GEMS system. Brunner has been a vocal critic of electronic voting machines,

Both Brunner and Premier said that remedies to the problem will be in place for the November presidential election. A nationwide customer alert with recommended actions was issued Tuesday by Premier. Approximately 1,750 jurisdictions use the flawed system, Riggall said. Both Maryland and Virginia use it, he said, although Virginia does not relay its votes to a central counting point, which is where the problem surfaces, Riggall said. Maryland does use a central count, he said. The District of Columbia does not use the GEMS system.

The problem is most likely to affect larger jurisdictions that upload multiple memory cards during counts, Riggall said. The GEMS system is supposed to save information from one card at a time to be counted in order as the cards are read by a database that Riggall described as the "mother ship." But a logic error in the program can cause incoming votes to essentially shove aside other votes that are waiting in the electronic line before they are counted. The mistake occurs in milliseconds,

Premier's customer notice says.

The mistake is not immediately apparent, Riggall said, and would have to be caught when elections officials went to match how many memory cards they fed into a central database against how many show as being read by that database. Each card carries a unique marker.

Officials in Butler County, Ohio -- north of Cincinnati -- were the first to raise the issue when 150 votes from a card dropped in March. Brunner's office originally said that 11 counties had the same problem but has since revised that to nine. Her office was not able to say how many dropped votes were discovered in those jurisdictions.

"I can't provide odds on whether dropped votes were not recognized" during the decade GEMS has been used, Rigall said, "but based on what we know about how our customers run their elections and reconcile counts we believe any results not uploaded on election night would have been caught when elections were being certified."

In his letter to Ohio's Brunner, Premier's president said, "Voters in jurisdictions Premier serves, both in Ohio and throughout the country, can be assured that election officials employing standard canvass and crosscheck procedures will count their votes completely and accurately."

Unlike other software, the problem acknowledged by Premier cannot be fixed by sending out a coding fix to its customers because of federal rules for certifying election systems, Rigall said. Changes to systems must go through the Election Assistance Commission, he said, and take two years on average for certification and approval -- and that is apart from whatever approvals and reviews would be needed by each elections board throughout the country.

Brunner said she appreciated "the forthrightness" of Byrd in his letter to her and commended Butler County officials "who went above and beyond the call of duty" to pursue the problem.

"As far as I know, we have not seen that problem," with dropped votes, said Ross Goldstein, deputy administrator for Maryland's State Board of Elections. Maryland counties do upload results to a central system -- which is what generates county vote totals on election night -- but state procedures call for counties to reload every memory card the day after the election to doublecheck results, Goldstein said.

The safeguards that Premier calls for its in customer alert, he said, already are in place in Maryland.