

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, May 17, 2004
Springfield, Illinois**

MINUTES

PRESENT: John R. Keith, Chairman
Jesse Smart, Vice Chairman
William McGuffage, Member
David E. Murray, Member
Albert Porter, Member
Elaine Roupas, Member

ABSENT: Wanda L. Rednour, 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 six members present. Member Rednour was absent and Chairman Keith held her proxy.

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

Chairman Keith presented the minutes of the April 16 regular monthly Board meeting as previously amended. Member Murray noted that on page five in his motion language should be removed "to adopt the hearing officer and General Counsel's recommendations." Vice Chairman Smart moved to approve the minutes as amended. Member Porter seconded the motion which passed by roll call vote of 7-0.

Chairman Keith and Executive Director White presented staff service awards. Mr. White presented Jane Gasperin with a 15 year certificate and indicated his appreciate of her helpfulness over the years. On behalf of the Board, Chairman Keith thanked Ms. Gasperin for her dedication on election day for her early morning hours.

The Executive Director then presented Becky Glazier with a desk clock for her 20 years of service. Mr. White thanked Ms. Glazier for her support and assistance to him as well as the Board. Chairman Keith thanked her for her many travels to Chicago and her dedication to the agency.

The Executive Director then presented Kathy DuBois with a pen set for her 25 years of service with the agency and thanked her for the great job she has done with the Division of Voting Systems

and Standards. On behalf of the Board, Chairman Keith thanked Ms. DuBois for her service to the agency.

Director White then indicated that a new service award has been established in recognition of staff who have served the agency for 30 years. This group of individuals has been with the Board since the beginning. Mr. White presented Dianne Felts with an engraved crystal trinket box and thanked her for her many years of service and most recently for her important work with the voters with disabilities and other advocacy groups.

Director White then presented Mickey Gillespie with his 30 year service award and thanked him for his investigative work. Member McGuffage thanked Mr. Gillespie for his fine investigative work, and noted that he and Mickey had started as employees at the Board together those 30 years ago.

Mr. White presented Patricia Freeman with her 30 year service award and indicated what great institutional knowledge she retains as well as being a good friend. Mr. White presented Kay Walker with her 30 year award noting she is actually the longest serving employee with the State Board. Chairman Keith thanked all of the 30 year award recipients and thanked them personally.

Chairman Keith then presented Executive Director White with his 30 year service award noting that he was Assistant Executive Director for most of his time with the agency and most recently becoming the Agency's new Executive Director. Chairman Keith thanked him for a great job and looked forward to many more. Mr. White thanked the Board for giving him the opportunity to serve as Executive Director. He also thanked the entire staff for doing such a great job. Member Murray thanked all of the award recipients for their commitment to the agency and especially thanked those who could have taken the early retirement but chose to stay.

Member Porter moved to recess to executive session to discuss personnel and collective bargaining matters. Member Murray seconded the motion which passed unanimously. Meeting recessed at 11:20 a.m. and reconvened at 12:20 p.m.

The Executive Director indicated the Advisory Committee met this morning with the Chairman and Vice Chairman present. Chairman Keith tried to reinforce the position with the clerks that we are trying to work with them in coordination with their subcommittee. It was a positive meeting and

discussions included legislation, HAVA money and polling place accessibility money. In response to a question from Member Roupas, the General Counsel noted that she has prepared a draft of a letter to be sent to the Department of Justice and the Election Assistance Commission seeking an opinion on the statewide voter registration database. Vice Chairman Smart noted that the letter should be specific in detailing both the SBE position and the local election authority position. Chairman Keith asked that the letter be sent to Vice Chairman Smart and Member Rednour for approval this week. The next Advisory Committee meeting is scheduled for September 20.

The Executive Director presented for Board consideration a petition for statewide referendum which was filed on Monday, May 3. Staff proceeded with a count of signatures and a jurisdictional conformity check as required by statute. There are 283,111 signatures required and the actual count was 96,362. Following the conformity check 87,152 valid signatures remain. Director White thanked Eric Donnewald for overseeing the process and staff for their work. Mr. White noted that a notice was prepared that a hearing would be conducted at today's meeting as required by law. Dr. Brad Olson, Joseph Wheeler and Tumia Romero, were present on behalf of Citizens Activated to Change Healthcare (CATCH). Pete McClannahan of Stepping Stones (member of CATCH) and Stacy Rago, member of CATCH were also present. The General Counsel explained the issue is under Section 28-10 of the Election Code, whether or not the signatures on the petition are conforming signatures pursuant to the jurisdictional conformity check. Vice Chairman Smart questioned why this should proceed further when there is obviously not enough signatures. Ms. Burke noted that it is procedural. Dr. Olson explained that they received copies of the nonconforming signatures on Friday at 4:30 p.m. and they have not had sufficient time to determine if in fact the signatures are conforming. Discussion ensued on the fact that even if all of the nonconforming signatures were found to be conforming the petition does not meet the minimum requirement. Following further discussion Member Murray moved to deny the statewide referendum petition for insufficient signatures. Member Roupas seconded the motion which passed by roll call vote of 7-0.

The Executive Director presented for Board consideration a modification to ES&S's M100 voting system. Dianne Felts indicated staff ran over 18,000 ballots through the tabulators with no

miscounts. This modification is to enhance scanning capability. Discussion ensued on FEC guidelines and compliance with the 2002 Voting Systems Standards. Vice Chairman Smart moved to approve the modification as requested. Member Porter seconded the motion which passed by roll call vote of 7-0. Member Porter voted Member McGuffage's proxy as he had stepped out of the room.

The Executive Director noted for informational purposes that 39 jurisdictions have submitted applications to receive punch card buyout funds. Of those, 37 have been approved; two are pending. Mr. White indicated that approximately \$10,000,000 has now been distributed from these funds.

The Executive Director indicated that he appeared before the Senate and House Appropriation Committees. The Committees had some questions regarding HAVA but did not indicate how our budget might fare before the end of session on May 31. Cris Cray discussed current legislation and specifically SB 955, the omnibus election bill. The biggest impact on the agency will be the voters guides which will be required to be on the SBE website and also putting the absentee voters names on the Internet. SB 3064 will put a statewide advisory question on the November ballot. Ms. Cray indicated the staff is having conversations with legislative staff on the definition of a vote. After further discussion Member Murray moved that the Chairman and Ms. Cray identify key issues and craft a letter to send to leadership. This would include the fiscal impact on certain initiatives as well as the issues we have strong objections to. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The Executive Director presented a proposed meeting schedule for FY 05 and explained the revisions. Member Murray requested the October 2004 meeting be changed to the 25th and it was agreed to do so. Member Murray then moved to adopt the meeting schedule with the change from October 18 to October 25. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The Executive Director presented for informational purposes the staff training schedule required by the passage of the State Officials and Employees Ethics Act which calls for the annual ethics training of Board staff and members. The General Counsel indicated that the SBE was included in the language of HB 3412 and was brought to the attention of the legislature but was not removed.

After further discussion that this may be a constitutional problem, Member McGuffage moved that the General Counsel send notice that the SBE is voluntarily submitting themselves for training and not waiving any separation. Member Roupas seconded the motion which passed by roll call vote of 7-0. Vice Chairman Smart voted Member Murray's proxy as he had stepped out of the room.

The Executive Director presented for informational purposes the FY 04 fiscal status report for the period ending April 30, the HAVA funding report and the two year plan of activity for the months of May and June.

The Executive Director noted that a tour of the upgraded computer facility was scheduled for today, but with the length of the agenda it could be rescheduled. After discussion, the Board agreed to tour the computer facility at 10:30 a.m. on July 19 prior to the Board meeting.

The General Counsel presented for consideration proposed rules amending Title 26, III. Adm. Code 100.50, 100.60, 100.70, 100.140, 100.170 (Campaign Financing Act), Section 125.425 (civil penalty assessments), and Section 210.10 (licensing of raffles). Ms. Burke reviewed the proposed changes noting if the Board approves today the rules would be submitted to JCAR and follow the rulemaking path. Ms. Burked noted that if SB 955 passes Section 100.70(d) will be affected but the rules can be amended if this happens. Vice Chairman Smart moved to approve the rules subject to any changes that would occur with the passage of SB 955. Member Porter seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented a database sharing agreement between the SBE and Secretary of State. This agreement is necessary so that we can begin work on the testing of the transmission of data. The agreement is in very general terms and is viewed as a working document which can be added to or amended in the future. Member Porter moved to adopt the database sharing agreement. Member Roupas seconded the motion which authorizes Chairman Keith and Director White to sign on the Board's behalf and also designates Cris Cray as the SBE agent and Tim Mahler as the SOS agent. The motion passed by roll call vote of 7-0.

The General Counsel then reported on the status of the ATA and LEAA campaign disclosure complaints noting that the rule to show cause as to why the matter should not be considered moot is pending. Ms. Burked will report further next month.

The General Counsel then presented revised language to the Approval of Voting Systems rule (Title 26 II. Admin. Code, Chapter 1, Part 204) as discussed previously. It was noted the confidentiality agreement would not be submitted to JCAR with the proposed rule. Member Murray moved to approve the proposed rule. Member Roupas noted that language in the rule refers to voting a straight party ticket. Ms. Burke noted that this language would be removed so that it would be consistent with current law. Discussion ensued on the confidentiality agreement and the fact that there needs to be some penalty provision if the party does not do what they are supposed to do. Ms. Burke indicated that this could be held over to the June meeting for staff to make further changes. Chairman Keith offered some additional changes which will be incorporated in the final draft. (Member Murray withdrew his motion.)

Chairman Keith then asked for the entries of appearance on pending campaign disclosure hearings and noted these matters would be taken first.

Mr. Grayson Gile was present on behalf of Pulaski County Republican Central Committee, S551. The General Counsel noted that the appeal of the committee was denied and a fine of \$400 is now due and owing. There was also a penalty of \$1,100 for the late filing of an A-1 report from the 2000 general election which was not appealed. The total penalty currently due is \$1,500. Mr. Borgsmiller explained the fine process and why this particular matter was carried over. Mr. Gile indicated that the committee's current chairman and central committee that was unaware of what the previous chairman and committee had done or not done and agreed a violation had occurred. He requested the fines be stayed. Following discussion on reducing fines to ten percent, Member Murray moved to assess a penalty of \$465. Vice Chairman Smart seconded the motion which passed by roll call vote of 5-0-2 (Member McGuffage passed and Chairman Keith passed on Member Rednour's proxy.)

Chairman Keith presented appeals of civil penalties indicated on the agenda as items 4 e) 1) b)1-40. The General Counsel indicated her concurrence with the hearing officers recommendations in all of those matters. Rupert Borgsmiller explained that two of the matters (*Bond County Democratic Central Committee, Item #4, and Committee to Elect Marilyn Sindles, Item #21*) have two appeals where one recommendation was to grant and one was to deny. The General Counsel agreed to both of those recommendations also. Member Murray moved to adopt the hearing officers reports and grant the appeals on all matters with exceptions noted for matters #4 and #21 (indicated above). Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented *SBE v. IL Wholesale Association PAC, 02AP64*. Ms. Burke reviewed the background of the committees assessments and indicated the hearing officer has recommended the appeal be denied. Paul Jenkins was present on behalf of the Association and told the Board that this was not a non-filing but rather a late filing. The General Counsel concurred with the hearing officer's recommendation of a \$53,500 fine. Mr. Borgsmiller indicated they did file an amended report. Member McGuffage felt there was no willfulness and recommended the 10% reduction. Member McGuffage moved to impose a fine of \$5,350. Vice Chairman Smart seconded the motion which passed by roll call vote of 5-1-1 with Member Murray voting in the negative and Chairman Keith passing on Member Rednour's proxy vote. Member Murray stated that he did not necessarily want to apply the 10% reduction to all PAC's but did think the fine was excessively high.

The General Counsel presented two complaints following closed preliminary hearing: *Cynthia Canary and David Morrison v. Citizens for Calvin Giles, 04CD5* and *Cynthia Canary and David Morrison v. 37th Ward Regular Democratic Organization, 04CD7*. Cindy Canary was present pro se. Member Roupas moved to recess to executive session to discuss these matters. Vice Chairman Smart seconded the motion which passed unanimously. Meeting recessed at 2:20 p.m. and reconvened at 2:35 p.m.

Upon reconvening, Member Roupas moved to find the complaints 04CD5 and 04CD7 were filed on justifiable grounds and proceed to public hearing to be held so that the matters will be on the June agenda. Member Murray seconded the motion which passed by roll call vote of 7-0.

The General Counsel then presented agenda items 4. e) 1) c) 1-75 (minus #42 which was already discussed). The hearing officer recommended the appeals be denied and the General Counsel concurred with the recommendations in each case. Mr. Borgsmiller noted that nine of these appeals involve persons who were on the ballot and by moving them today they will have ample time to resolve the issue prior to the August 27 ballot certification. Member Murray moved to approve the recommendation of the hearing officer and General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0. Member Porter voted Member McGuffage's proxy as he had stepped out of the room.

The General Counsel presented thirteen items carried over from the April meeting all involving appeals of civil penalties. Ms. Burke discussed the Aurora Republican Women's Club, L1726 appeal. She concurred with the hearing officer's recommendation that a \$250 penalty be assessed. Vice Chairman Smart moved to approve the recommendation. Member Roupas seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Frank McNeil for Alderman, L1861 and indicated the total penalty recommended by the hearing officer is \$5,700 and concurred with the recommendation. Vice Chairman Smart moved the staff recommendation be approved. Member Roupas seconded the motion which passed by roll call vote of 6-0-1 (Chairman Keith abstained).

The General Counsel presented People of Progress, L7814 and indicated the recommendation of the hearing officer is a \$250 penalty and concurred with the recommendation. Member Porter moved the recommendation of the General Counsel be accepted. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Friends for Avila, L8584 and indicated the recommendation of the hearing officer is a \$425 penalty, but the penalty be stayed as this is a first time violation. Ms. Burke concurred with the recommendation. Member Porter moved to accept the recommendation of the General Counsel be accepted. Member Roupas seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Citizens for Tapley, L8699, and indicated the hearing officer recommendation is that the \$50 penalty be stayed as a first time violation and the penalty of \$125 be abated since the committee dissolved and remained dissolved for a period of two years. Ms. Burke concurred with the recommendation. Vice Chairman Smart moved that the General Counsel's recommendation be accepted. Member Porter seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Committee to Elect Sharon McGinnis, L9715 and concurred with the hearing officer's recommendation that the appeal be denied and a \$50 penalty be due and owing with regard to the semiannual report. The hearing officer also recommends a penalty of \$800 be assessed for the late filing of an A-1. After further discussion the total penalty was set at \$140. Member Murray moved to partially accept the recommendation of the General Counsel and assess a penalty of \$140. Member Porter seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Citizens for Joe Hartzler and Kurt Wilke, L10424. Chairman Keith recused himself from this matter. Ms. Burked concurred with the hearing officer that a \$500 assessment be reduced to \$50 but be abated since the committee has been dissolved for more than two years. Member Murray moved to accept the recommendation of the General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 5-0-2. Chairman Keith abstained his voted and passed Member Rednour's proxy vote.

The General Counsel indicated a request was received that the matter of Citizens for Marovitz, S420 be continued to the June meeting. By Board consensus this matter was continued.

The General Counsel presented Local 399 Political Education Fund, S2283 and explained that the appeal was granted in part and denied in part. Discussion ensued on the violations and it was agreed the assessment would be set at \$1,595. Member Roupas moved to assess the committee \$1,595. Member Porter seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Citizens for Ronald Wait, S2926. The hearing officer denied the appeal and assessed a civil penalty of \$200 but the penalty be stayed as it is a first time violation.

Member Murray moved to accept the recommendation of the General Counsel and the penalty be stayed. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented International Brotherhood of Painters, S3115 and discussed the violations and recommendation of the hearing officer. Vice Chairman Smart moved to approve the staff recommendation and impose a penalty of \$5,700. Member Murray seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Illinois Physical Therapy PAC, S3218 and discussed the violations. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted due to the fact that the donation was received prior to the 30 day A-1 reporting period. Member Roupas moved to accept the recommendation of staff. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented Citizens for Beaubien, S6518 and concurred with the hearing officer's recommendation that the appeal be denied and the \$1,000 fine be reduced to \$100. Member Porter moved to approve the recommendation. Member Murray seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented a motion for reconsideration from the Clinton County Republican Committee. Discussion ensued on their request for a payment plan. It was recommended that the Committee be contacted and asked to prepare a payment proposal for the June meeting.

The General Counsel presented a motion for reconsideration from Citizens to Elect Paul Petty. Mr. Borgsmiller discussed this request and the background of the assessments. Chairman Keith moved to deny the motion for reconsideration. Member Murray seconded the motion which passed by roll call vote of 7-0.

The General Counsel discussed the motion for reconsideration from Committee to Elect Ricky Hendon which involves two cases and recommended it be granted as similar ones have been granted. We would also recommend the respondent be required to take the IDIS class. Member Porter moved to grant the motion to reconsider in both cases and bring the assessment to \$0. Member Murray seconded the motion. Discussion ensued on the late filing and the appeal that was filed late. Member

Murray withdrew his second until the matter could be clarified. The motion died for lack of a second. The matter was continued so Mr. Borgsmiller could investigate matters in this filing.

The General Counsel presented motions for reconsideration from the Reform Party of Illinois and the Naperville Township Republican Organization and noted that requests have been received to continue these matters to the June meeting. It was agreed to continue each of these matters.

Discussions returned to the Committee to Elect Ricky Hendon matter and the General Counsel discussed the final order. Member Porter then moved to adopt the position of the General Counsel and granted the reconsideration to waive the penalty. Member McGuffage seconded the motion. Discussion ensued on the committee's efforts to file on IDIS and on the penalties.

Member Murray then moved to assess a penalty of \$200 on 02GP76 and deny the appeal and the motion to reconsider, and in 03JS81 the motion to reconsider be granted and the \$100 penalty be waived. Vice Chairman Smart seconded the motion. Member Porter withdrew his motion based on the General Counsel's position. Member Murray's motion was then called and passed by roll call vote of 7-0.

Mr. Borgsmiller presented assessments that were not appealed and based upon discussions today recommended that four additional committees on the list be reduced to the 10% penalty. Discussion was put on hold for further review by Mr. Borgsmiller to identify additional committees that could be reduced.

Vice Chairman Smart then moved to direct the General Counsel in regard to the first Executive Session to take action on the collective bargaining issue and retain counsel accordingly. Member Murray seconded the motion which passed by roll call vote of 7-0.

The General Counsel then presented two withdrawals of complaints in the matters of *SBE v. Friends of Mark Brown*, 03CD22, and *SBE v. Black Republicans for Political Parity*, 03CD41. The Board accepted the withdrawals without objection.

Discussion returned to the assessments that were not appealed. Member Murray moved that the committees listed on page 864 of the May Board packet with regard to those committees with A-1 violations that the total A-1 violations be reduced to ten percent of the violations noted on page 864

with regard to the A-1's only and those committees are Citizens for Judy Baar Topinka, Democratic Central Committee of Stephenson County, William Davis, Citizens for Welch, citizens for Ted Leverenz, Citizens for Harold Murphy, Friends of Mike Kelleher, Citizens for Jeff Hurst, Citizens for Mike Wojcik, Citizens for Arthur Turner, Family Taxpayers Network, Friends of Flores, Citizens for Sawyer, Bloom Township Democratic Organization, Citizens for Colom, Citizens for Tunney and Friends of Richard Gordon. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-0. Member Murray noted that the committees not named will be assessed the full amount.

Members McGuffage and Porter left the meeting at 4:10pm.

Discussion ensued on the campaign disclosure material and it was agreed to continue to send all materials as is done presently. Chairman Keith asked that consideration of a subcommittee to deal with campaign disclosure materials be included on the June agenda.

Member Roupas discussed the petition sheets that will be used in next year's elections and after discussion the Board agreed that staff should consider reformatting the pages to have the petition on 8 ½ x 11 paper rather than legal.

The General Counsel presented for informational purposes a list of committees that paid outstanding civil penalties.

The remaining executive session matters will be continued to the June meeting. Chairman Keith asked Director White to note who has been assigned any of the Assistant Executive Director duties since Dan became the Executive Director.

The next regular meeting of the State Board of Elections will be held on Monday, June 14, 2004 at 11 a.m. in Chicago.

With there being no further discussion, Member Murray moved to adjourn. Member Roupas seconded the motion which passed unanimously. The meeting adjourned at 4:20 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director