

STATE BOARD OF ELECTIONS
Regular Meeting
Wednesday, February 19, 2014

MINUTES

PRESENT: Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
William M. McGuffage, Member
Bryan A. Schneider, Member
Casandra B. Watson, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened at 10:30 a.m. via videoconference with seven Members present in Chicago. Member Watson held Member McGuffage's proxy until his arrival at 10:35 a.m.

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

Vice Chairman Scholz moved to recess the State Board of Elections and convene as the State Officers Electoral Board to approve the minutes from the January 9 and 16 SOEB meetings. Member Gowen seconded the motion which passed unanimously. The meeting recessed shortly after 10:30 a.m. and reconvened at 10:32 a.m.

The Executive Director presented an update on the ES&S DS200, M100 & M650 voting equipment approval and indicated that Kyle Thomas was present to discuss the matter. Mr. Thomas noted that representatives from ES&S were also present via teleconference. Mr. Thomas explained that in August he submitted an approval request for the above noted voting systems. The report also discussed issues associated with jumpers contained in some of the M100 machines. Since that report Mr. Thomas was informed that the firmware has no bearing on the issue with the jumpers and the equipment settings. Incorrect adjustment of the Digital to Analog Conversion (DAC) settings caused the counting errors during the test. Once the DAC settings were properly adjusted the ballots were rerun and the counts came out as expected. Mr. Thomas said the amended report reflecting this correction was included in the board packet and also recommended the DAC settings be checked in all machines every two years. Two additional recommendations were also contained in Mr. Thomas' amended report. Member Gowen moved to accept Mr. Thomas' amended report. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

Member Byers moved to approve the minutes from the January 9 and 16 meetings. Vice Chairman Scholz seconded the motion which passed unanimously.

The General Counsel presented an appeal of campaign disclosure fines for Agenda item 2.a.4, *SBE v. Illinois Road Builders PAC*, 372, 13SQ003 and did not concur with the hearing officer recommendation to grant the appeal. He recommended the appeal be denied because he felt the electronic filing defense was not applicable in this situation. No one was present on behalf of the respondent committee. Member McGuffage moved to accept the recommendation of the General Counsel and deny the appeal. Member Watson seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.15, *SBE v. Friends of Stacy Gall*, 24935, 13SQ181 and did not concur with the hearing officer recommendation to grant the appeal. He recommended the appeal be denied for lack of an adequate defense. No one was present on behalf of the respondent committee. Vice Chairman Scholz moved to accept the recommendation of the General Counsel and deny the appeal. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.17, *SBE v. Friends of Ted Mesiacos*, 25228, 13SQ201 and did not concur with the hearing officer recommendation to grant the appeal. He recommended the appeal be denied because he felt the electronic filing defense was not applicable in this situation. No one was present on behalf of the respondent committee. Member Gowen moved to accept the recommendation of the General Counsel and deny the appeal. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals where he concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.1-3, 5-14, 16 & 18:

- 1) *SBE v. Cass County Democratic Central Committee*, 54, 13AJ002;
- 2) *SBE v. Evanston Regular Republican Organization*, 221, 13JQ010;
- 3) *SBE v. Illinois Home Builders Political Education Committee*, 295, 13AJ006;
- 5) *SBE v. Boone County Democratic Central Committee*, 610, 13AS002;
- 6) *SBE v. Mercer County Republican Central Committee*, 5166, 13AS009; (
- 7) *SBE v. Bremen Township Republican Organization*, 5989, 13SQ019;
- 8) *SBE v. Citizens for Sara Feigenholtz*, 9783, 12AS014;
- 9) *SBE v. Citizens for Thaddeus Jones for 3rd Ward Alderman*, 12697, 13AD025;
- 10) *SBE v. Local Union 792 Political Action Fund*, 23707, 13AJ030;
- 11) *SBE v. Will County Liberty Club*, 23962, 13AM76;
- 12) *SBE v. Friends to Elect Danny Hartline*, 24089, 13SQ146;
- 13) *SBE v. Custom Coating Innovations, Inc/Free Market State PAC*, 24284, 13SQ154;
- 14) *SBE v. Committee to Elect Mike Verbic for Mayor*, 24734, 13AJ064;
- 16) *SBE v. Naperville Professional Firefighters PAC*, 25041, 13SQ186;
- 18) *SBE v. Friends for Owens J. Shelby*, 25568, 13SQ217.

John Fogarty was present on behalf of Agenda item 2.a.2 and indicated he concurred with the hearing officer recommendation. No one was present on behalf of the remaining respondent committees. Vice Chairman Scholz moved to accept the recommendation of the General Counsel for the above noted appeals. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals where he concurred with the hearing officer to deny the appeals for Agenda items 2.a.20-25, 27, 29-31, 33-38, 41-43 & 45-47:

- 20) *SBE v. Jefferson County Democratic Central Committee*, 674, 13JQ017;
- 21) *SBE v. Communication Workers of America District 4 PEC*, 763, 13AS006;
- 22) *SBE v. IUOE Local 399 Political Education Fund*, 1157, 13AS007;
- 23) *SBE v. Morgan County Republican Women's Club*, 1196, 13SQ012;
- 24) *SBE v. Rockford PAC for Education*, 5578, 13SQ017;
- 25) *SBE v. Electrical Contractors' Association of City of Chicago, Inc PAC (ECA PAC)*, 6336, 13JQ041;
- 27) *SBE v. Citizens to Elect John Jung, Jr.*, 10328, 13JQ048;
- 29) *SBE v. Committee to Elect Tom Templeton*, 13402, 13AS016;
- 30) *SBE v. North Central Democrats*, 13816, 13JQ057; (pgs.122-124)
- 31) *SBE v. Oakton Community College Faculty Association PAC*, 14157, 13JQ059;

- 33) *SBE v. UA Local 160 Plumbers & Pipefitters Cope Fund*, 15500, 13SQ041;
- 34) *SBE v. Phoenix PAC*, 19148, 12AS082;
- 35) *SBE v. Friends of ECC*, 19379, 13SQ059;
- 36) *SBE v. Friends of Bonnie Hester*, 19979, 13SQ068;
- 37) *SBE v. Walk Bike Transit*, 23281, 13JQ134;
- 38) *SBE v. Citizens for Better Education*, 23710, 13AJ031;
- 41) *SBE v. Citizens for Ronald Duebbert*, 24169, 12AS040;
- 42) *SBE v. Citizens for Juan Ochoa*, 24244, 13AD088;
- 43) *SBE v. Building on Excellence – Yes for Referendum for Ball-Chatham Schools*, 24572, 13SQ162;
- 45) *SBE v. 44th Ward GOP*, 24717, 13AD104;
- 46) *SBE v. Friends of Rob Hanlon*, 24742, 13AD107;
- 47) *SBE v. Citizens for Mowris*, 25057, 13JQ243;
- 48) *SBE v. Disability Party of Illinois*, 25398, 13SQ20.

As to Agenda item 2.a.25, the General Counsel noted the report as issue was filed five days late, not three as listed in the hearing officer report. No one was present on behalf of the respondent committees. Member Coffrin moved to accept the recommendation of the General Counsel for the above noted appeals. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.19, *SBE v. Illinois Republican Party*, 292, 13JQ012 & 13AJ005 and concurred with the hearing officer recommendation to deny the appeal. Mr. Fogarty was present on behalf of the respondent committee and said both errors occurred during a change in leadership of the republican party. He asked for leniency and then offered a settlement of \$1,300. Member McGuffage moved to accept the recommendation of the General Counsel to deny the appeal and accept the settlement offer of \$1,300. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.28, *SBE v. Bridge Structural & Ornamental Ironworkers Local 111 PAC*, 11308, 13SQ027 and did not concur with the hearing officer recommendation to deny the appeal. He recommended the appeal be granted because he felt the electronic filing defense was appropriate in this matter. No one was present on behalf of the respondent committee. Member Byers moved to accept the recommendation of the General Counsel. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.26, *SBE v. Citizens for Moffitt*, 7982, 13AJ015 and concurred with the hearing officer recommendation to deny the appeal. Mr. Fogarty was present on behalf of the respondent committee and said the treasurer was overwhelmed by personal issues and corrected the error as soon as she discovered it. The General Counsel noted that the assessment of \$6,000 was incorrect and should be reduced to \$600 (10%) and the committee has substantial amount of funds available to pay the penalty. Member Coffrin moved to accept the recommendation of the General Counsel. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.32, *SBE v. Building Owners and Managers Association PAC*, 14879, 13AM063 and concurred with the hearing officer recommendation to deny the appeal. Steve Morrill was present on behalf of the respondent committee and indicated that notices of previous fines were not received and the non-filings were an unintentional oversight. The General Counsel also recommended that all of the violations be treated as one and a 10% assessment of \$3,900 should be levied. Mr. Morrill stated he agreed with the assessment recommended by the General Counsel. Member McGuffage moved to accept the recommendation of the General Counsel. Member Gowen seconded the motion which passed by roll call vote of 8-0.

Agenda item 2.a.39, *SBE v. Northwestern Illinois Building & Construction Trades Council*, 23781, 13JQ146 was pulled and will be placed on a future meeting Agenda.

The General Counsel presented Agenda item 2.a.40, *SBE v. Worth Township Democratic Party*, 23929, 13MA054 and concurred with the hearing officer recommendation to deny the appeal. James Nally was present on behalf of the respondent committee and said an accountant was responsible for the filings and experienced computer and internet issues. He indicated the committee had a funds balance of \$346 and offered that amount as a settlement. He also asked the violations be treated as one since they occurred within a very short timeframe. The General Counsel noted that a reduction to 10% of the penalty would total \$320. Member McGuffage moved to accept the recommendation of the General Counsel, treat the violations as a first violation and reduce the penalty to \$320. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.44, *SBE v. Alliance of Illinois Taxpayers NFP*, 24625, 13AJ035 and concurred with the hearing officer recommendation to deny the appeal. Steve Avalos was present on behalf of the respondent committee and a law clerk was responsible for the filings and made an inadvertent error. Once the late filings were discovered the reports were immediately filed. Since this was a first violation, Mr. Avalos asked the Board to waive the fine. Member Gowen moved to accept the recommendation of the Hearing Officer and General Counsel to deny the appeal and not waive the fine. Member Byers seconded the motion which passed by roll call vote of 8-0.

Agenda item 2.a.48, *SBE v. Disability Party of Illinois*, 25398, 13SQ205 was presented and it was suggested that the committee be informed of their option to file a final report due to their lack of activity. It was agreed that staff would notify the committee in writing utilizing a similar font size as noted in previous correspondence received from the committee. This matter will be placed on the March Meeting Agenda for consideration.

The General Counsel presented the following committees who have failed to comply with a Board order for Agenda items 2.a.49-53:

- 49) *SBE v. Committee to Re-Elect Mike Slape*, 1068, 13CD009; (pg.199)
- 50) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 19743, 13CD031; (pg.200)
- 51) *SBE v. Friends of Dick Breckenridge*, 23617, 13CD069; (pg.201)
- 52) *SBE v. Tammy Baer for Douglas County*, 24201, 13CD081; (pg.202)
- 53) *SBE v. Friends of Tom Bucher*, 24290, 13CD084.

He recommended the above committees be assessed a civil penalty of \$5,000 for failure to file the required reports. No one was present nor was any communication received on behalf of the respondent committees. Member McGuffage moved to accept the recommendation of the General Counsel for the above noted matters. Member Gowen seconded the motion which passed by roll call vote of 7-0 with Member Byers voting present.

A listing of civil penalty assessments necessitating a final board order was presented. The General Counsel noted that the following committees should be removed from the listing because they have paid their fine: Committee to Elect Judge Marilyn Johnson, 20595, Committee for Chris Kacharoubas, 7533, Kane County Republican Central Committee, 615 and Committee to Re-Elect Chuck Jefferson, 16136. Vice Chairman Scholz moved to issue final board orders for those remaining committees listed on pages 204-210 of the board packet. Member Gowen seconded the motion which passed by roll call vote of 8-0.

A listing of civil penalty payments was presented for informational purposes.

Member Schneider moved to recess to executive session to consider complaints following closed hearing, litigation and personnel matters. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0. The meeting recessed at 11:35 a.m. and reconvened at 12:55 p.m.

After a short break another roll call was taken with all Members present.

As to Agenda item 2.a.56, *Skillicorn v. Show You Care Kane*, 13CD260, Member Schneider moved to find that complaint was filed on justifiable grounds; there is no basis for a public hearing; order the committee to file the amended reports as detailed in the hearing officer report by the close of business on March 5; and referral to staff for imposition of civil penalties if necessary. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda items 2.a.57-58, *Zurek v. Friends of Barrett F. Pederson, et al.*, 13CD261 and *Zurek v. Your Village Your Voice Party, et al.*, 13CD262, Member Schneider moved that the parties having been advised of the hearing today, that the complaint be dismissed with prejudice for want of prosecution. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Agenda item 2.a.59, *Streit v. Sandra Bury for Mayor of Oak Lawn*, 13CD263 was pulled and will be placed on a future Board Meeting Agenda.

As to Agenda item 2.a.60, *Shearer v. Citizens for Bruce Rauner, Inc., et al.*, 14CD003, Member Schneider moved to find that the complaint was filed on justifiable grounds; however, explicitly noting the Board did not make a determination that a violation occurred; that the filing of the amended reports renders the matter moot; and that no further action was ordered. Member McGuffage seconded the motion which passed by roll call vote of 7-1 with Member Byers voting in the negative.

As to Agenda item 2.a.61, *Pickens v. Bellar*, 14CD004, Member Schneider moved that the parties having been advised of the hearing today, the complaint be dismissed with prejudice for want of prosecution. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to authorize the Executive Director to enter into a contract with Steve Flowers for contractual services based on the terms and conditions discussed in executive session. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The Executive Director began his report with preparations for the March 18, 2014 General Primary Election. He said that staff assignments for election day were included in the board packet and said the Springfield office will be open from 5:30 a.m. to midnight and the Chicago office from 6:00 a.m. to 11:00 p.m. The East St. Louis Board of Election Commissioners has requested staff assistance on election day as well. The Executive Director also noted that two press releases for the close of voter registration and early voting were distributed last week.

The General Counsel discussed the provisional balloting rules and said the rulemaking was submitted to the Secretary of State's Office Index Division on January 23 in two parts. One was emergency rulemaking that would be in place for the general primary election and the other submitted as a proposed permanent rulemaking with a publication date of February 7 in the Illinois Register. He noted that it was published on February 14 which commenced the first notice period. The Joint Committee on Administrative Rulemaking conducted a meeting yesterday and no comments were received regarding the rulemaking.

The Executive Director indicated that the Division of Voting and Registration will be conducting pre-testing of voting equipment in Clay, Crawford, DeWitt, Henderson and Whiteside Counties and that a report would be given at the next meeting. Kyle Thomas said he will be closely monitoring the DAC settings in the M100's in Henderson and Clay Counties as well.

A listing of election judge training schools was presented for informational purposes and it was noted that inclement weather has not affected any of the scheduled classes.

The Executive Director presented the process for statewide constitutional initiatives and said a summary was included in the board packet. Eric Donnewald reviewed that steps to determine if a petition contains the required number of signatures to be placed on the ballot. These include inventory of the petition, entering of inventory data, scanning the petition, entering of signature lines, selection of a random sample and validation of sample signatures. In the event only one petition is filed, Mr. Donnewald predicted it would take approximately two weeks to process the sampling. The filing of two petitions could possibly be an issue because staff resources will be stretched with other required activities and projects. The Executive Director said staff could be pulled from Chicago and other individuals could be acquired from a temporary staffing agency if needed. Discussion ensued regarding appropriate standards in terms of certification of initiatives to the ballot.

The Executive Director indicated that the Advisory Committee Meeting held on January 22 was well attended. Topics discussed included the upcoming primary election, provisional ballot rules, military ballots and the 45 day report, online voter registration and electronic canvassing update. The next meeting is scheduled for May 19, 2014.

Next was an informational item regarding the counting of State Employee Retirement Systems election ballots. The Executive Director said Election Information staff participated in the tabulation of 172 General Assembly Annuitant Trustee election ballots and Daniel Pierce was declared the winner.

The Executive Director presented the Presidential Commission on Election Administration report and said the Introduction and Key Recommendations was included in the board packet. These areas include voter registration, access to the polls, polling place management and voting technology. This report was for informational purposes and a copy of the full report was available upon request.

Cris Cray began the legislative update noting that an updated printout of election legislation was distributed to the Board. She explained that two pieces of legislation contain dueling language. One removes all schools from functioning as polling places and the other mandates that all schools can be used as polling places. There is also an omnibus election bill that includes clean up language regarding Section 10-10. Ms. Cray said the senate appropriations hearing is scheduled for April 11 and there will be two separate house appropriations hearings. The first one will highlight mandates such as election judge reimbursements, county clerk stipends, online voter registration and federal grants. The second will cover the agency appropriation. The Governor's Annual Budget address that was schedule for today was rescheduled for March 26.

The Executive Director presented the Paperless Online Voter Application (POVA) update and indicated that a detailed report was sent to the Governor and General Assembly as required by P.A. 98-115. The text of the report and master project schedule was included on pages 244-250 of the board packet. Kyle Thomas indicated that staff is continuing with the testing phase and the POVA pages are now included on the test site in IVRS. Responses are being received from the vendors however many of them have not completed the programming to interact with the system. Even without the vendor's interaction, the election jurisdictions can still access the applications through IVRS. The testing of the user interface is almost completed and language regarding the e-

mail message and some of the user screens was sent to the legal department for their final review. One new function that was implemented allows a user without an e-mail address to return to the system using a unique identification code to check the status of their registration. Users with an e-mail address will receive this code through an e-mail message after completing all of the data entry screens. Kevin Turner added that the master project schedule was fluid based on needs and the date for implementation of testing with the election jurisdictions was pushed back one week to work on some minor bugs. Although SBE has no control over the vendors nor the election authority's progress on their end of the system, Mr. Turner felt the project was approximately 65-70% completed. He also noted that staff is in constant contact with the election authorities and vendors and closely monitoring their progress as well. The Executive Director indicated that staff regularly attends county clerk zone meetings and Mr. Thomas and Mr. Turner will attend to discuss POVA as well.

Mr. Thomas discussed the IVRS update and said duplicate matches have decreased as expected due to the upcoming election. As to the census data versus registered voters, those numbers are where they are expected to be as well. Jersey County remains slightly over 100% but that will change after the election when they can finish cleaning up their voter rolls.

The Executive Director presented the EAC Election Data Collection Grant Audit Report contained on pages 256-277 of the board packet and said there were two findings related to policy. One pertained to a separation of duties and the other related to federal grant procedures. The EAC accepted the staff explanation of the findings and the recommendations contained in the report have been resolved and implemented.

The FY14 fiscal status reports for the month ending January 31 and two year plan of staff activity for the months of February and March were presented for informational purposes. The Executive Director noted that FY14 expenditures are on target and are being closely monitored.

A request to address the Board under comments from the general public was received from Sharon Meroni of Defend the Vote. Ms. Meroni discussed her thoughts regarding the recruitment and selection of election judges in Cook County and the City of Chicago.

Discussion ensued regarding the location of the March 17 Board Meeting. It was agreed by all to hold the meeting in Chicago beginning at 9:30 a.m. with a videoconference connection to the Springfield office.

With there being no further business before the Board, Member Byers moved to adjourn until Monday, March 17, 2014 at 9:30 a.m. Member Watson seconded the motion which passed unanimously. The meeting adjourned at 2:30 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director