

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, June 13, 2005
Chicago, 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 11:10 a.m. with eight members present.

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

Chairman Keith noted the late start of the meeting was due to a reception honoring outgoing members Elaine Roupas and Dave Murray. At that time, on behalf of the Board, Chairman Keith presented Member Roupas with a plaque for her service to the Board and stated it had been an honor to serve with her on the Board. Member Roupas thanked the Board for the plaque and indicated that she truly enjoyed being a part of the Board. The State Board of Elections has a very dedicated staff and it was an honor and privilege for her to be a part of it.

Chairman Keith then presented, on behalf of the Board, Member Murray a plaque for his service to the Board noting that he is the longest serving member of the Board. Member Murray indicated he has enjoyed serving on the Board and has also tried to be fair and impartial. He indicated he has never seen a more dedicated group of professionals as he has at the SBE. He indicated it was an honor and privilege to work with all members of the Board as well as staff.

The Executive Director thanked Members Murray and Roupas for their service and dedication to the Board and for always being prepared for the Board meetings.

Chairman Keith presented the minutes of the May 16 regular monthly Board meeting and June 9 special meeting. Member Murray clarified that Jim Scanlon as noted on page three represents the Chicago Election Commission rather than the City of Chicago. Member Roupas moved to approve the minutes as amended. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *Lavelle v. LEAA/Burkett*, 02CD65 and 66 and *Timoney v. Garman*, 02CD68 and *Timoney v. ATA*, 02CD69. Al Zimmer, hearing officer, presented a scheduling order and hoped that the matter could be resolved by October 2005. Joseph Morris who represents Mr. Burkett was present and had no objection to the scheduling order. Vice Chairman Smart moved to approve the scheduling order. Member Murray seconded the motion which passed by roll call vote of 8-0.

The Executive Director indicated with the passage of Public Acts 93-541 and 93-1102 the legislature created new judgeships in several circuits. Pat Freeman discussed the legislation which contains language providing that the judgeships be filled by election in 2006. Ms. Freeman recommended the Board declare additional judgeships in the 9th and 2 circuits for the 2006 election. Member Murray moved to approve the staff recommendation and declare additional vacancies. Member Rednour seconded the motion which passed by roll call vote of 8-0.

Ms. Freeman then discussed new vacancies in the 19th and 22nd judicial circuits noting that language was not clear for these circuits. She asked the Board to approve three additional judgeships for the 19th circuit designated as additional judgeships A, B and C, and to approve two additional judgeships for the 22nd circuit designated as additional judgeships A and B. Vice Chairman Smart moved to approve the staff recommendation. Member Murray seconded the motion which passed by roll call vote of 8-0.

Director White presented a HAVA update and briefly discussed the recent meeting with the IVRS committee. There seems to be a consensus at this time on "real time" data and that data should be synchronized at least once every 24 hours. Discussion continued on legislation passed regarding voter registrations and that the registrations can now be transmitted only to the election authority. Director White then discussed the budget bill and noted that guidance was contained within it on the spending of federal funds. Based on the figures in that staff has provided a revised grant application

for payments for accessible voting equipment. In response to a question from Vice Chairman Smart, Director White noted that staff is currently in discussions with the Secretary of State's office to determine how the legislation impacts the agreement. Discussion ensued on the current system which sends out a list monthly to all jurisdictions of names of people who said "yes" on their application. Seven election authorities have this sent to them electronically. After further discussion on the voter registration database, Member Murray moved to adopt a 24 hour transmittal to be compliant with the real time requirement of HAVA. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Director White discussed the deadlines for compliance with HAVA. The General Counsel indicated he had spoken with Hans vonSpakovsky with the Department of Justice and referred to his memo to the Board. It appears if Illinois does not meet the deadlines DOJ is looking more to assist the state rather than take action against it. Member Schneider indicated it appears everyone is working hard on this but would take more comfort seeing something in place by January 1 but no later than the March election.

Director White then discussed the grant application procedure for the purchase of accessible voting equipment. The revised application reflects numbers that the legislature indicated could be made available to the election authorities. The revised application also reflects changes based on questions from the Chairman. The election authorities will be requested to submit an application subject to approval and they will be required to fulfill all requirements before they can receive the money. Discussion ensued on voting systems and certification of systems. Chairman Keith questioned if the General Assembly has the authority to dictate how the SBE can spend the federal money. The General Counsel indicated there is nothing in HAVA that discusses this so it leaves open the question of who says what it can be spent on. Member Porter felt that the SBE should be making the decision and not the General Assembly. After further discussion on the Requirements money, the General Counsel indicated he would request an opinion from the Election Assistance Commission if it was their intent for the chief election officer to set the distribution parameters or the state legislators.

Discussion ensued on the Title III Requirements and expenses associated with these requirements. Member Schneider requested staff prepare materials which identify all requirements and designate an allocation to each requirement. Chairman Keith noted this would be continued to the July meeting at which time the new information could be presented.

Member Rednour moved to recess and convene in executive session for the purpose of discussing personnel matters. Member Roupas seconded the motion which passed unanimously. Meeting recessed at 12:25 p.m. and reconvened at 1:50 p.m.

The Executive Director continued with a legislative report and indicated the State Board of Elections budget was passed which only one reduction which was to the pension funding. The omnibus election bill, HB 1968, passed which contained many of the SBE's suggestions, although this has not yet been signed by the Governor. In response to a question of Member Schneider, Pat Freeman noted that provisions in HB 1968 relating to petitions for nomination amends Article 8 and basically just creates clarity with regard to statement of economic interest receipts.

The Executive Director presented for informational the fiscal report for the period ending May 31, the fiscal report for the Help Illinois Vote Fund, and the two year plan of staff activity.

Member Murray moved that the Board approve action taken during executive session concerning the Executive Director's compensation. Member Roupas seconded the motion which passed by roll call vote of 7-1 with Member McGuffage voting in the negative.

Chairman Keith presented *Canary/Redfield v. Illinois Coalition for Jobs, Growth & Prosperity*; 05CD003 and *IL Campaign for Political Reform, the Sunshine Project v. Justice for All Foundation*, 05CD002. The General Counsel discussed the matter indicating that the hearing officer has recommended that Paul Horan's and Deborah Goldberg's motions to appear in these proceedings be denied. Ms. Goldberg failed to provide any information that she has taken any action to be admitted by the Illinois Supreme Court to practice law in Illinois. Mr. Horan has withdrawn his attempt to be admitted. The hearing officer further recommended that both of their respective motions for admission should be denied, the Respondent's motion to bar Mr. Horan be granted, and that the matter be stayed pending the outcome of Suzanne Novak's admission motion with the Illinois Board of

Admission to the Bar with Ms. Novak to provide an update on her pending admission to practice on June 30, 2005 and July 29, 2005 and if her motion for admission has not be granted by July 29, 2005 that this matter be set for hearing before the Board for an in-person status hearing. The General Counsel concurred with the recommendation. Member Porter moved to accept the recommendation of the hearing officer and General Counsel in the matters of 05CD003 and 05CD002. Vice Chairman Smart seconded the motion. Member Murray noted he will support the motion but suggested a Board committee be convened to develop rules pertaining to out-of-state counsel to evaluate the merits of outside counsel. The motion was called and passed 8-0.

Chairman Keith presented *SBE v. Citizens to Elect Cheri Neal Ditzig*, 05DS020, an appeal of a civil penalty. Cheri Neal Ditzig and Robert Neal were present. The General Counsel reviewed the matter indicating the hearing officer recommended the appeal be denied due to lack of an adequate defense and a total penalty of \$2,050 be assessed. Ms. Ditzig discussed her background as she became a candidate and her aunt became her treasurer. No one saw as the aunt's health deteriorated and the reports were not getting taken care of. As soon as she realized what was happening the situation was rectified. Discussion ensued on the appeal and fine and Mr. Neal offered to pay 10% of the fine. Member McGuffage moved to accept the offer of 10% of the total fine assessed which would amount to \$205.00. Vice Chairman Smart seconded the motion which passed by roll call vote of 7-1 with Chairman Keith voting in the negative.

Chairman Keith presented *SBE v. The Berkeley Progressive Party*, 05DS119 and 05D101, an appeal of a civil penalty. Hugh Gorman and Richard Blass were present. The General Counsel discussed the matter noting that penalties were assessed for two separate violations. The hearing officer recommended that the appeal be denied based on the law that requires the filing of certain statements and reports by anyone meeting the definition of a political committee. Failure to know or understand the law and the filing requirements did not constitute an adequate defense. Mr. Gorman stated that this was unintentional and there was no wrongful act involved and requested a waiver of both fines. Both violations are part of the same report and assured the Board that there will be no future violation as this committee will soon be dissolved. He further requested if a fine is to be

imposed that it be reduced to 10% of the recommended fine. Member Murray moved and Member McGuffage seconded a motion to dismiss the penalty for failure to provide a D-1 statement of organization and to assess the \$1,000 for the second violation but it be stayed and dismissed if there are no subsequent violations. If the committee final out the assessment be waived. Discussion continued on the fact that committee still had remaining funds and whether they could final out. Member Murray withdrew his previous motion. Member Murray then moved to continue the matter to the July Board meeting. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Citizens for O'Halloran*, 05DS010. Jan O'Halloran was present. The General Counsel reviewed the activities of the committee noting that Jan O'Halloran had filed the report for her husband and had filed an incorrect report for the particular filing period. The hearing officer denied the appeal for lack of an adequate defense and the General Counsel concurred with the recommendation. Member Roupas felt that the transactions of the committee were disclosed to the public as the report that was filed contained the exact information that needed to be filed on the semi-annual report. Discussion ensued on the fine and the fact that Ms. O'Halloran was not technically a representative of the committee and could not make an offer on behalf of the committee. Member Murray moved that the matter be continued to August and if a settlement proposal of \$260 is made by an authorized person and tendered the Board accept it. Vice Chairman Smart seconded the motion which failed by a vote of 3-5 with Members McGuffage, Porter, Rednour, Schneider and Chairman Keith voting in the negative. Member Schneider then moved to continue the matter to the next meeting in Chicago. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Aurora Republican Women's Club*, 05DS004. Trudy Brown, treasurer of the committee was present. The General Counsel reviewed the activities of the committee and concurred with the recommendation of the hearing officer that the appeal be denied and a fine of \$3,600 be assessed. Mrs. Brown indicated that the previous committee officers failed to file any reports and the new officers were told all records were lost. They are attempting to salvage the club.

The past officers failed to notify the Board of a change of address or a change of officers. Mrs. Brown offered a 10% settlement. Member Murray moved to accept the proposal and assess a payment of \$360. Member Roupas seconded the motion which passed by roll call vote of 7-1 with Chairman Keith voting in the negative.

Chairman Keith presented *Saewert v. Santana*, 04CD38, a motion to reconsider a Board order. It was noted the parties were not required to be present today. The General Counsel recommended the motion for reconsideration be denied and defects alleged by petitioner of the May 16 Board order and subsequent issues have been resolved. The Board order be given effect and if the respondent decides to seek judicial recourse they have the option to do so. Member Schneider moved to adopt the recommendation of the General Counsel and deny the motion for reconsideration. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented appeals of campaign disclosure fines that the hearing officer has recommended be granted. The General Counsel concurred with all recommendations. Member Murray requested that appeals #7, 8, 13, 15, 20, 22 and 23 be pulled for separate consideration. The remaining appeals recommended to be granted are as follows: *SBE v. Citizens for Linda S. Frank*, 04AG022; *SBE v. United Democratic Club of Cahokia*, 05DS009; *SBE v. Committee to Re-elect Karen Andrews*, 04AG028; *SBE v. Friends for Michael Lowery*, 04AG009; *SBE v. Citizens to Elect Morris Feutz III*, 04AG013; *SBE v. Citizens to Elect Barry Schaefer*, 04AG021; *SBE v. Montgomery County Republican Central Comm.*, 05DS075; *SBE v. Putnam County Democratic Central Comm.*, 04AG041; *SBE v. Cowlshaw Campaign Committee*, 04AG050; *SBE v. Political Action Committee of Local 265*, 05DS086; *SBE v. Citizens for Rosemary E. Mulligan*, 05DS087; *SBE v. Citizens for Mullins*, 05DS088; *SBE v. Citizens for Bill Grunloh*, 04AG082; *SBE v. Friends of Pat Londrigan*, 04AG032; *SBE v. Citizens for Jeff Choudhry*, 05DS108. Vice Chairman Smart moved to grant these remaining appeals. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented appeals of campaign disclosure fines that the hearing officer has recommended be denied. Agenda items #27, 29, 30, 40 were previously discussed, items #41, 44, 45, 46, and 49 were pulled from group consideration. The General Counsel concurred with the

recommendation of the hearing officer. The remaining appeals recommended for denial are as follows: *SBE v. Waucanda Township Republican Club*, 05DS002; *SBE v. Citizens for Newton*, 05DS006; *SBE v. Friends of Frank Lesko*, 05DS125; *SBE v. William Shaw & Slate Concerned Party of Dolton*, 05DS021; *SBE v. Resource of Dolton*, 05DS022; *SBE v. Citizens to Elect Sheriff Nygren*, 04AG004; *SBE v. Citizens to Elect Joe Moreno*, 05DS029; *SBE v. Friends of Bob Warren*, 04AG008; *SBE v. Committee to Elect Mari Herrell*, 04GE113; *SBE v. Committee to Elect Jim Clark*, 04AG010; *SBE v. Building Success in District #301*, 04AG18; *SBE v. Richland County Democratic Central Committee*, 04AG095; *SBE v. Verizon Good Government Club IL Operations*, 04AG038; *SBE v. Citizens for Bob Coleman*, 05DS099; *SBE v. Citizens for Deborah L. Graham*, 04GE086; *SBE v. Citizens for Dennis Fleming*, 04JS061; *SBE v. Renew Illinois PAC*, 04AG091; *SBE v. Committee to Retain Justice Hopkins*, 04AG094. No one was present in these matters. Vice Chairman Smart moved to grant the recommendation of the General Counsel and deny the appeals. Member Roupas seconded the motion which passed by roll call vote of 8-0. Member Rednour left the meeting at 2:50 p.m. and Chairman Keith held her proxy.

Member Roupas moved to recess to executive session to discuss complaints following closed preliminary hearings. Vice Chairman Smart seconded the motion which passed unanimously. Meeting recessed at 3:00 p.m. and reconvened at 3:10 p.m.

Member Porter moved to adopt action taken in executive session as follows: *McNamara v. Faber*, 05CD015 the complaint is filed on justifiable grounds but be dismissed, *Ferenzi v. Povidas*, 05CD017 the matter be dismissed, and *Scardino v. Stamatakos*, 05CD022 the matter be dismissed. Member Schneider seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Committee to Re-elect Robert "Bob" Shipley*, 04AG029, an appeal of a civil penalty and recommended to be granted. No one was present in this matter. The General Counsel discussed the committee's activities. The recommendation of the hearing officer is to grant the appeal because the treasurer was unaware of the in-kind contribution until he received notification from the SBE. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray felt the candidate had to have known the mailers

were sent out and felt staff should keep an eye out for similar matters. Member Murray then moved to accept the recommendation of the hearing officer. Member Schneider urged the hearing officers to probe more deeply as to what the committee knew and when it knew it. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Barsanti for State's Attorney*, 04AG006. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray was suspicious of their excuse but did not see any grounds to do anything about it. Member Murray moved to accept the recommendation of the hearing officer and grant the appeal and in addition the committee is to file an amended report. Member Porter seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Illinois Democratic County Chairman's Association*, 04AG36. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray indicated it was hard to tell what took place but perhaps it was another IDIS mistake. Discussion ensued on the committee's activities and it was agreed that mistakes were made. Member Roupas moved to approve the recommendation of the hearing officer and General Counsel and grant the appeal. Member Porter seconded the motion. Discussion continued on the IDIS program and the costs involved to make any changes to the program. Rupert Borgsmiller agreed that the program does need to be revamped. The motion was called and passed by a vote of 8-0.

Chairman Keith presented *SBE v. IUOE Local 649 PAC*, 04AG047. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray noted concern with this case as he felt the names of the individual participants should be included with the \$14,000 check and it seems this creates a substantial loophole. This is a situation where the parent PAC is serving as a conduit and a committee is only required to keep records of contributions over \$20. Member Murray moved to accept the recommendation of the hearing officer and General Counsel but wished to alert staff to this situation

for the next time. Chairman Keith seconded the motion which passed by roll call vote of 7-1 with Member Schneider voting in the negative.

Chairman Keith presented *SBE v. Committee to Elect Lawrence Walsh*, 04AG067. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray disagreed with the hearing officer's claim that the SBE information was incorrect and misleading. Mr. Borgsmiller explained that a first letter was sent out with incorrect filing dates. A second letter, which provided correct filing dates, was then sent indicating to disregard the first letter. They had relied upon information from the first letter and as soon as the Treasurer became aware of the correct dates the report was filed immediately. Member Murray moved to accept the recommendation of the hearing officer and General Counsel. Member Roupas seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Committee to Elect Patricia Bailey*, 04AP043. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray discussed his concerns with this appeal and did not feel there was sufficient justification to grant an appeal. The General Counsel indicated the issue at hand is when a contribution is deemed received. It was still reported two weeks before the election. Member Murray moved to not accept the recommendation of the hearing officer and General Counsel and assess a penalty. Vice Chairman Smart seconded the motion which passed by roll call vote of 5-3 with Members Porter, Rednour and Chairman Keith voting in the negative.

Chairman Keith presented *SBE v. O'Brien for Judge*, 04AG085. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray felt that people have a right to know who the contributions come from. Member Roupas moved to accept the recommendation of the hearing officer and General Counsel and the appeal be granted. Member McGuffage seconded the motion which passed by roll call vote of 6-2 with Member Murray and Vice Chairman Smart voting in the negative.

Chairman Keith presented *SBE v. Friends of Mark Stricker and Dorothy Grosco*, 05CD041. No one was present in this matter. Member Porter moved to accept the recommendation of the hearing

officer and General Counsel that the appeal be denied. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Bond County Republican Central Committee*, 04AG044. Member Schneider discussed the penalty in this matter and compared it to the penalty in *SBE v. Franklin County Democratic Organization*, 04AG068. Mr. Borgsmiller explained that in 04AG044 there should have been two reports filed where 04AG068 there was only one obligation. Member Schneider felt that both cases were comparable and that both penalties should be stayed on the same theory. Member Schneider then moved in the matter of 04AG044 the penalty be imposed and the violation stayed. Member Murray seconded the motion which passed by roll call vote of 5-2-1. Chairman Keith passed Member Rednour's vote. Member Roupas and Chairman Keith voted in the negative.

Member Schneider then moved in the matter of 04AG068 to adopt the hearing officer's recommendation that the appeal be denied for lack of adequate defense but as it was unintentional the penalty be reduced to 10% of original assessment and as a first violation the penalty be stayed. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Friends of Barbara McGowan*, 04AG072. No one was present in this matter. The General Counsel concurred with the recommendation of the hearing officer that the appeal be granted. Member Murray questioned why the hearing officer reduced the assessed penalty to 50% when they were five days late and had already paid a previous fine. The General Counsel indicated that the committee had a 10% reduction on the first fine. The hearing officer felt it was not an intentional violation but since they had been fined before they should receive a fine. Mr. Borgsmiller discussed A-1 violations and asked for direction as this now presents new questions. Discussion ensued on committees that do not appeal and are assessed 100% of the fine. Vice Chairman Smart then moved to accept the hearing officer's recommendation for a 50% reduction of the fine. Member Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Keith presented *SBE v. Summers for Senate*, 04AG090. No one was present in this matter. The General Counsel reviewed the matter and indicated the hearing officer recommended the appeal be denied but due to the unintentional nature of the violation recommended the penalty be

reduced to 10% (or \$1,000) and as a first violation the penalty be stayed. In addition, the committee filed a final report so should the committee remain dissolved for 2 years the fine be abated. Mr. Sandvoss agreed with the recommendation. Chairman Keith noted this could open the door to issues with wire transfers. Chairman Keith moved to accept the recommendation of the hearing officer and General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Mr. Borgsmiller discussed the final board orders for civil penalty assessments not appealed and requested direction as to a fine structure. Discussion ensued as to what percentages the fines could be reduced to and it was agreed that staff will hold the multiple violations and prepare a recommendation for a sliding scale for the A-1 violations.

Mr. Borgsmiller presented material regarding raffle reports for informational purposes. This will be implemented July 1. Member Murray moved to approve the material as presented while giving staff leeway to make any necessary technical changes due to legislation. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

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

The Executive Director indicated that two public hearings were scheduled on the Personnel Rules. The first was held in Springfield at the May Board meeting and the second is scheduled for today. No one was present for the public hearing. No written comments have been received.

The General Counsel presented for Board review proposed rules on the certification of electronic voting systems. Rick Fulle reviewed these rules at the May Board meeting and would like to now move them forward to the public hearing process. HB 1968 will change the language slightly but these changes can be made as the rule moves through the public hearing process. Mr. Fulle also noted that the rules do not need to be in place prior to the certification process. Vice Chairman Smart moved to approve the rules subject to any necessary modifications. Chairman Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that he had not received a response from the Attorney General for the SBE request for an opinion on the status of Board member terms. However, the Comptroller's office has indicated the holdover members will get paid.

Chairman Keith thanked Board members and staff for their support during his term as Chairman. He also thanked the court reporters for their hard work.

Member Roupas thanked Chicago staff for the reception this morning in honor of her and Member Murray.

The next regular meeting of the State Board of Elections will be held on Friday, July 1, 2005 at 11 a.m. in Springfield. A reception will be held at 10:30 a.m. in honor of the outgoing Chairman.

With there being no further discussion, Member Murray moved to adjourn. Member Roupas seconded the motion which passed unanimously. The meeting adjourned at 4:45 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director