

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, April 16, 2013

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, 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 10:40 a.m. via videoconference with all Members present in Chicago.

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

Member Rice moved to approve the minutes from the March 18 and April 4 meetings as presented. Vice Chairman Smart seconded the motion which passed unanimously.

The General Counsel presented the following appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.1-8 & 21:

- 1) *SBE v. Williamson County Democratic Central Committee*, 1154, 13AD002;
- 2) *SBE v. Kuspa for Mayor*, 21189, 12SQ102;
- 3) *SBE v. Citizens for John M. Cabello*, 22261, 13AD005;
- 4) *SBE v. Friends of Donahue Campaign Committee*, 22627, 12AM101;
- 5) *SBE v. Friends of Sherman C. Jones*, 22764, 12AS031;
- 6) *SBE v. Citizens for Tom Caravette*, 22906, 12MQ217 & 12SQ134;
- 7) *SBE v. Committee to Elect Nathaniel R. Howse*, 23715, 12AS035;
- 8) *SBE v. Citizens for Ramiro Juarez*, 23882, 12AS038;
- 21) *SBE v. Committee to Elect TFPD Trustee*, 22885, 12SQ133.

No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above noted appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that Agenda items 2.a.9, *SBE v. IL Home Builders Political Education Committee*, 295, 12MA096; 2.a.16, *SBE v. 32nd Ward Regular Republican Organization*, 20557, 11MA105; and 2.a.22, *SBE v. Citizens to Elect Bellar*, 23011, 12AJ075 would be placed on a future meeting Agenda.

The General Counsel presented the following appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to deny the appeals for Agenda items 2.a.11, 12, 14, 15, 17, 20 & 23-29:

- 11) *SBE v. Tax Accountability*, 7054, 12SQ031;
- 12) *SBE v. Committee for a Better Berwyn*, 14895, 12SQ043;
- 14) *SBE v. Macon County Farm Bureau Political Committee*, 18247, 12SQ066;
- 15) *SBE v. Polish American Congress PAC*, 19460, 12SQ077;
- 17) *SBE v. Lakefront Democratic Fund*, 20744, 12JQ063;
- 20) *SBE v. Citizens to Elect Brian R. McKillip*, 21704, 12SQ111;
- 23) *SBE v. Sherlock for Appellate Court*, 23830, 12SQ156;
- 24) *SBE v. Committee to Elect Don R. Sampen to the Appellate Court*, 23945, 12SQ160;
- 25) *SBE v. Citizens for Laura Reigle*, 24072, 12SQ165;
- 26) *SBE v. Oppose Property Tax Increase for School Dist. 67 Taxpayers a.k.a. For the Children*, 24273, 12MA117;
- 27) *SBE v. Hanover Township Election Victory Fund*, 24449, 12JQ178 & 12AJ074;
- 28) *SBE v. Claahsen for City Council NFP*, 24499, 12SQ188;
- 29) *SBE v. Citizens for Polites*, 24524, 12MA121.

No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above noted appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.10, *SBE v. Bridge Structural & Reinforcing Iron Work*, 1035, 12SQ017 and concurred with the hearing officer recommendation to deny the appeal. Jim Gardiner was present on behalf of the committee and said that he was not receiving the mailings but has since signed up for e-mail notifications and apologized for the late reports. He asked for a settlement of approximately 50% of the penalty. Vice Chairman Smart moved to accept the recommendation of the General Counsel and approve a settlement of \$500 to be paid within thirty days. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.18, *SBE v. Committee to Elect Judge Shapiro*, 20755, 12JQ186 and concurred with the hearing officer recommendation to deny the appeal. James Shapiro was present on behalf of the committee and noted that the Treasurer experienced some serious health problems and was not able to timely file the reports. Chairman McGuffage moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.19, *SBE v. Friends of Dan Sugrue*, 21181, 12SQ101 and concurred with the hearing officer recommendation to deny the appeal. Dan Sugrue was present on behalf of the committee and explained that he was not in the right frame of mind because of the passing of his mother-in-law and father within a three week period during the time the reports were due. He then offered a settlement of \$300 of the penalty. Vice Chairman Smart moved to accept the recommendation of the General Counsel and approve a settlement of \$300 to be paid within thirty days. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.13 & 30, *SBE v. Friends of George A. Cardenas*, 17290, 12MA044 and *SBE v. Friends of George A. Cardenas*, 17290, 12MA102 and concurred with the hearing officer recommendation to deny the appeal for item 2.a.13 and grant in part and deny in part for item 2.a.30. James Nally was present on behalf of the respondent committee and indicated that there was a turnover of staff and those individuals were unclear about the new laws and noted that additional notifications have been put into place. Mr. Nally then offered a settlement of \$12,500 of the penalty. After discussion, Member Schneider moved to grant in part and deny in part and approve a settlement of \$9,947.50 for 12MA044 (20% of the delinquently

reported contributions) and a \$2,500 settlement for 12MA102, both to be paid within 30 days. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.31, *SBE v. Citizens to Elect Stanley L. Hill, 23662*, 12MA111 and concurred with the recommendation to grant the appeal in part and deny the appeal in part. No one was present on behalf of the respondent committee. Member Rice moved to accept the recommendation of the General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

A listing of payment of civil penalties was presented for informational purposes.

Member Schneider moved to recess to executive session to consider complaints, litigation and personnel matters. Member Scholz seconded the motion which passed unanimously. The meeting recessed at 11:20 a.m. and reconvened at 12:05 p.m.

As to Agenda item 2.a.33, *Cicero Voter's Alliance v. Seniors for Starzyk*, 13CD096, Member Schneider moved to find that the complaint was not filed on justifiable grounds. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to find the following complaints for Agenda items 2.a.34-45 were filed on justifiable grounds but no further action beyond the imposition of a civil penalty:

- 34) *SBE v. Friends of Zachery C. Wilson*, 13CD027;
- 35) *SBE v. Prairie Green of East Central IL*, 13CD032
- 36) *SBE v. Citizens to Elect Laura C. Tomsky*, 13CD046;
- 37) *SBE v. Citizens for Stefani*, 13CD047;
- 38) *SBE v. Citizens for Cecil Todd Emery for Sheriff*, 13CD050;
- 39) *SBE v. Friends of Ed Michalowski*, 13CD053;
- 40) *SBE v. Friends of Molly Phelan*, 13CD057;
- 41) *SBE v. Southland Democrats*, 13CD060;
- 42) *SBE v. Friends of Vetreess Boyce*, 13CD064;
- 43) *SBE v. Friends of Rhymefest*, 13CD065;
- 44) *SBE v. Open Government Party*, 13CD067;
- 45) *SBE v. John P. Tully for Supreme Court*, 13CD080;

Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to find the following complaints for Agenda items 2.a.46-50 & 53-58 were filed on justifiable grounds and the matters proceed to a public hearing:

- 46) *SBE v. Illinois School Psychologists PAC*, 13CD006;
- 47) *SBE v. Committee Re-Elect Mike Slape*, 13CD009;
- 48) *SBE v. Pulaski County Republican Boosters Club*, 13CD012;
- 49) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 13CD031;
- 50) *SBE v. Friends of Kenny Johnson*, 13CD034;
- 53) *SBE v. Oak Lawn Leadership Team*, 13CD045;
- 54) *SBE v. Illinois Black Business PAC*, 13CD055;
- 55) *SBE v. Education First Party*, 13CD068;
- 56) *SBE v. Friends of Dick Breckenridge*, 13CD069;
- 57) *SBE v. Tammy Bar for Douglas County State's Attorney*, 13CD081;
- 58) *SBE v. Friends of Tom Bucher*, 13CD084;

Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to direct the following committees; Agenda items 2.a.51-52, *SBE v. Citizens United for Change in the 20th Ward*, 13CD036 and *SBE v. Taxpayers United for Fairness*, 13CD039 to be administratively terminated due to inactivity and lack of communication with the officers. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to consolidate the divisions of Voting Systems and Standards and IL Voter Registration Services. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to approve a 2% cost of living increase (COLA) for staff effective May 1, 2013. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The Executive Director began his report with an update on the April 9 Consolidated Election and the Special Election in the 2nd Congressional District and said two staff members were stationed in the field and no major issues occurred. Per request from the U.S. House of Representatives and by direction of the Board, unofficial results of the Special Election were transmitted at approximately 10:30 a.m. this past Thursday. Mr. Borgsmiller noted that proclamation of the winners of the Fox Waterway Agency and 2nd Congressional District will occur on May 10 and asked for a Special Board Meeting or motion to authorize staff to do so without a meeting. Member Gown moved to authorize staff to proclaim the results of both elections on May 10. Member Schneider seconded the motion which passed unanimously.

Dianne Felts discussed a ballot problem that occurred in Kankakee County on election day and said two precincts had shrink wrapped ballots that contained both the original and revised ballots. It was determined that GBS experienced a quality control issue and the ballots should have been double-checked prior to shipping. Ms. Felts noted that an election contest will most likely occur in the affected precincts.

Ms. Felts indicated voting system pre-testing was conducted in Clark, Douglas, Jefferson, Perry, Union and Williamson Counties. She noted that there were some issues in Union County where the equipment would not accept the new ballot styles but was corrected after the vendor updated the database. Perry County had some memory cards that needed to be replaced but the new cards that do not require batteries are on back order from the vendor.

Ms. Felts discussed the ES&S SSL certificates for the AccuVote and TSX machines and said it was a minor modification and an engineering change order. This did not have to be tested because it is a communication and security feature. Ms. Felts stated that the vendor updated the expiration dates from July 2013 and January 2014 to October 2030 and recommended the approval. Vice Chairman Smart moved to approve the updated SSL certificates. Member Rice seconded the motion which passed by roll call vote of 8-0.

A listing of election judge training schools containing final numbers was presented for informational purposes.

Cris Cray reported on legislation and said that HB 116 states that any new Member of the SBE will not be entered in the State Retirement System. The bill has an immediate effective date when the Governor signs it and does not affect any of the current Board Members. Ms. Cray indicated that HB 226 passed House Executive Committee and gives seventeen year old individuals the right to vote in a general primary election if they turn eighteen by the date of the general election. Representative Carol Sente is the sponsor and is asking the Board to endorse the bill. Kyle Thomas noted that the election authorities will have to make some program changes to the voter registration and election management systems in the even number election years. The costs for the changes

would be determined by the vendors and election authorities as well. Discussion ensued regarding the requirements of the Illinois Constitution and if the statute can be changed. Member Scholz moved to support HB 226 and direct Ms. Cray to note the Board's concerns so the legislation has the greatest chance of being upheld against any potential constitutional challenges. Member Byers seconded the motion which passed by roll call vote of 8-0.

Mr. Borgsmiller continued his report with an update on judicial redaction and explained that upon request, the SBE is required to redact personal information of judicial officers from political committee reports, the voter registration database, petitions, etc. So far only nine requests have been received and processed by the necessary divisions and staff is anticipating a greater number of judicial officers who will request this service. The IT department developed the program and it does a good job of redacting information from the electronic records. Staff was directed to notify the election authorities to alert them of their potential responsibility for redacting the information from their voter registration databases as well and refer them to the IL Office of Administrative Courts if they have any questions.

Kyle Thomas gave an IVRS update and noted that number of duplicate matches has decreased statewide as the election authorities work to clean up their voter registration rolls. There was not much change in the census data versus registered voters numbers in certain jurisdictions. Clark County numbers are expected to drop post election after they complete their purge and East St. Louis should improve as well once their purge is completed this summer.

The reports of fiscal activity for the month of February were presented and the Executive Director said that expenditures are on target and will continue to be monitored.

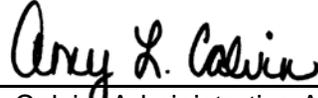
The two year plan of staff activity was presented for informational purposes.

The Executive Director reported on a follow up matter regarding compliance with the IL Procurement Code and said that he, Steve Sandvoss and Mike Roate had a meeting with Matt Brown and the discussion centered on the provision that states which agencies are included under the Code. Mr. Sandvoss referred to Section 10-10 where it says the chief procurement officer shall appoint a state purchasing officer for each agency that the chief procurement officer is responsible for under Section 1-15.15. He explained that Section 1-15.15, lists the four procurement officers: one for Capital Development; one for Illinois Department of Transportation; one for Illinois Institute of Higher Education; and the last one deals with everyone else. Under the definition of state agency, it includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the state created by or in accordance with the Constitution or statute of the executive branch of state government. Mr. Sandvoss said the preferred course of action would be to seek a legislative exclusion that would codify into law that the SBE is excluded from the provisions of the Code for reasons discussed at the last Board meeting and the independent nature of the Board as declared by Supreme Court decisions. Mr. Brown had indicated in a previous conversation with Staff, that he would not personally oppose that course of action. After discussion, all Members unanimously agreed that a letter would be sent from the Chairman and Vice Chairman to the Speaker of the House, the Senate President, the minority leaders of both chambers and Auditor General explaining the Board's position.

Upon request from Member Byers, it was unanimously agreed to change the meeting time to 10:00 a.m. for the June 18, 2013 Board Meeting.

With there being no further business before the Board Member Scholz moved to adjourn until 10:30 a.m. on Monday, May 20, 2013 in Springfield. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 1:20 pm.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director