

State Board of Elections Board Meeting
Tuesday, February 21, 2006
10:30 a.m.

MINUTES

PRESENT: Jesse R. Smart, Chairman
Wanda L. Rednour, Vice Chair
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Albert S. Porter, Member
Bryan A. Schneider, Member
Robert J. Walters, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Assistant to the Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:33 a.m. Chairman Smart opened the meeting by leading everyone in the pledge of allegiance. Six members were present, two by proxy. Mr. Porter held Mr. McGuffage's proxy until his arrival at 11:30 and Chairman Smart held Mr. Schneiders's proxy until his arrival at 10:50.

The Chairman presented the minutes of the January 19 regular Board meeting and January 27, February 3 and February 6, special board meetings. Vice Chairman Rednour moved to approve the minutes as presented. Mr. Walters seconded the motion which passed unanimously.

Executive Director White began his report with preparations regarding activities for administering the March 21 General Primary Election. An Election Day assignment list was presented and Bruce Brown was added to the field program assignment roster for St. Clair County.

The Executive Director scheduled an Election Day monitoring meeting the first week of March. The U.S. Attorney's office, Illinois Attorney General's office, the Cook County State's Attorneys office, the Cook County Clerk's office and the Chicago Board of Election Commissioners will be invited to attend.

Mr. White continued with a report on the public service announcements that have been developed to inform voters of changes to Illinois law. The program focuses on early voting and grace period registration which are in effect for the primary election. He presented the board with copies of press releases, a brochure on early voting, and the television script for the early voting announcement and indicated that similar materials for grace period registration will be released beginning February 22nd. Director White thanked Al Manning, media consultant, for his help in compiling a listing of 32 news agencies in email form. The Board expressed its desire to have the notices linked through the news agencies websites if possible.

Director White presented a list of judges' schools for the General Primary.

A legislative update was summarized by Mr. White. Forty-two election bills have been introduced this session and the Board's budget passed through committee. He indicated that he would be before the Rules Committee in Springfield next week and a more thorough report will be available at the March meeting.

Executive Director White offered a HAVA update and stated that the contract with Catalyst Consulting, Inc., had been approved by CMS. This approval ensure staff can immediately address technical infrastructure issues and make necessary upgrades for a fully HAVA compliant statewide voter registration system. Mr. White thanked Mike Roate, Steve Flowers, Mark Mossman and Kyle Thomas for their efforts in securing this contract.

The Director presented a finalized amended agreement with the Illinois Secretary of State's office to obtain drivers license data. General Counsel Steve Sandvoss commented that this is the same agreement that was signed in March of 2004, and amended in May, 2005. An amendment was required to reflect the new approach that the Secretary of State and SBE have taken to verify information in the Secretary of State's database. Mr. White introduced Jill Zwick and Nathan Maddox of the Secretary of State's office. Ms. Zwick stated that there is no fiscal impact, only how data is shared. Mr. Porter moved to approve the agreement between the SBE and the Secretary of State as presented by the General Counsel. Vice Chairman Rednour seconded the motion which passed 8-0.

Mr. White returned to the HAVA report and presented his response to the Department of Justice request including an updated chart of Voting Equipment in Illinois that included both regular and accessible voting equipment to be utilized in the March 21 General Primary Election; a chart showing the status of certification of voting equipment meeting Section 301's standards; and an explanation and supporting details for Illinois HAVA database project prepared by Catalyst Consulting Groups, Inc.

A conference call connected Dianne Felts, Director of Voting Systems and Standards, and the Springfield office with the meeting. Ms. Felts advised the board that Sequoia is having a problem with the alternative language (Chinese) and since Sequoia has gone back to ITA, it is possible that the Board may have to meet again to approve a minor modification.

Mr. White continued with the fiscal status report which indicated that the board is in good shape to meet all obligations and noted a spike in the HAVA report which indicates reimbursement and dispensing of monies.

The Director concluded his report with an informational two year plan of staff activity for the month of February and March.

Mr. White summarized a letter from Ernest Rigger, President of Fidler Election Company notifying the Board and it's customers that the components necessary to complete the upgrades of the voting equipment certified for the March 21st General Primary will not be available in time for the primary election and suggested the Optical Scan units with the 1.96.4 firmware be used for this election. Ms. Felts stated that the Board adopted 2002 standards and according to its rules, the systems must be 2002 compliant. The 1.96.4 is not 2002 compliant. Bob Saar, Dupage Board of Elections Executive Director, asked the Board to waive the 2002 certification for the 1.96.4 which would allow them, and the 50 other Fidler customers to use the 1.96.4 systems which have been successfully used in the past. After lengthy discussion the board scheduled a special meeting for Friday, February 24, 2006. The Board asked Mr. White to contact the Department of Justice for guidance on this matter and that representatives from Fidler and Diebold be available at the meeting. The board returned to the next matter before the Board until Director Felts secured answers from Diebold until later in the day.

Chairman Smart called for the Report of the General Counsel. Mr. Sandvoss began his report with a Rule to Show Cause hearing that was carried over from December, *SBE v. Citizens to Elect Fred Bucholz*, L11615, 04AG113. Neal Cerne, treasurer for the committee and Fred Bucholz were present. Mr. Cerne stated that he had been present at the October 21, 2005 meeting and heard that the appeal had been granted, but did not hear the time deadline. Also, he attempted to change an address through the internet and it did not work. He assured the board that they meant no disrespect. Mr. Keith moved to discharge the Rule to Show Cause. Mr. Brady seconded the motion which passed 8-0.

Mr. Sandvoss summarized the activities of the Citizens for Steve Kim, 05 JS 088 matter. Mr. Kim, Chairman of the committee filed a waiver of appearance and appeal affidavit. On the affidavit he stated that he completed the report and received confirmation that the report was completed. The hearing officer attempted to contact Mr. Kim by phone and by mail asking for documentation confirming that he filed the report, but no response was received. The General Counsel concurred with the recommendation of the Hearing Officer to deny the appeal and the total assessment due and owing is \$575. Mr. Kim was present and told the Board that he travels a lot for his job and meant no disrespect not returning the

calls. He further believed that he filed the report, but he could not find the documentation requested. Mr. Kim offered a settlement of \$200. Mr. McGuffage moved to grant the appeal and assess a fine in the amount of \$200 in satisfaction of

his previous penalties if the fine is paid by the end of the week. Mr. Porter seconded the motion which passed 6-2 with Mr. Keith and Mr. Schneider voting against the motion.

The General Counsel asked that *SBE v. The Village Improvement Party*, 8611, 05AE019; *SBE v. Citizens for Ocasio*, L5399, 04GE117; *SBE v. Citizens to Elect Ken Crowley*, L12765, 05AE048; *SBE v. Re-Elect Jack Swan*, L12865, 05JS064; *SBE v. Friends of Paul Ruff*, L5016, 05AE012; and *SBE v. The Coalition Party aka the Progressive Party*, L8049, 05AE017 be considered as a group as he agreed with the recommendation of the hearing officers. Vice Chairman Rednour moved to adopt the recommendations of the hearing officer and general counsel. Mr. Keith seconded the motion which passed 8-0.

Mr. Sandvoss summarized the activities of the *SBE v. Citizens for Pinney*, L12612, 05AE045 and acknowledge that Ms. Leslie Pinney was present for the respondent. The hearing officer recommended and the general counsel agreed that the appeal be denied and the respondent be assessed 10% or \$470 penalty. Further that the penalty be paid within the time frame or it reverts back to 100%. Mr. Keith moved and Mr. Brady seconded a motion to adopt the recommendations of the hearing officer and general counsel. The motion passed unanimously.

The chairman called for a short recess at 12:10 and returned at 12:20 p.m.

Chairman Smart called the matter of Family Tax Network and Renew Illinois and asked for appearances. Mr. Doug Ibendahl, attorney for the committees and Mr. Jack Roeser, was present for the committees. The General Counsel noted that a fine of \$51,485 for the Family Tax Network and \$10,000 for Renew Illinois had been assessed by the board. Mr. Ibendahl offered settlement figures of \$973.06 for the Family Tax Network and \$1,235 for Renew Illinois. Mr. Ibendahl stated that they were sorry that this matter was delinquent but believed that even 10% assessment of the fines was excessive. He noted that technical mistakes and turn over of staff caused the problems. Mr. Ibendahl acknowledged that Mr. Roeser's comments to the news media meant no disrespect to the board and the comment was only to the level of the fine. Mr. Keith moved to deny the settlement offer presented by the respondent and authorized staff to settle this matter in the amount of \$16,482 payable by March 1st. Vice Chairman Rednour seconded the motion which passed 6-2 with Mr. Brady and Mr. Walters voting no.

The Board returned to the Diebold matter. Dianne Felts spoke with Ian Pfiefer of Diebold who stated the error rate of the two versions should be the same accuracy rate. She noted the error rate under the 1990 standards was 1 in a million whereas the 2002 standards are 1 in 10 million. Ms. Felts stated that we adopted the 2002 standards and made everyone else comply with those standards and without an ITA report she is not satisfied that the 1.96.4 meets the 2002 standards. Mr. Barrett said that all of the Fidar customers will be using a scanner which passed the 2002 guidelines. Chairman Smart stated his dismay over not having a response from Diebold. This matter was tabled until Friday, February 24, 2006 at noon, via telephonic conference call, anticipating that Mr. White will have guidance from the Department of Justice, Ms. Felts gets the answers to her questions and someone from Diebold is present.

General Counsel Sandvoss introduced Steve Sturm who presented options that he's researched for debt collection. He stated that ballot forfeiture is the only option under the Election Code, but the Department of Revenue's newly established Debt Collection Bureau could be a viable option as fines owed by committees fit the definition of debt under the Comptrollers Act. The drawback is that only department, agencies, etc., "under the jurisdiction of the governor" can utilize this provision. Another option Mr. Sturm researched was garnishment under the Comptroller's Act. This alternative is not feasible as it is unlikely that committees which exist exclusively for campaign purposes could be forced to pay their debts this way. We could potentially collect fine money from sitting legislators or other state employees including judges. Another drawback is that State employees would argue that fines which are owed by their committees are not debts for which the employee is responsible. After discussion, Mr. Keith moved and Mr. Schneider seconded a motion to encourage the legislative and legal staffs to use Debt Collection Bureau even though we are not under the Governor and to include in future orders that fines are payable on a date certain or it goes back to 100%. The motion passed unanimously.

Mr. Sandvoss asked Rupert Borgsmiller, Director of Campaign Finance and Disclosure to present item 11, Removal of additional comments/IDIS. Mr. Borgsmiller stated that some comments attached to committee reports that are filed electronically are inappropriate. The comment box is meant for clarification or to address issues contained within the report itself. He asked for permission to remove comments posted on the website that are not relevant to the committee's filings and that the Campaign Disclosure Division would review each comment to determine its relevant to the report. A

motion and second were withdrawn and it was decided that a notice would be posted stating that comments will be removed that are not pertinent to the filing report if the committee uses it as a posting device.

Director Borgsmiller offered a summary of the campaign disclosure downlink seminar that was held on Saturday, January 14th. He noted that the workshop was broadcast to 20 sites around the state and was available as a streaming video. Also, it is archived on our website for viewing throughout the year. Mr. Borgsmiller thanked Illinois Information Services employees Mark Suszko, Paul White, Greg Lipe, Tony Batement and Thomas Craven for their dedication and willingness to make the seminar a success.

The electronic filing of semi annual reports and payment of civil penalties were submitted for information purposes.

Mr. Sandvoss presented an outside complaint following closed hearing, *Great Ideas! Promotions, Inc. v. Hoffman, et al*, 06 CD 001 and asked that it be held over to executive session.

The Board considered a proposed rule for Absentee Voting Procedures. A motion to modify parts d) and remove g) and adopt the remaining a), b), c), e) and f) was discussed, however no action was taken on this matter and the rule was tabled until the March meeting.

Consideration of a proposed rule regarding Non-Profit Organizations was tabled until March.

The Chairman asked if other business was before the board and Vice Chairman Rednour asked if the May meeting could be changed from the 15th to the 22nd. All board members agreed and the date was confirmed for May 22nd, in Springfield.

Vice Chairman Rednour moved to recess to executive session at 1:50 p.m. Mr. Porter seconded the motion which passed unanimously.

The Board returned to open session at 2:04 p.m.

Mr. Keith moved to adopt the action that was taken in executive session regarding *Great Ideas! Promotions, Inc. v. Hoffman, et al*, 06 CD 001. Mr. Schneider seconded the motion to find that the complaint was filed on justifiable grounds and a public hearing is ordered. The motion passed unanimously.

There being nothing further before the board, Vice Chairman Rednour moved to adjourn until March 20th in Springfield, IL or until call of the chairman. Mr. Brady seconded the motion which passed unanimously. The meeting adourned at 2:05 p.m.

DATED: February 27, 2006

Respectfully submitted,

Darlene Gervase, Assistant to the Executive Director

Daniel W. White, Executive Director