

STATE BOARD OF ELECTIONS
Regular Meeting
Monday, November 20, 2017

MINUTES

PRESENT: William J. Cadigan, Chairman
John R. Keith, Vice Chairman
Ian K. Linnabary, Member
William M. McGuffage, Member
Katherine S. O'Brien, Member
Charles W. Scholz, Member
Casandra B. Watson, Member

ABSENT: Andrew K. Carruthers, Member

ALSO PRESENT: Steven S. Sandvoss, Executive Director
Bernadette Matthews, Asst. Exec. Director
Kenneth R. Menzel, General Counsel
Amy L. Calvin, Administrative Assistant III

The meeting convened at 9:10 a.m. via videoconference with Chicago. Chairman Cadigan, Members Linnabary, McGuffage, O'Brien and Watson were present in Chicago. Vice Chairman Keith and Member Scholz were present in Springfield. Member Carruthers was absent and Member O'Brien held his proxy.

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

Member Scholz moved to approve the October 17 meeting minutes as presented. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Next on the Agenda was presentation of a staff service award. Jeremy Kirk presented the 20 year award to Mickey Reinders and thanked her for her service.

Executive Director Sandvoss indicated that a Public Hearing was required by Public Act 100-0464 to accept comments regarding the implementation of automatic voter registration. Proper public notice was given and written comments were due by Thursday, November 16th. Several written comments were received by the deadline and throughout the weekend, which were all accepted by staff. The following individuals were present in Springfield and provided their comments:

- 1) Steven Monroy, Legislative Staff Attorney with the Mexican-American Legal Defense Educational Fund;
- 2) Laura Bedolla, Policy Analyst with the U.S. Hispanic Leadership Institute;
- 3) Abraham Scarr, Director of Illinois PIRG and a member of the Just Democracy Illinois Steering Committee;
- 4) James Dixon, Faith Coalition for Common Good.

Chairman Cadigan indicated that four individuals were present in Chicago to offer their testimony and introduced Jay Young. Chairman Cadigan pointed out that the passage of the Automatic

Voter Registration bill was a bi-partisan success and thanked the PIRG organization for their work on the bill. The following individuals provided their public comments:

- 1) Jay Young, Political Director with Common Cause Illinois and member of the Just Democracy Illinois Steering Committee;
- 2) Andy Kang, Legal Director with Asian-American Advancing Justice;
- 3) Sharon Alter, League of Women Voters;
- 4) Bharathi Pillai, Attorney with American Civil Liberties Union of Illinois.

Executive Director Sandvoss noted that there are implementation deadlines of July 1, 2018 with operational ability with the Secretary of State's Office and July 1, 2019 with other affected state agencies. Furthermore, a supplemental appropriation bill will be considered by the General Assembly in January and an additional public hearing would be conducted after the March 20, 2018 General Primary Election.

Mr. Sandvoss presented a request for reconsideration of the revocation of approval of the GEMS Voting System and explained that the Administrative Rules provide that a Public Hearing be held to offer comments. Kyle Thomas explained that Dominion Voting Systems requested a final approval for the GEMS Voting System, Version 1.18.24 running on an interim approval of the AccuVote optical scan, Version 1.96.6E. Since no jurisdiction in Illinois used this version of AccuVote and, thus, demonstration of performance was unable to be reviewed by staff, the vendor request for final approval was denied. Because the interim approval has expired, the entire system is without approval for use in Illinois. At this point Mr. Thomas said a Public Hearing was scheduled to receive comments on the situation and requested a vote on the new interim approval at the end of the hearing.

Joseph Sobecki, Executive Director of the DuPage County Election Commission was present in Chicago and offered his comments in support of interim approval of the GEMS system. He indicated that his jurisdiction is one of fifty-seven throughout the state that use the GEMS System. He also noted that extension of the approval would allow the election authorities more time to install the E-chip upgrade if they choose or look into newer voting systems within that time of extension.

Kay Stimpson, Vice-President of Government Affairs with Dominion Voting Systems, also supported the interim approval and concurred with Mr. Sobecki's comments. She gave a history of their presence throughout the United States and Illinois and acknowledged several election authorities in attendance at the hearing. Ms. Stimpson mentioned that the past E-chip upgrade was implemented with Help America Vote Act funding, which has since expired. She thanked Mr. Thomas and the Board for their professional assistance on the matter and requested the extension of interim approval be granted.

Dr. Laura Chamberlain was also present in Chicago and offered her comments opposing the GEMS extension of interim approval. She felt the system had software and security issues relating to dropping votes and fractional voting. Dr. Chamberlain suggested the entire GEMS systems undergo vulnerability testing through Argonne National Laboratories. Mr. Thomas responded and said the system is also tested by SLI Global an EAC-accredited VSTL; and through their own testing, they found no issues and the system met all the requirements of the federal standards as well as the trusted build. He explained that the trusted build indicates that once the system has been locked down with that trusted build, the system cannot be changed for that election without altering the ballots and further programming. Ms. Stimpson added that the

election authorities have the utmost confidence in the system and wish to continue use under an interim approval. In response to an inquiry from Member Watson, Ms. Stimpson indicated she was not aware of any vote dropping instances in Illinois and would have to research further as to any reports of vote dropping or fractionalized voting occurring in other states. General Counsel Menzel noted that due to a consent decree, a school district in Illinois requires a system capable of fractional voting for their board elections. After discussion, Member Keith moved to grant a one year extension of interim approval of the GEMS system; require a report of its use at the 2018 Primary and General elections; and receive a written response from Dominion regarding Member Watson's inquiries by the end of 2017. Chairman Cadigan seconded the motion which passed by roll call vote of 8-0.

Next on the agenda was presentations & consideration of topics related to NVRA Voter List Maintenance, Interstate Crosscheck and ERIC. Chairman Cadigan noted that, at the request of the Board Members, there would be a vote at the conclusion of the presentations and discussion on the continued participation in the Interstate Voter Registration Crosscheck Program (Crosscheck). He also said that Member Linnabary has conducted some additional research on the matter and had a discussion with the individuals that operate Crosscheck. Member Linnabary indicated that he had discussions with staff and representatives from the Kansas Secretary of State's Office. The mandates of NVRA and HAVA require the SBE to ensure that voter registrations are accurate, updated regularly and reasonable efforts are taken to remove ineligible voters. According to statistics from the Pew Foundation, there are approximately 24 million voter registrations nationwide that are invalid and inflated voter rolls have consequences such as possible lawsuits, flawed data and financial impacts on the local election authorities. Member Linnabary participated in a meeting with Brian Caskey from the Kansas Secretary of State's office and reviewed the concerns raised regarding cybersecurity protocols currently in place. Mr. Caskey indicated that a meeting with all of the members of Crosscheck would take place within the next couple of weeks where security proposals would be presented for consideration. He said no data would be submitted to Crosscheck until the system overhaul is completed. Mr. Linnabary pointed out that participation in Crosscheck is currently free to its members, however, one of the proposals to be presented is a fee-based model which would provide funding for technology updates as they occur. He felt it would be best to defer action until the upgrades to the Crosscheck program are implemented and enhanced security protocols in place.

Chairman Cadigan noted that several Election Authorities were present in both Springfield and Chicago to comment on Crosscheck and asked them to come forward. Logan County Clerk Sally Turner was present and stated that Crosscheck was a very helpful tool for her jurisdiction and especially the border counties with surrounding states. She said it would be convenient if ERIC and Crosscheck would merge into one program but not sure of the financial implications. Sangamon County Clerk Don Gray was present and said proper validation and processing of registration changes is one of the most important responsibilities in his office. He said the Crosscheck program provides the last four digits of social security number which is the most helpful tool for analyzing the data and is the beginning step of the long process of investigation into the matches. Mr. Gray felt that removal from a program that has provided a long history of good experience would not be beneficial to the jurisdictions. Lance Gough, Executive Director and Adam Lasker, General Counsel of the Chicago Board of Election Commissioners were present in Chicago and offered their comments and felt ERIC was a better product. Mr. Gough was uncomfortable with the false positives generated by Crosscheck and the possibility of the data being distributed. Dr. Philip O'Connor, previous Political Director for Governor Thompson, former member of the State Board of Elections from 1996-2002, former Director of the Department of Insurance and past Chairman of the Illinois Commerce Commission was present in Chicago.

He urged the board to maintain its participation in both Crosscheck and ERIC while work continues on improvement of both systems. ERIC is not immune to cyberattacks especially because it contains driver's license numbers which is more attractive to identity thieves. Dr. O'Connor also noted that Crosscheck does not result in the automatic removal of voter registrations from the rolls. Donald Palmer, former Director of the Florida Elections Department and Virginia Department of Elections, past trial attorney with the voting section of the U.S. Department of Justice and Civil Rights (where he enforced federal voting laws and provided guidance) was also present. He discussed President Obama's Presidential Commission of Election Administration report that was filed in 2014. One of the findings was that an inordinate number of inaccurate and obsolete voter registrations were contained on the voter rolls throughout the country. Recommendations such as online voter registration, participation in interstate programs like Crosscheck and Eric were suggested to improve the accuracy of voter rolls. Mr. Palmer discussed his experience in Virginia and said participation in both programs was an invaluable resource. Chairman Cadigan thanked everyone for their comments and then discussion ensued amongst the board. Member Scholz moved to withdraw from the Interstate Voter Registration Crosscheck program. Member Watson seconded the motion which failed by roll call vote of 4-4.

The Executive Director presented the Unisyn OpenElect Voting System 2.0 modification and asked Kyle Thomas to review the system. Mr. Thomas explained this modification replaced the 1.3.3 version which the board approved in 2015. Version 2.0 added an instruction block and corrected the line spacing to accommodate the Format 4 ballot layout for school board races. He recommended a two-year interim approval of the system with minor configurations as suggested in the memo contained in the board packet. Member Linnabary moved to grant a two-year interim approval for the Unisyn OpenElect Version 2.0. Member O'Brien seconded the motion which passed by roll call vote of 8-0.

Cris Cray gave a legislative update and noted that a listing of all elections related legislation and the House and Senate calendars were included in the board packet. She reported that the fall veto session had ended and she was in the process of working with the sub-committee on the spring legislative items. The 2018 Spring Legislative Agenda will be presented to the board at the December 19 meeting for consideration.

Next on the agenda was the IVRS/IT update and Mr. Thomas reported that staff drafted the technical specifications for the AVR bill for the data exchange with the Secretary of State. Changes have begun for the auto updates portion which will be used for ERIC reports and passed to the election authorities through the statewide database. He then introduced Dustin Schultz as the newly appointed AVR Coordinator on behalf of the agency. Kevin Turner gave an IT update and said his division looks forward to working closely with Mr. Schultz. Updates were in progress to the Jet System which will allow voter data to be uploaded through web services. IT staff also assisted the Division of Election Operations with candidate filing preparations including the set-up of equipment and training on various programs. Mr. Turner noted that additional funding was also needed for the implantation of AVR and that a supplemental in the amount of \$300,000 was requested. An additional \$180,000 was included in the agency FY19 Appropriation Request which will be presented to the board at the December meeting.

The required six-month review of the executive session minutes was presented. The Executive Director reported that he and the General Counsel reviewed the minutes and determined the necessity of confidentiality does not exist as to the release of such minutes for the period of April 18, 2017 thru August 22, 2017. Member Linnabary moved to accept the

recommendation of the General Counsel and remove the need for confidentiality from the minutes noted above. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The student internship program, fiscal reports and two-year plan of staff activity for the months of November and December were presented for informational purposes.

Next on the agenda was the report of the General Counsel and Mr. Menzel informed the board that agenda item 2.a.2, *The Committee to Elect Michael Strange*, 32073, 17MQ132 would be placed on the December meeting agenda at the request of Mr. Strange.

Mr. Menzel presented a request for settlement offer for agenda item 2.a.1, *Marion County Republican Central Committee*, 280, 17AD006 and summarized the matter. He recommended the offer be denied because the \$1,000 offer was less than 50% of the fine and this was not a small dollar committee. If the committee would increase the offer by \$500 then it would be in compliance with the settlement policy level. Ben Stratemeyer was present and explained that it was a typo and a zero was accidentally left off of the amount of the in-kind donation. Once the error was discovered, the A-1 was immediately filed. The rural committee is made up of volunteers who try to their best to follow all of the guidelines. Member McGuffage moved to accept the settlement offer of \$1,000 to be paid by the end of the business day. Member Linnabary seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented the following appeals of campaign disclosure fines for agenda items 2.a.3-5: 3) *SBE v. Republican Women of Park Ridge*, 655, 17DQ008; 4) *SBE v. Citizens for Sara Feigenholtz*, 9783, 17AM057; and 5) *SBE v. Electrical Political Action Committee, Known as Electric PAC*, 33933, 17JQ177 and concurred with the hearing officer recommendation to grant the appeals. Member Scholz moved to grant the above noted appeals. Member Watson seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented the following appeals of campaign disclosure fines for agenda items 2.a.6-13 & 15 and concurred with the hearing officer recommendation to deny the appeals:

- 6) *SBE v. Cass County Democratic Central Committee*, 54, 17JQ001;
- 7) *SBE v. Friends of Cindy Svanda*, 11878, 17JQ020;
- 8) *SBE v. Citizens for Chris Nybo*, 18592, 16AD066;
- 9) *SBE v. Friends for John Scaletta*, 20288, 17JQ049;
- 10) *SBE v. Lake County Life PAC*, 22333, 17JQ058;
- 11) *SBE v. Friends of Clifton Howard*, 23258, 17JQ067;
- 12) *SBE v. Citizens for Maurice West II*, 28444, 17JQ109;
- 13) *SBE v. Laborers International Union of North America, Local 751PAC*, 31674, 17JQ116;
- 15) *SBE v. Vote Yes D200 Facilities Referendum Committee*, 32217, 17JQ125.

No one was present on behalf of the respondent committees. Member Linnabary moved to deny the above noted appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0. Member Linnabary recused himself from item 12, which passed by roll call vote of 7-0.

Agenda item 2.a.14, *SBE v. DOBO for DuPage County Board*, 32100, 17NF017 and the General Counsel concurred with the hearing officer recommended to deny the appeal and order the committee to amend its final report within thirty days to correct the balance issue. Member Linnabary moved to adopt the recommendation of the General Counsel and hearing officer. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented appeals of campaign disclosure fines were he concurred with the hearing officer to grant the appeals in party and deny the appeals in part for agenda items 2.a.16-17: 16) *SBE v. "We Like Mike" Citizens to Elect Mike Chamberlain*, 24532, 17JQ048; and 17) *SBE v. Citizens to Elect Wayne S. Jett to City of McHenry Mayor*, 32326, 17MA059. No one was present on behalf of the respondent committees. Member Linnabary moved to adopt the recommendation of the General Counsel and hearing officer. Member O'Brien 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 Linnabary moved to assess the civil penalties against the committees listed on pages 130-136 of the board packet. Member Scholz seconded the motion which passed by roll call vote of 8-0.

With there being no further business before the Board member Linnabary moved to adjourn until Tuesday, December 19, 2017 in Chicago. Member O'Brien seconded the motion which passed unanimously. The meeting adjourned at 12:30 p.m.

Respectfully submitted,



Amy L. Calvin, Administrative Assistant II



Steven S. Sandvoss, Executive Director

STATE BOARD OF ELECTIONS



From the desk of... Kyle Thomas
Director of Voting and Registration Systems
Phone: 217-782-1590
Email: kthomas@elections.il.gov

To: Steven S. Sandvoss; Executive Director

Re: ES&S EVS 5501 Approval Request

Date: December 15, 2017

Election Systems and Software (ES&S), a voting system vendor, is requesting approval of their EVS 5.5.0.1 vote tabulation system. This version is a modification to the previously approved EVS 5.3.1.0, which was granted an interim approval by the Board in October of 2016. The main components of this modified system include the DS200 digital scan tabulator (version 2.17.0.1), the DS850 central count digital scan tabulator (version 2.11.0.1), the ExpressVote ballot marking device (version 2.4.0.1), and the AutoMARK ballot marking device (version 1.8.7.0) with the ElectionWare election management system (version 4.8.0.1).

The 5.5.0.1 system brings several new features and/or options including but not limited to a confirmation of judge initials on paper ballots and a review box, which may be darkened to indicate the ballot requires review by officials before casting. This version also includes changes to the ExpressVote display to allow dual columns for candidate listings as well as grouping for yes/no contests such as judicial retention. These ExpressVote changes reduce space requirements on the display screen. Language support was added with the 5501 to allow the use of Hindi in addition to English, Spanish, Chinese, Korean, and Japanese. ES&S has also made a new collapsible ballot box available with this release, which is both a space and cost saving option for the jurisdictions.

The system was initially brought to us with two other options. One was to allow multiple ballot pages per voter for the ExpressVote marking device. The other feature would have allowed a bar code printed on the ExpressVote card stock to activate the ballot style for the voter. The vendor chose to withdraw these options from the approval request. Therefore, these features will not be approved for use at this time with the 5501.

Prior testing of this modification was performed by SLI Compliance, an Election Assistance Commission (EAC) accredited Voting Systems Test Laboratory (VSTL). SLI concluded that the EVS 5.5.0.1 software source code was in compliance with the Voluntary Voting System Guidelines (VVSG) 2005. This was the first VSTL test where we have seen the VSTL use our Illinois mock elections to conduct their own testing.

Our testing for this system consisted of four separate mock elections run in Election Day mode, early voting mode, and vote-by-mail mode across a total of 45 precincts. These elections are representations of a General, General Primary, Consolidated, and a Consolidated Primary. Due to the petition filing activities in our Springfield office, the latter

half of this test was conducted at an off-site location utilizing temporary workers supplied by ES&S, who were overseen by Voting and Registration System (VRS) Division staff members. A total of 32,420 ballots were tabulated with no errors. This represented 622,940 ballot positions. The standard ballots were marked by hand and the remaining ballots were created on the ballot marking devices by staff. Ballots of four different lengths were tested, 11", 14", 17", and 19".

Each new feature was tested in addition to standard testing procedures. Staff requested the vendor look into providing protection for the power supply cord on the foldable ballot box, as it is easily accessible. Even though the tabulators do function on battery backup and make an alert sound when unplugged, without further protection, an unexpected power interruption may occur. In regards to the grouping of yes/no contest in the ExpressVote screen, staff raised a concern with the vendor in regards to when the number of contests exceed four, the review screen moves the additional contest review alerts to a second column. This could cause confusion for voters and it was recommended additional information display on the second column. The vendor indicated they will look into staff suggestions.

As the Director of the VRS Division, it is my recommendation that the Board grant ES&S a two-year Interim Approval for their EVS 5.5.0.1 voting system, as described above.