

STATE BOARD OF ELECTIONS
Regular Meeting
Monday, September 17, 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
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened at 10:40 a.m. via videoconference with all Members present. Chairman McGuffage, Vice Chairman Smart and Members Byers, Coffrin, Gowen and Scholz were present in Springfield and Members Rice and Schneider were present in Chicago.

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

Vice Chairman Smart moved to approve the minutes from the August 24 meeting as presented. Member Byers seconded the motion which passed unanimously.

Chairman McGuffage moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Scholz seconded the motion which passed unanimously. The meeting recessed at 10:42 a.m. and reconvened at 10:48 a.m.

The Executive Director presented a Resolution in honor of James Lewis who recently retired from the East St. Louis Board of Elections Commissioners. Since Mr. Lewis was not present to accept the resolution it was agreed that Member Byers would hand deliver it to him. Chairman McGuffage commended Mr. Lewis for all of his accomplishments and, for the record, asked Member Byers to read the resolution. Member Byers moved to accept the Resolution. Chairman McGuffage seconded the motion which passed unanimously.

The General Counsel discussed a candidate withdrawal and appointment of Green Party nominee for U.S. Vice President and said the withdrawal was received on September 10 and the resolution to fill the vacancy was received on September 13, well after the date of certification. He noted that the actual vacancy occurred prior to certification and the law states that must be filled prior to certification as well. Pursuant to the procedure the Board approved at its last meeting, staff contacted the affected election jurisdictions and those who responded indicated it would cause an undue hardship to amend the certification at this late date because printing, proofing and preparations for absentee ballots for military and overseas voters had already begun. The General Counsel recommended taking no action on the candidate withdrawal and no action on the resolution to fill the vacancy in nomination. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented motions for settlement offers for Agenda items 3.a.0-1: 0) *SBE v. Jackson County Democratic Central Committee*, 303, 12MA076; and 1) *SBE v. District 23 Teachers Assn. IPACE*, 6597, 12MQ036 and reviewed the matters. No one was present for the respondent committees. The General Counsel recommended the motions be granted and accept the 50% settlement offers from both committees. 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.

The General Counsel presented the following appeals of campaign disclosure fines and concurred with the hearing officer recommendation to grant the appeals for Agenda items 3.a.2-8 and 10-19:

- 2) *SBE v. Coalition for Better Government*, 64, 12AM001;
- 3) *SBE v. Monroe County Democratic Central Committee*, 1162, 12AM007;
- 4) *SBE v. Friends of Patrick Nichting*, 12729, 12MQ067;
- 5) *SBE v. Committee to Elect Michael D. Burke State's Attorney*, 17849, 12MQ118;
- 6) *SBE v. Friends of Jennifer Gomric Minton*, 17850, 12MQ119;
- 7) *SBE v. Citizens for Aaron Del Mar*, 21544, 12DQ134;
- 8) *SBE v. Friends of Elgie Sims*, 22210, 12AM025;
- 10) *SBE v. Joy Cunningham for Justice*, 23691, 12AM038;
- 11) *SBE v. Citizens to Elect Karen Lynn O'Malley*, 23846, 12AM050;
- 12) *SBE v. Friends of Paul Pavlus*, 23874, 12MQ247;
- 13) *SBE v. Northwest Suburban Teachers Union Local 1211*, 23915, 12AM056;
- 14) *SBE v. Daniel Biss for State Senate*, 23971, 12MA065;
- 15) *SBE v. Illinois for Sidmore*, 23972, 12MQ255;
- 16) *SBE v. Neil Anderson for IL 72nd District*, 23973, 12AM058;
- 17) *SBE v. Citizens for Beatriz Santiago*, 23990, 12AD069;
- 18) *SBE v. Wallace for Illinois*, 23991, 12AM061;
- 19) *SBE v. Citizens to Elect Deborah Riley*, 24332, 12MA073.

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

The General Counsel presented Agenda item 3.a.9, *SBE v. Committee to Elect Mel Thillens*, 23224, 12MA057 and indicated he did not concur with the recommendation of the hearing officer to outright grant the appeal. He noted that the committee filed a final report twenty months after the creation date but did not file the required reports during that time. Therefore, The General Counsel recommended the appeal be denied and the penalty imposed, however, since a final report was filed the fine will be abated after two years if they do not file a successor committee during that timeframe. Member Scholz moved to accept the recommendation of the General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.36, *SBE v. Citizens for Donald E. Puchalski*, 19240, 12MQ131 and it was agreed to pull the matter from the Agenda.

The General Counsel presented the following appeals of campaign disclosure fines where the hearing officer recommended the appeals be denied for Agenda items 3.a.20, 40 & 53: 20) *SBE v. Brown County Democrat Central Committee*, 385, 12MQ009; 40) *SBE v. Citizens for Mayor Gaulrapp*, 21340, 12MQ173; and 53) *SBE v. Friends of Chris Benson*, 23896, 12AM054. The General Counsel did not concur with the hearing officer and recommended the appeals be granted

based on the application of the electronic filing defense. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above noted appeals. Member Byers 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 3.a. 23-31, 33-35, 38, 39, 41-46, 48, 49, 51, 52 and 54-56:

- 23) *SBE v. Chicago Cosmetologists Assn.*, 7365, 12MQ041;
- 24) *SBE v. Conservation Police Lodge #146 FOP*, 7370, 12MQ042;
- 25) *SBE v. Kankakee Township Republicans*, 11296, 12MQ054;
- 26) *SBE v. Geneva Township Democrats*, 13328, 12MQ071;
- 27) *SBE v. Citizens for Dan Patlak*, 13999, 12AM014;
- 28) *SBE v. Mechanical Industry PAC*, 14080, 12MQ078;
- 29) *SBE v. Growing Communities Helping Students*, 14150, 12MQ079;
- 30) *SBE v. Education First Committee*, 14648, 12MQ085;
- 31) *SBE v. Advance 300*, 15501, 12MQ092;
- 33) *SBE v. Friends to Elect Sam LaBarbera*, 16842, 12MQ106;
- 34) *SBE v. Citizens for Patricia Gira*, 17447, 12MQ115;
- 35) *SBE v. Geneva Democratic Club*, 18020, 12MQ121;
- 38) *SBE v. Friends of Brendan Appel*, 20737, 12MQ158;
- 39) *SBE v. Citizens for Roads*, 21020, 12AM023;
- 41) *SBE v. Friends of Weeks*, 21652, 12MQ184;
- 42) *SBE v. Citizens for Sarah Gallagher Chami*, 22320, 12MQ201;
- 43) *SBE v. Friends for Beverly Ann Mull*, 22326, 12MQ202;
- 44) *SBE v. Citizens for Carole Cheney*, 22683, 12AM030;
- 45) *SBE v. Citizens for Foster*, 22935, 12MA054;
- 46) *SBE v. Friends of Wendell Mosby*, 22944, 12DQ219;
- 48) *SBE v. Donna Leoni Peluso and Jay Reyes for Triton College*, 23477, 11AJ132;
- 49) *SBE v. Friends of Billy Earl*, 23527, 11SQ264;
- 51) *SBE v. Citizens to Elect Terry Gallagher, also known as John T. Gallagher*, 23880, 12AM053;
- 52) *SBE v. Friends of Naomi Davis*, 23892, 12DQ223;
- 54) *SBE v. African Political Action Committee*, 24083, 12MQ255;
- 55) *SBE v. Friends of Tim Whelan*, 24102, 12AM070;
- 56) *SBE v. Monroe County Young Democrats*, 24157, 12MQ267;

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

The General Counsel presented Agenda item 3.a.21, *SBE v. SWIC Faculty Union Political Action Committee*, 5500, 12MA041 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. Donald Bevirt was present on behalf of the committee and said he attempted to catch up on the required filings after the previous treasurer left but found that the IDIS filing software was not compatible with his Macintosh computer and then asked for a 50% reduction of the penalty. After discussion, Vice Chairman Smart moved to grant the appeal based on application of the electronic filing defense. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.22, *SBE v. Illinois Assn. of Mortgage Brokers PAC*, 7305, 12DQ208 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. Rob Perry was present on behalf of the committee and said a pipe had burst in his office resulting in over six inches of standing water which destroyed computer equipment and most of the paper records. He indicated the committee intended to dissolve and the approximate balance in the fund was \$800. Vice Chairman Smart moved to accept the recommendation of the General Counsel to deny the appeal and order the committee to pay the fine with any funds available at the time of the filing of the final report. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.32, *SBE v. Roger Mulch for Sheriff*, 16189, 12AD069 and concurred with the hearing officer recommendation to deny the appeal. Roger Mulch was present on behalf of the committee and said at the time of the filing he and his wife had very hectic work schedules and also had issues with internet access because they live in a very rural area. He stated that his record had always been exemplary and this was his first violation in eleven plus years. Chairman McGuffage moved to grant the appeal based on the application of the electronic filing defense. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.37, *SBE v. Friends of Trevor Clatfelter*, 20425, 12MQ148 and concurred with the hearing officer recommendation to deny the appeal. Trevor Clatfelter was present on behalf of the committee and said at the time of the filing he had a very hectic travel schedule between his full time job and also as Mayor of Sherman. He also noted that the IDIS software is not compatible with his Macintosh computer and asked if the fine could be stayed. Vice Chairman Smart moved to grant the appeal based on the application of the electronic filing defense. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.47, *SBE v. New Progress Party*, 23190, 11SQ183 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. Francine Anderson was present on behalf of the committee and said she filed a final report and the funds balance is zero. She also noted that the committee intends to remain dissolved. Member Scholz moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.50, *SBE v. Friends to Elect James A. Wright*, 23843, 12AM049 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. James Wright was present on behalf of the committee and indicated there were very little funds in the account and asked for a reduction in the fine. Vice Chairman Smart moved to accept the recommendation of the General Counsel and reduce the fine by 50%. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals of campaign disclosure fines and he concurred with the hearing officer recommendation to grant in part and deny in part for Agenda items 3.a.57-59: 57) *SBE v. United for Rudy Lozano, Jr.*, 21656, 12MA048; 58) *SBE v. Citizens in Support of West Northfield School Dist. 31 Tax Referendum*, 24113, 12AM072; and 59) *SBE v. Committee to Elect Cathy Cawiezel*, 24131, 12MA069. No one was present for any of the committees. The General Counsel noted that the fine for Agenda item 3.a.57 should be \$492. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer for the above noted appeals. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals of contribution limit fines and he concurred with the hearing officer recommendation to grant the appeals for Agenda items 3.a.60-64: 60) *SBE v. Friends for Eugene Williams*, 19769, 12MQCL005; 61) *SBE v. Friends for Proco Joe Moreno*, 20809, 12MQCL007; 62) *SBE v. Jessica O'Brien for Judge*, 22487, 12MQCL010; 63) *SBE v. Joy Cunningham for Justice*, 23691, 12MQCL014; and 64) *SBE v. Citizens for Chester Slaughter*, 24279, 12MQCL018. Dennis Gianopolus was present on behalf of the committee for Agenda item 3.a.60 and Rich Means present on behalf of the committee for Agenda item 3.a.63 and both concurred with the recommendations. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer in the above noted appeals. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

A listing of civil penalty assessments necessitating a final board order was presented. Member Coffrin moved to issue final board orders for those committees listed on page 296 of the Board packet. Vice Chairman Smart seconded the motion which passed unanimously.

A listing of civil penalty payments was presented for informational purposes.

The General Counsel presented a proposed rule amending campaign disclosure rules and regulations and reviewed the changes which were underlined on pages 298-334 of the Board packet. The Executive Director asked the Board for authorization to make minor changes to the rule as needed prior to submittal to JCAR. Chairman McGuffage moved to approve the proposed rule and authorize staff to make minor changes prior to submittal to JCAR. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Ms. Francine Anderson, who was present on behalf of the committee for *SBE v. New Progress Party*, 23190, 11SQ183, asked to speak again and indicated there was an individual that might run for office in 2013 and inquired how it would affect the abated fine for that committee. After discussion, Member Scholz moved to suspend the Board order and place the matter on the October Agenda for consideration. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

After a short break, the Executive Director began his report with preparations for the November 6, 2012 General Elections. Cris Cray reported on the Federal Consent Decree and said that the 55 day reports were due today and the clerks were doing a great job getting those submitted. The 45 day report will be sent to the election authorities tomorrow and all military ballots are required to be sent out by Saturday. The Executive Director indicated that the counties of Boone, Effingham, Jasper, JoDaviess, Macoupin and Stephenson have been selected for voting system pre-testing and those will be conducted by Dianne Felts and her staff prior to the election. A listing of election judge training schools was presented for informational purposes. It was noted that this is a very good program and staff will continue conducting the training sessions.

Ms. Felts gave a report on the testing of Dominion's ImageCast In-Precinct and the ImageCast Central Count voting system which would be used in conjunction with systems used by Cook County and Chicago Board of Election Commissioners. Ms. Felts explained that this was a new voting system and for any new system or modification to a current system she asks for a two year interim approval. Staff and temporary workers hired by the vendor ran approximately 300,000 ballots through the system using a mock General, General Primary and Consolidated Election and after adjusting a few ballot and equipment settings the counts were error free in the end. Ms. Felts noted that she does recommend two year interim approval with the restrictions outlined in her memo on pages 343-345 of the Board packet. Vice Chairman Smart moved to accept Ms. Felts's

recommendation to grant two year interim approval. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The Executive Director reported on the Advisory Committee meeting that was held before the Board meeting and topics discussed included Green Party certification, an eCanvass update, military and overseas voters, legislation, MOVE Act and a statewide database update. Two pieces of legislation were introduced dealing with the December 24 filing date for the Consolidated Election; one suggesting providing for filing and objection dates that would occur before the Christmas holiday; and the other declaring December 24 a state holiday for Election Code purposes only. The next meeting of the Advisory Committee is scheduled for January 22, 2013.

Cris Cray gave a legislative update and discussed the need for a supplemental appropriation during the fall veto session for additional funding for election day judges, county clerk stipends and the statewide voter registration system. She noted that her memo on page 348 of the Board packet outlined the exact figures and asked for Board approval to request the supplemental appropriation. Member Coffrin moved to authorize the supplemental appropriation including the amounts recommended by Ms. Cray. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Next was a report on the Campaign Finance Reform Task Force Meeting that was held on September 13th in the Chicago and Springfield offices. The primary reason for the meeting was that the task force had to deliver to the Legislative leaders and Governor, a report dealing with contribution limits. The recommendation was to let both 9-8.5(c)(5) and (c)(10) sunset which dealt with political party committee nonparticipation. Since the committee found this to be unnecessary and in some cases confusing they voted 7-1 to allow those issues to sunset. The committee also discussed the election cycle for candidates in consolidated elections as opposed to general elections. The next meeting of the Task Force is scheduled for November 15, 2012.

Kyle Thomas gave a brief IVRS update and indicated the duplicate matches are at a record low because the jurisdictions continue to clean up the system. As to the number of registered voters versus census data, he noted that Pulaski County is still above 100% because they are still in the process of conducting their voter purge. Once the election is completed and registration opens those numbers should decrease.

The Executive Director proposed moving the December Board meeting date from the 7th to the 18th because he felt the entire canvass would be ready for certification at the special meeting on December 2. He also noted that the January meeting should be on the 22nd instead of the 15th. It was agreed by all to approve those changes.

The fiscal status reports were presented and the Executive Director noted that \$1.3 million from FY12 will be returned to the State Treasurer and that the Agency did an excellent job monitoring expenses throughout the fiscal year. He noted that FY13 expenses are being closely monitored and they are on target at this time.

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

The Board unanimously approved Chairman McGuffage's motion to recess to executive session. The meeting recessed at 1:20 p.m. and reconvened at 1:25 p.m.

With there being no further business before the Board Vice Chairman Smart moved to adjourn until Tuesday, October 16, 2012 at 10:30 a.m. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 1:30 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director