

## STATE BOARD OF ELECTIONS

October 19, 2010

### MINUTES

**PRESENT:**

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

**ALSO PRESENT:**

Daniel W. White, Executive Director  
Steve Sandvoss, General Counsel  
Rupert Borgsmiller, Assistant Executive Director  
Darlene Gervase, Administrative Assistant II

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Chairman Schneider called the meeting to order at 10:30 a.m. and led everyone in the Pledge of Allegiance to the flag. All Members were physically present in Chicago with the exception of Member Walters who was connected via telephonic conference at 11:20 a.m. Member Smart held Member Walter's proxy.

The first order of business, approval of the minutes from the September 20<sup>th</sup> meeting, was called by the Chairman. Executive Director Daniel White advised the Board of changes Mr. Keith suggested. Mr. Smart moved and Vice Chairman Rednour seconded the motion to adopt the minutes as revised. The Motion passed unanimously by 8 ayes in unison.

With the general election two weeks away, the Executive Director's report addressed the election, SBE preparations and other election related issues.

The first item, consideration of the withdrawal of the Honorable Raymond J. McKoski, Circuit Court Judge of the Nineteenth Judicial Circuit in Lake County, was presented to the Board. Mr. White said that the Lake County Clerk requested the Board not issue an amended certification as early voting was well along and printing new ballots would require retesting of ballots as well as voting tabulation files, and setting up new voting equipment. A ballot change this late date would likely impact the opportunity for some voters to vote early. No action was taken by the Board.

Director White summarized the Election Day assignments indicating that the Springfield office would be open from 5:00 a.m. to 1:00 a.m. and Chicago from 6:00 a.m. to 11:00 p.m. He said that two requests for assistance were requested and we will have a presence in East St. Louis and Alexander County. He and added that staff meetings to review election law and other relevant items would be held.

Another preparation for the election is scheduled for October 20<sup>th</sup> when Mr. White will meet with representatives of the U.S. Department of Justice, Attorney General, Cook County State's Attorney, Cook County Clerk and Chicago Election Board to exchange useful information, discuss relevant election topics, and exchange telephone contact information.

As part of the SBE Voter Awareness Program, Mr. White presented a list of press releases for the November General Election and added that this program provides voters with information to

fulfill HAVA goals to provide election information and increase voter participation. He provided dates for early voting and grace period registrations as well as the number of precincts and voter registration totals. He added that he expects a much lower turnout than the 2008 presidential election. Member McGuffage shared his concerns about anti-vote fraud teams of lawyers going out to various precincts in Chicago and Cook County. Mr. White responded that he would address that topic at his October 20<sup>th</sup> pre election meeting.

The Executive Director asked Kyle Thomas, Director of Illinois' Voter Registration Services, to comment about the Interstate Voter Registration Crosscheck program and provide costs of implementation, review the program and its impact in other states. He added that the General Counsel reviewed the document and finds nothing to stand in the way of joining. Mr. Thomas indicated that there is a \$31,000 one time cost to put the program in place and it would cover 13 states. However, if we had the time and resources, and wished to duplicate this, it would cost us at least \$31,000 per state. Member McGuffage agreed that it is a good idea and well worth the investment. Member Porter had concerns about reaching out to other states without the approval of the Attorney General. After further discussion, Mr. McGuffage moved to approve a "Memorandum of Understanding" with the caveat of a 90 day "opt out" clause, and for the General Counsel to seek counsel with the Attorney General's office as he sees necessary. Mr. Smart seconded the motion which passed unanimously by roll call vote.

Mr. Thomas continued with an update of the agency's implementation of the Military and Overseas Voter Empowerment Act (MOVE). He commented that requested are still coming in and the 1500 military and oversea requests for absentee ballots exceeded his expectations. In response to a question, he indicated that if this program was open to all voters he expected 2-3 million voters to participate and that additional software adjustments would have to be made by our current software contractor. However, opening it up to everyone is more than what was contracted and would have to be opened up for competitive bid. He added that the \$390,000 initial implementation was paid fully by HAVA funds as well as funding for Cheryl Hobson's position. Mr. White will address the possibility of indirect costs recoupment with Sequoia.

Continuing with the pre election preparations, Director White advised the Board of pre tests in Fayette, Ford, Iroquois, Mercer and Stark counties. Member Brady asked Dianne Felts, Director of Voting Systems and Standards about the misspelling in Chicago of a candidate's name. She indicated that the glitch was a typo in shortening the candidate's name and space was an issue. However, the Chicago Board will be re-testing it. Ms. Felts was asked to report back to the Board if more information becomes available.

Mr. White concluded his pre election report by summarizing the election judges training of 5,000 judges across the state.

One of the items we are preparing for in the fall veto session is a supplemental to fulfill our original request for judges of election reimbursement which has been cut 50%. Director White summarized a trailer bill to clarify Senate Bill 3012. Some sections of the Election Code were overlooked, while others needed further clarification. A supplemental bill to fulfill the judges of election reimbursements for the February and April elections will be introduced in the veto session. Cristina Cray, Director, Legislative Liaison, added that most of the changes are for clarification and consistency.

Kyle Thomas was asked to offer an update on the IVRS system. He said that statewide duplications continue to decline and are at an all time low, but he expects it to rise slightly after the election as new registrations are added.

Mr. White and General Counsel Sandvoss review Executive Session Minutes every six months as required by the Open Meeting Act. After review of the minutes from April 14 through August 20, 2010, they concluded that the necessity of confidentiality no longer exists. Mr. Smart moved to approve the minutes of the executive session from April 14 through August 20, 2010

being made available for public review. Mr. McGuffage seconded the motion which passed 8-0 by roll call vote.

For informational purposes, Mr. White included the Board approved lump sum appropriation chart. The county clerks' stipend was discussed among the Board Members. Without any objection, The Chairman directed staff to consider Mr. Keith's proposal to pay five-twelfths of the full stipend to the clerks serving to the end of their current term and making no distribution after December 1<sup>st</sup>, pending future fiscal increases to the stipend. Further to notify the clerks that this matter will be on the November agenda.

The fiscal status reports and two-year plan of activity were presented for informational purposes.

General Counsel Sandvoss began his report with appeals of campaign disclosure fines where the hearing officer recommends granting the appeals and he concurred. Mr. Smart moved to grant the appeals as recommended by the hearing officer and General Counsel on items 3(a) 1,2,3,4, and 5. Vice Chairman Rednour seconded the motion which passed unanimously by roll call vote. Appeals are granted in *SBE v. 18<sup>th</sup> Congressional District COPE Committee*, 6637, 10JS031; *SBE v. Friends for Al McCowan (FFAM-PAC)*, 18123, 10JS076; *SBE v. Citizens for Brant Walker*, 21751, 10JS135; *SBE v. Friends of Larry Toppert*, 22252, 10JS157; and *SBE v. Friends of Robyn Gabel*, 22260, 10JS160.

Appeals wherein the hearing officer recommended the appeal be denied were considered. Mr. Sandvoss with all except 2 recommendations. Member Smart moved to deny the appeals according to the recommendations of the hearing officer and general counsel in *SBE v. Putnam County Democratic Central Committee*, 253, 10JS003; *SBE v. Illinois Democratic women*, 601, 10JS010; *SBE v. White County Republican Central committee*, 5564, 10JS26; *SBE v. Citizens for Patrick Needham*, 14535, 10JS050; *SBE v. Citizens for Nicholas Milissis*, 18447, 10JS080; *SBE v. Citizens for Theodor Potkonjak*, 19534, 10JS084; *SBE v. Friends of Jim Moody*, 22175, 10JS152; *SBE v. Friends of Leo Watkins*, 22184, 10MA020. Member Brady seconded the motion which passed 8-0 by roll call vote.

There being no objections, the Chairman called *SBE v. Carpenters Local 1539 Political Committee*, 10MA016. A total penalty of \$7,375 was assessed for failure to timely file the D-1 statement of organization and the June, 2009 semi-annual report. The hearing officer recommending denying the appeal and Mr. Sandvoss concurred. Chairman Schneider recognized Mr. James Sanfilippo, treasurer of the committee and Mr. Thomas Theis, a partner at Legacy Professionals, LLP, a CPA auditing accounting firm hired by the committee. Mr. Theis admitted the entire problem was his fault and that a fine of that size would wipe out the committee. He made a settlement offer of 50% and said that his firm will not be charging the committee for X amount of years. Member McGuffage moved in this matter to accept the offer of settlement on these violations of \$3,700 and payable within 30 days. Member Porter said that the committee was trying to do the right thing and hired someone to manage their finances and thought that some consideration should be given and seconded the motion. Roll call vote was deadlocked 4-4 with Members Brady, Keith, Smart and Walters voting in the negative. Mr. Keith changed his vote to yes and said that he is not sure the board has that authority, but a couple of months ago somebody didn't have to pay anything because he hired a lawyer who dropped the ball. Chairman Schneider urged the committee to stay informed of our requirements which are also on our Website and that he could call staff for assistance.

Returning to *SBE v. Friends of Stephen Daday*, 4608, 10JS023 and *SBE v. Committee for Change*, 22695, 10JS205, Mr. Sandvoss said that these committees did not have to file electronically, however they attempted to file electronically. Computer issues prevented their timely filing, yet they did file their reports subsequent to deadline, but in a very quick time. He recommended these appeals be granted as he believes these committees fall under the computer issues defense. Mr. Smart moved to accept the recommendation of the General Counsel. Member

Brady asked if these committees would be required to file electronically in the future and was advised that since they had not reached the \$10,000 threshold they may file on paper. Mr. Brady seconded the motion which passed unanimously by roll call vote.

The General Counsel asked the board to refer *SBE v. Friends of Todd Stroger for President of the Cook County Board of commissioners*, 10AP19 to the Attorney General's office to seek an order of compliance for failure to comply with a Board Order. Mr. Keith so moved and with Mr. Brady's second the motion passed 8-0.

Item 18 was moot as the committee paid their fine.

Mr. Sandvoss presented Assessments and Final Orders listed on pages 121 through 124 of the Board's packet. He added that the Committee to Elect Dan Kennison on page 122 had paid their fine and should be removed from this list. Member Smart moved to enter final orders based on these assessments and the committees not having appealed. Mrs. Rednour seconded the motion. For clarity of the record, it will be all the committees listed on pages 121, 122, 123 and 124 with the exception of the Committee to Elect Dan Kennison, committee 20605 based on the committee's payment of their assessment. The motion passed unanimously. Mr. Keith recused himself from Committee #22546 Friends of Chris Sherer, due to a professional relationship they had and voted aye on all the others.

Payment of Civil Penalties was presented for informational purposes.

The Chairman asked for a motion to proceed to Executive Session for purposes of matters following closed preliminary hearing, pending litigation, and personnel. Mr. McGuffage so moved and Mrs. Rednour seconded the motion which passed unanimously by 8 ayes in unison.

The Board recessed into Executive Session at 11:57 a.m.

The board returned to open session at 4:38 p.m. To confirm the presence of a quorum, roll call was taken and seven board members were present. Mr. Walters was absent and Mr. Smart held his proxy.

Mr. Keith moved to direct staff to inform the public via our Web site that any complaints under Article 9 filed after 5 p.m. on October 26, 2010 will not be heard until the regular November 23<sup>rd</sup> meeting of the Board. All matters filed before that time will be heard on an expedited basis at 2:00 p.m., October 29<sup>th</sup>. Mr. Brady seconded the motion which passed by 8 ayes in unison.

As to Item 21, *Perillo v. Friends of Circuit Judge Jorge Ortiz*, 10CD072, Mr. Keith move that it was not filed upon justifiable grounds and that no public hearing occur. Mrs. Rednour seconded the motion that passed unanimously by ayes in unison.

As to Item 22, *Blum v PFC People for Change*, 10CD73, Mr. Keith moved that the first four counts were filed upon justifiable grounds, but there is no need for a public hearing and fines as appropriate be assessed by staff, and that Count V was not filed on justifiable grounds as it relates to the PayPal issues. Mrs. Rednour seconded the motion which passed unanimously by ayes in unison.

As to Item 23, *Cverenka v. Friends of Patrick Maher*, 10CD76, Mr. Keith moved to find it was not filed upon justifiable grounds. Mrs. Rednour seconded the voter which passed unanimously by ayes in unison.

As to Item 24, *Johnson-Weinberger v. Dave Lenkowski for State Representative*, 10CD077, Mr. Keith moved to find that it was filed upon justifiable grounds, but no public hearing is required. Mrs. Rednour seconded the motion which passed unanimously by ayes in unison.

Mr. Keith moved to direct staff and General Counsel and drafting committee to address the issues raised in our conference with the Attorney General regarding pending litigation in the manner that was set forth during the Executive Session. Mrs. Rednour seconded the motion which passed unanimously by ayes in unison.

There being nothing further before the Board, Member Keith moved to adjourn the State Board of Elections to Friday, October 29<sup>th</sup> at 2:00 p.m. or the call of the Chair, whichever occurs first. Mrs. Rednour seconded and 8 ayes in unison adopted the motion to adjourn. The Board adjourned at 4:42 p.m.

DATED: November 3, 2010

Respectfully submitted,

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Daniel W. White, Executive Director

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Darlene Gervase, Administrative Assistant II