

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, June 9, 2003
Springfield, Illinois**

MINUTES

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

ABSENT: Wanda L. Rednour, Vice Chairman

ALSO PRESENT: Ronald D. Michaelson, Executive Director
Dan White, Assistant 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. Vice Chairman Rednour was absent and Member Keith held her proxy.

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

Chairman Roupas noted the need to change the agenda order as it was necessary to proceed in executive session to accommodate parties present. Member Porter moved to recess to executive session to discuss pending litigation and personnel matters. Member Smart seconded the motion which passed unanimously. Meeting recessed at 11:10 a.m. and reconvened at 11:40 a.m.

Chairman Roupas presented the minutes of the May 19 regular monthly Board meeting and May 22 special meeting. Member Porter moved to approve the minutes as presented. Member Smart seconded the motion which passed unanimously.

The Executive Director then introduced Arvin Talwar, Rod Zech and Scott Hilkerk, from Catalyst Consulting. Dr. Michaelson indicated that Catalyst will restart its work on the IDEA project as we can use part of the early discretionary money from HAVA to complete this project. Mr. Talwar began with an overview of where the project stands. Mr. Zech discussed the project and the remaining work to be done. Mr. Hilkerk noted that there will be no need for substantial training as the goal is for

the program to run automatically. It was also noted that we will be able to use some of the HAVA funds also for VISTA, which refers to the SBE's responsibility to manage the data once received.

The Executive Director noted an addition to the agenda a demonstration from Election Systems and Software of their DRE voting system. Judd Ryan was present to demonstrate the equipment and discussed the touch screen system and the voter verifiable receipt. The system meets requirements of HAVA for 1) multi lingual ballots, 2) error detection, 3) undervote feature, and 4) an audio feature and other ADA capabilities. Dr. Michaelson indicated that SB 428 included language that authorizes the use of DRE's in Illinois. Vendors will be required to have their systems tested by our staff for use in Illinois. Mr. Ryan indicated the cost of this particular system with the printer receipt would be approximately \$4,000. States that currently use this system include Florida, Colorado, Texas and New Jersey.

The Executive Director then reported on legislative activities and referred to a summary on the status of election related bills. Cris Cray, Legislative Liaison, discussed the election legislation including 1) HB 2700 – which includes the SBE appropriation bill – at this time the 4% pension pickup is still included but could change, and the election judge subsidy money is not fully funded; 2) HB 3412 – the ethics bill – includes language that a member of any board cannot serve as a lobbyist ; 3) SB 2003 – Boards and Commissions bill – only affects five full-time boards now and the SBE is not one of them; 4) SB 428 – (amendment #5) implements the Help America Vote Act – accommodates most of the changes included in the original language, but several other provisions in the bill need revision in the fall veto session; and 5) SB1586 – which would require executive sessions to be audio or video recorded and goes into effect January 1, 2004. Members Keith and Murray expressed concern with the proposed change regarding how the Board moves from a closed to public hearing when considering campaign disclosure complaints.

Rupert Borgsmiller, Director of Campaign Disclosure, discussed the Gift Ban Act and language contained in the ethics bill. There seems to be contradictory language between this and the HAVA bill. Mr. Borgsmiller explained explicitly the provisions contained in the Gift Ban Act and how staff will work to implement the changes.

The Executive Director presented a status report on the Help America Vote Act and noted that we have not yet been told specifically how much money Illinois will receive under Title I. Language to establish the Help Illinois Vote fund is included in SB 428 which passed and is awaiting the Governor's signature. The seven task forces have been working and almost all reports are in. These draft reports were distributed to the full committee for comments. The Board will receive a draft state plan at the July 1 meeting and the plan will then be distributed for public comment. Following the public comment period, the plan will be presented to the Board for final approval at the August 18 meeting.

The Executive Director presented the fiscal status report for the period ending May 31, 2003 and indicated we will finish the year in good shape after budget transfers. Also presented was the two year plan of staff activity for the months of June and July.

The General Counsel presented two complaints following closed preliminary hearing: *Jack L. Martin v. Bright Futures Committee*, 03CD11, and *Jack L. Martin v. Fremont School District 79, et al.*, 03CD12. Mr. Martin was present with counsel David Pardys for both cases. John Bickley and Shawn Popielweski were present on behalf of Bright Futures in 03CD11. Alan Mullins was present representing the School District 79, and Andy Searle and Andi Hesse were present. All parties were in agreement to proceed in open session.

The General Counsel reviewed 03CD11 and indicated it concerns a referendum and alleges the school district used school funds to promote the referendum. Steve Sandvoss, hearing officer, reviewed the hearing and discussed the five counts of improper use of school property. The issue revolved around the definition of public funds and whether the respondent actually spent public funds for unlawful purposes. In this case Mr. Sandvoss recommended that the complaint be dismissed for failing to allege a violation for which the respondent can be charged and for lack of evidence.

Mr. Pardys discussed the complaints (03CD11 and 12) with regard to 10 ILCS 5/9-25.1 and argued that the statute was very clear as to the use of public funds. He felt that the SBE does have jurisdiction to conduct an investigation but perhaps not invoke a penalty. He argued that public funds were used for the ultimate benefit of this referendum. He asked the Board to find there was a violation and if deemed appropriate to refer to an appropriate enforcement agency.

Mr. Bickley concurred with the hearing officer's report and felt there was no violation by the committee. Disclosures were made and the only issue present is the use of funds. He asked that no action be taken.

Mr. Pardys argued that the expenditures did involve the use of public funds.

Mr. Sandvoss stated that he did not find anything to be a violation on the part of the committee and recommended the matter be dismissed. Ms. Burke concurred with the recommendation of the hearing officer and felt that the respondents sufficiently rebutted the complainant's allegation, and there has been full disclosure of all contributions and expenditures. Member Murray moved to dismiss the complaint as recommended by the hearing officer and the General Counsel. Member Porter seconded the matter which passed by roll call vote of 7-0.

The General Counsel then presented 03CD12. Mr. Pardy had already made his comments as he discussed 03CD11. Mr. Mullins reviewed the facts of the complaint and asked the Board to dismiss the complaint in whole.

Mr. Pardys argued that the Board should find that public funds were used and thus concurred with the report of the hearing examiner.

Mr. Sandvoss reviewed the hearing and his findings that the school did pay a printer for items relating to the referendum. Other allegations were adequately explained or did not rise to a level of a violation under the Act. Ms. Burke agreed with the hearing examiner to the extent that the only real issue left is the \$849 paid by the school to the printing company. Apparently the school district and committee share the same printing company. The school paid the bill but the committee reimbursed the school. Ms. Burke did not believe it was appropriate to send the complaint to a public hearing or refer to a state's attorney. Member Murray moved to dismiss the case as de minimis and refer to the state's attorney if the Board finds appropriate. Discussion ensued on whether it was the Board's obligation to send to the state's attorney and the fact that everything has been accounted for. Member Murray amended his motion to find there was a technical violation but it is de minimis and the complaint be dismissed. Member Smart seconded the motion which passed by roll call vote of 7-0.

The General Counsel presented a status report on *Donahue v. Moreno*, 02CD070 and reviewed previous activities of this complaint. Rupert Borgsmiller discussed the meetings between staff and the committee and the materials submitted by the committee, and indicated the information presented today represents the best faith effort of SBE staff to verify the reports. He did not feel the reports were correct and recommended that an individual accountant get all the required documentation and file corrected reports.

Mr. Donahue was present and requested the Board to authorize a full audit. Mr. Farrar, representing Mr. Moreno, indicated their willingness to participate in the audit and felt it would be an appropriate way to resolve the matter. The General Counsel agreed that a full audit would be appropriate at the committee's expense. Discussion ensued on choosing an individual auditor and it was agreed that both parties would submit five names – if one overlapped that would be the choice. If not, staff will choose from the list. The results of the audit will be presented to the Board upon conclusion of the audit for final resolution. Ms. Burke indicated she would present a status report at the July 1 meeting. Member Keith moved to proceed with the recommendation of the General Counsel and include submission of all required records and the names of five proposed auditors be submitted no later than June 23. Member Smart seconded the motion which passed by roll call vote of 6-0-1 with Member Porter recusing himself.

The General Counsel reported on the status of the rules that were objected to by JCAR. Ms. Burke discussed passed legislation that would affect the proposed rule submission. Ms. Burke indicated she and Mr. Borgsmiller would meet within the next week and discuss how to proceed.

The General Counsel presented a status report regarding the letter received from the Republican National Committee requesting to certify the nominees for President and Vice President to the State Board of Elections on September 3. Ms. Burke indicated the Attorney General's office is giving the matter a thoughtful review. There has been some discussion about taking a legislative approach but it still in a preliminary discussion. This same issue affects six other states and some of them have sought legislation. Ms. Cray indicated that Senate Republican staff requested legislation on this issue and Pat Freeman provided two different forms of language. However, in the waning days of

the session the matter stalled. However, Craig Burkhardt is working with Rob Uhe on possible legislation for the fall veto session. Discussion ensued on the language and Member Murray felt if Pat Freeman approved it he would also.

Member Smart moved to recess to executive session to discuss pending litigation and personnel matters. Member Porter seconded the motion which passed unanimously. Meeting recessed at 11:50 a.m. and reconvened at 2:45 p.m.

The next regular meeting of the State Board of Elections will be held on Tuesday, July 1, 2003 at 2 p.m. in Springfield.

The meeting reconvened at 3:55 p.m.

Member Murray moved and Member Smart seconded that the Board approve a one-year contract with Dan White as Executive Director effective July 1. The Chairman was authorized to sign the contract on behalf of the Board. The motion passed by roll call vote of 7-0.

With there being no further discussion, Member Smart moved to adjourn. Member Murray seconded the motion which passed unanimously. The meeting adjourned at 3:57 p.m.

Respectfully submitted,

Rebecca L. Glazier
Assistant to Executive Director

Ronald D. Michaelson
Executive Director