

STATE BOARD OF ELECTIONS
Board Meeting
Friday, July 1, 2005
Springfield, Illinois

MINUTES

PRESENT:

John R. Keith, Chairman
Jesse Smart, Vice Chairman
William McGuffage, Member
David E. Murray, Member
Albert Porter, Member
Wanda L. Rednour, Member
Elaine Roupas, Member
Bryan Schneider, Member

ALSO PRESENT:

Dan White, Executive Director
Steve Sandvoss, General Counsel
Becky Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 11:00 a.m. with eight members present.

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

The Executive Director noted that every two years there is a changing of the guard but this year is a bit different. Normally if new members are appointed they would take office today. However, the Senate Executive Committee did not meet so the current members will continue to serve until the new ones are confirmed. The first order of business is the election of the new Chairman and new Vice Chairman. Director White then recognized outgoing Chairman Keith and noted his appreciation for his leadership these past years. Director White then presented Chairman Keith with an engraved gavel commmerating his two years as Chairman. Chairman Keith thanked Director White for the nice comments and thanked everyone for participating in the reception held prior to the start of the meeting. He further indicated it has been his honor and privilege to serve as Chairman, and thanked the following: court reporters, election judges, party officials, candidates, Governor, legislature, legislative leaders, election officials, Director White, SBE staff, SBE division directors and the Board members for their support, assistance and hard work over the last two years.

At this time Chairman Keith called for the election of officers, beginning with chairman. Member Rednour nominated Jesse Smart for Chairman. Member McGuffage seconded the

nomination. Member Murray noted that nominations do not require a second and moved to close the nominations and cast a unanimous ballot for Jesse Smart. With no objections, the motion was called and passed by a vote of 8-0.

Newly elected Chairman Smart introduced his wife of 44 years and close friend Michael McFarland who were in the audience. Chairman Smart noted he was a bit fearful taking over from outgoing Chairman Keith as he was a great Chairman. Chairman Smart appreciated the board members confidence and also indicated one of the accomplishments he hopes to reach during his term is a good communication with the clerks.

Chairman Smart then opened the floor for nominations for Vice Chairman. Member Roupas nominated Wanda Rednour to serve as Vice Chairman. With there being no further nominations and no objections, Member Murray moved and Member Schneider seconded that the nominations be closed which passed unanimously. The motion for election of Vice Chairman passed by roll call vote of 7-1. Member Murray voted in the negative while explaining his vote.

Each member of the Board took a moment and expressed gratitude and appreciation to outgoing Chairman Keith for his service as Chairman the past two years.

The Executive Director congratulated Chairman Smart and Vice Chairman Rednour on their election. With new officers elected the roll was called with all members being present.

Chairman Smart then presented the minutes of the June 13 regular monthly Board meeting and June 20 special meeting. Member Murray moved to approve the minutes as presented. Member Roupas seconded the motion which passed by roll call vote of 8-0.

The Executive Director introduced two new staff members. Amy Fritzsche who works in Election Training and Resource Development division and Terra Lamb who works in the legal department. Both are located in the Springfield office. Director White noted that some reconfiguration of office space has taken place and welcomed the Board to look at the renovations.

Director White introduced for discussion the proposal for dispensing Requirements money for the purpose of purchasing accessible voting equipment. The material in the packet is the same as presented in May with the addition of a listing of Title III requirements and an allocation of money for

each requirement. Director White discussed the requirements of Title II and indicated money has been set aside to cover all of this. Money for jurisdictions that do not have error detection capability and jurisdictions that have alternative language requirements will be set aside in a special needs fund. Jan Czarnik, Cook County Clerk's office, noted that they have the longest ballot in the country and \$1 million will not be enough for them. Discussion ensued on the application process and amount being supplied per precinct. Each county will be required to submit a signed contract before any funds will be provided to them. Several members expressed concern that the money should be used as efficiently as possible and that each jurisdiction would be able to get a good price on the system it chooses to purchase. Discussion continued on the federal and state guidelines and how any system would have to be certified for use in Illinois before a jurisdiction could purchase it. The current chart reflects an amount of \$7,260.88 be allocated per precinct per jurisdiction. Member Murray moved to approve the proposed budget with the understanding that jurisdictions are given a threshold amount and advised that we are going to have a cushion that is not committed on a per capita basis but may be available for worthy expenses that result from HAVA. Member McGuffage seconded the motion. Discussion continued on the documentation jurisdictions will be required to provide and also on the amount allocated. Member Murray withdrew his motion.

Member Keith moved to approve the application with the direction that subject to proper application we would supply up to \$5,000 per precinct for handicapped accessible voting equipment and any remaining monies would be dealt with on a separate application basis. Member McGuffage seconded the motion which passed by roll call vote of 8-0. It was noted this amount would not be enough to cover Chicago or Cook County's expenses for their accessible equipment. The Board agreed there could be an additional application if a jurisdiction would need additional money. Staff is to determine a date at which time all applications must be received and to determine if any additional money is needed by jurisdiction.

The Executive Director presented a data sharing agreement between the SBE and the Department of Corrections. The General Counsel summarized the contract indicating the Department of Corrections would provide information on felons in an electronic format to the voter registration

database. Member Keith moved with the revision of the Chairman's name to approve the agreement. Member Murray seconded the motion. Discussion continued on who would have access to the information and it was noted that it was limited to the SBE and Department of Corrections. It was questioned who would be during the purging and Member Keith withdrew his motion for further clarification as the language is not clear in the document. This matter will be continued to the August meeting.

The Executive Director presented a report on the recently ended legislative session. All pending election bills have reach the Governor's desk and he has 60 days take action. Cris Cray distributed a listing of dates the bills were sent to the Governor's desk and also noted that veto session starts October 25.

The Executive Director noted that the fiscal status year just ended and no report is available today. The two year plan of staff activity for the months of July and August was presented for informational purposes.

The General Counsel indicated that Pat Freeman has been in contact with Speaker Madigan's office regarding legislation recently passed in regard to judicial vacancies. Staff's reading of the legislation has not changed but the Speaker's staff indicated the language in this legislation was not their intention. They may propose remedial legislation to consider in the veto session. Ms. Freeman discussed this and noted that the Board declared additional judgeships for the 9th, 12th, 19th and 22nd circuits. They are not in agreement with the 19th and 22nd. The Board has been asked to reconsider its position because there is ambiguity and there needs to be legislative clarification. The new language would have 5 judges in the 19th circuit and 2 judges at large in the 22nd circuit. They would like to follow only the new legislation and not the old. If they followed the old language there would be eight in the 19th and 5 in the 22nd. This will be placed on the August agenda and at that time the Board can decide based on legislative intent or to wait for new language in the veto session.

The General Counsel presented *SBE v. The Berkeley Progressive Party* which is a carryover appeal from the June meeting. At that time, the Board allowed the committee time to submit the final report which they had indicated they wished to do. The committee has no remaining funds. The

hearing officer recommended the appeal be denied and the General Counsel agreed with the recommendation. Vice Chairman Rednour moved to follow the recommendation of the hearing officer and General Counsel and deny the appeal. Member Porter seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had stepped out of the room.

Chairman Smart presented a motion for reconsideration in the matter of *SBE v. Citizens to Elect Whitty Whitesell*. No one was present in this matter. The General Counsel noted that the committee did not appeal an assessment of a civil penalty and was issued a final order at the June meeting. He recommended the motion be denied on the basis that the party, even though it may have misplaced the assessment letter, there is no issue as to whether or not notice of this penalty was indeed received by the committee and did not believe sufficient grounds existed to warrant a reconsideration. Member Keith moved to adopt the recommendation of the General Counsel. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had stepped out of the room.

Chairman Smart presented appeals of campaign disclosure fines that the hearing officer has recommended be granted. Member Murray asked that agenda items 9, 13 and 15 be pulled, and Member Keith asked that 10, 14 and 15 be pulled from group consideration. Member Roupas then moved to approve the hearing officer and General Counsel's recommendation to grant the appeals in the following cases: *SBE v. Sangamon County Board Republican Election Committee* 04AG023; *SBE v. Friends to Elect Ed Hagnauer*, 04AG031; *SBE v. Friends of Joyce Fitzgerald*, 04AG015; *SBE v. Scott McCoy for Mayor*, 05CP003; *SBE v. Citizens for Donohue*, 05CD035; *SBE v. Hamas for Mayor*, 05CE046; *SBE v. Illinois Homebuilders Political Education Committee*, 4AG059; *SBE v. Vermilion County Democratic Party*, 04AG037; *SBE v. Citizens for John Cullerton*, 04AG043. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0. Member Porter voted Member McGuffage's proxy as he had stepped out of the room.

The General Counsel noted that three cases that were pulled involve similar issues. These matters are: *SBE v. Illinois Homebuilders Political Education Committee*, 04AG059, *SBE v. IL Housing Institute PAC*, 04AG055; and *SBE v. Laborers Local 703 Political PAC*, 04AG093. The issue is that the

information should have been filed on an A-1 report because it exceeded \$500. The defenses offered are the same. The local organization received the contributions from a parent organization. Mr. Sandvoss concurred with the recommendation of the hearing officer as he believed that the nature of the contributions are such that they are from individuals who are making the donation and these individuals are contributing amounts less than an amount that would otherwise have to be itemized. Member Murray felt that the rules should be modified to cover a situation like this. He disagreed and felt that the committees should be reporting who was making these contributions. Member Keith agreed with Member Murray and felt that the names should be reported. Mr. Borgsmiller indicated that labor organizations have always been treated like this as they do a sweep of their funds. The funds are truly coming through individual members who have contributed the money. The money is held on to and sent in as one big contribution. Chairman Smart questioned how we could penalize these groups as this has been past practice and suggested starting a requirement from here on out. Further discussion took place and it was suggested staff get further information and this be continued. Member Murray then moved to deny these pending submission of the detail alleged in affidavit that all of these contributions were under \$150 each and that this be continued for two months. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. St. Clair County Republican Central Committee*. Member Keith indicated he had no problem with the result and moved to adopt the recommendation of the hearing officer and include in the order that the committee be ordered to amend the December semiannual report on or before July 31. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Jones Day IL Good Government Fund*. Member Keith indicated he was not concerned with the result, but was concerned with how it was reached. He referenced the comments made at the hearing that SBE staff told the committee wrong information. Member Murray agreed indicating he did not believe this witness. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel and asked that staff better record their

comments with notes in these cases. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Smart presented *SBE v. Friends for Sue Brown* and *SBE v. Citizens for Continued Quality Education*, both appeals that the hearing officer recommends be denied. The General Counsel concurred with the recommendation. Member Murray moved to accept the recommendation of the hearing officer and General Counsel and deny the appeals. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Chairman Smart presented *SBE v. Sangamon County Republican Central Committee*, an appeal that the hearing officer has recommended be denied. Bruce Stratton was present on behalf of the committee. Mr. Stratton indicated that the failure to file was inadvertent but requested the fine be waived. Discussion ensued on the contributions made and finding the names of the contributors which might reduce the fine imposed today. Mr. Stratton noted that it would be near impossible as there were a variety of contributions – some as small as \$20 and some as large as \$600. Member Murray moved in view of Mr. Stratton's honesty and willingness to pay to approve the report of the hearing officer and General Counsel. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Smart presented *SBE v. Illinois Republican Party*, an appeal that the hearing officer has recommended be denied. Deanna Mool was present representing the committee. Ms. Mool discussed the late filing of three A-1's indicating that she could not tell what those contributions were but indicated it appeared the contributions came in either over the weekend before or on Monday before the election. This was an inadvertent untimely filing but any harm that was caused to the public was minimal and asked the Board to reconsider the amount of the fine. She asked that it be reduced to 10 percent. Member Murray moved to approve the hearing officer and General Counsel recommendations but accept the offer of \$1,600. Member Schneider seconded the motion which passed by roll call vote of 8-0.

Chairman Smart presented *SBE v. Friends of Mark Kochan*, an appeal that the hearing officer has recommended be denied. The General Counsel disagreed with the hearing officer's

recommendation and explained this is similar to a situation where the postmark is illegible. The postmark was dated January 1996 and the committee filed an affidavit indicating the report was mailed more than 72 hours prior to the due date. Member Porter was concerned as it was a private postage meter and the committee should know if it wasn't working correctly. Mr. Sandvoss indicated it appears both reports were mailed at the same time and Williamson County received the report on March 18. After further discussion, Member Murray moved to accept the recommendation of the hearing officer that there was a violation but the fine be stayed. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Smart presented *SBE v. Friends of Bill Haine*. The General Counsel indicated the hearing officer has recommended the appeal be granted in part and denied in part as there are four different issues involved. A revised hearing officer's recommendation was sent to the Board June 23. Mr. Sandvoss reviewed the matter indicating the committee failed to file two Schedule A-1 reports and delinquently filed two others. Member Keith moved to adopt the recommendation of the hearing officer and the General Counsel as amended. Vice Chairman Rednour seconded the motion. Member Murray questioned the violations and recommendations and felt the committee had to have known when a contribution was made. Member Schneider agreed that if IPACE knew they made an expenditure how could the receiving party not know that an in-kind contribution was being made. Member Keith indicated that a similar situation has occurred previously and the Board has let it slide. It is an issue that needs to be cleaned up. Mr. Sandvoss reviewed the recommendation to deny the appeal as to count 1 and grant the appeal as to counts 2, 3 and 4. The penalty be reduced to ten percent and stayed. The motion was called and passed by a vote of 6-2 with Members Murray and Schneider voting in the negative.

The General Counsel presented a request from Neighbors in Action Political Party for consideration of a payment plan on an assessment. Member Murray moved to accept the payment plan. Mr. Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for Board consideration fines for committees that do not appeal the assessments and indicated Mr. Borgsmiller was looking for direction. A recommendation

of a sliding scale was included in the Board packet. Member Keith felt that he could support the percentage assessment on a sliding scale but indicated that whatever is adopted the Board stick to the plan for appeals and non-appeals. Member Murray moved to adopt the schedule as presented today. Vice Chairman Rednour seconded the motion. Discussion ensued on the percentages and also on intentional and unintentional violations. Further discussion ensued on the Board having some discretion and the possibility of having more appeals before the Board. It was clarified the motion was to apply only to committees that do not file an appeal and that this sliding scale be included in the first letter sent out to the committee. The motion was called and passed by a vote of 8-0.

The General Counsel presented for informational purposes a listing of civil penalties that have been paid.

The General Counsel presented administrative rules on the certification of electronic voting systems. This is the first of two public hearings to be held to solicit public comment. No one was present in this matter. Mr. Sandvoss indicated that Dan Madden, Cook County, had requested the Board submit these as emergency rules. Member Murray moved to submit as emergency rules and at the same time begin the regular rule making process. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Smart noted that he received an e-mail from Elizabeth Beckman who expressed her sadness at having to leave the Board due to her husband's job change.

Member Murray indicated the new SBE website is great and very quick. He thanked everyone involved and Steve Flowers and his staff for doing a fabulous job.

Member Keith moved to recess to executive session to discuss pending litigation and personnel matters. Member Schneider seconded the motion which passed unanimously. Meeting recessed at 2:00 p.m. and reconvened at 2:20 p.m.

The next regular meeting of the State Board of Elections will be held on Monday, August 15, 2005 at 10:30 a.m. in Chicago.

With there being no further discussion, Vice Chairman Rednour moved to adjourn. Member Murray seconded the motion which passed unanimously. The meeting adjourned at 2:20 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director