

STATE BOARD OF ELECTIONS

Regular Meeting

Friday, August 26, 2016

MINUTES

PRESENT:

Charles W. Scholz, Chairman
Ernest L. Gowen, Vice Chairman
William J. Cadigan, Member
Andrew K. Carruthers, Member
Betty J. Coffrin, Member
John R. Keith, Member
William M. McGuffage, Member
Casandra B. Watson, Member

ALSO PRESENT:

Steven S. Sandvoss, Executive Director
James Tenuto, Assistant Executive Director
Kenneth R. Menzel, General Counsel
Darlene Gervase, Admin. Assistant III

The Chairman called the meeting to order at 10:34 a.m. and led everyone in the pledge of allegiance.

All Board Members were present in Chicago.

Chairman Scholz asked for a Motion to recess to the State Officers Electoral Board. Member Carruthers so moved and Member Coffrin seconded the motion which passed unanimously.

The State Board of Elections recessed at 10:34 a.m. and returned at 11:59 a.m.

The Board welcomed Lance Gough, Executive Director of the Chicago Board of Elections, as well as Dr. Eric Cooper, and considered item 7.b, Certification of Dominion WinEDS 4.0/Democracy Suite 4.6 integrated voting system. This matter was requested to be heard at that time due to Mr. Gough and Dr. Cooper having another meeting at 2:00 p.m. Kyle Thomas, Director of Voting Registration and Systems, reported on Certification of Dominion WinEDS 4.0/Democracy Suite 4.6 integrated voting system. The modification allows a new card activator to be used with the Direct Recording Electronic tabulator and Edge2plus by connecting to an electronic poll book developed by the Chicago Board of Elections. Testing performed by Pro V7V, Inc., and Election Assistance Commission accredited Voting Systems Test Laboratory found the modification met the functional requirements. After staff testing, Mr. Thomas recommended the Board grant Dominion Voting Systems, Inc. a two-year Interim Approval for their WinEDS 4.0/Democracy Suite 4.6 integrated voting system. When asked why an interim approval, Mr. Thomas commented that every time there is a change to a system, we start with interim approval. Dr. Cooper was asked about fractional votes. He said Peoria is the only county that still has fractional votes and only Hart systems, which are used by Peoria, count fractional votes. He explained the fractional vote by using an example that 5 candidates run at large for a seat, you may cast all 5 of your votes for one candidate, or vote 3 for one candidate and 2 for other candidates, etc. Member Keith moved to certify the Dominion Voting System for a two-year Interim Approval for the aforementioned system. Vice Chairman Gowen seconded the motion which passed unanimously by roll call vote.

The Board took a break at 12:10 p.m. and returned to open session at 12:30 p.m.

The Certification of the November 8, 2016 General Election ballot was presented for the Board's signatures. A list of candidates facing potential ballot forfeiture for 2016 and payment of civil penalties was presented to the Board. Member Keith moved to certify the ballot as presented and prepared by staff for the 2016 General Election and that staff be authorized to amend certifications as appropriate: 1) to address candidates on the ballot forfeiture list who pay their fines by the close of business today; 2) implement the rulings in pending electoral board matters, judicial reviews or other court proceedings, and 3) give effect to any candidate withdrawals received by the close of business today and, as to any late received withdrawals, to amend the certification of ballot if all of the affected election authorities indicate that the candidate can be removed without negatively impacting the timely printing of ballots and commencement of vote by mail or early voting. Member Coffrin seconded the Motion which passed unanimously by roll call vote.

Member Keith moved and Vice Chairman Gowen seconded a motion to adopt the minutes from the July 11, 2016 meeting. The Motion passed unanimously.

The General Counsel began his report with a Motion for Reconsideration in the matter of *SBE v. Citizens to Elect LaShawn Ford, 14021*, 16MA021. Jonathan Tate was present for the Committee. Mr. Menzel recommended granting the motion to reconsider the late quarterly filing (\$100 of the \$650 outstanding fines). The remainder of the fines are late A-1 reports unrelated to the issue raised in the motion (\$500) and reinstatement of a previously stayed first violation fine (\$50). Member Keith moved to grant the Motion, consider the memo as an Appeal, assess a \$500 fine and reinstate the \$50 first violation for a total \$550 to be paid by 5:00 p.m. today to keep the candidate on the ballot. Member Watson seconded the Motion which passed 8-0 by roll call vote.

A request for settlement offer was submitted in Item 6.a.2) *SBE v. Crawford County Democratic Women, 904*, 19MQ006. Mr. Menzel recommended accepting the \$212 settlement offer as it conforms to the Board's Settlement Policy and is a low dollar balance and volume committee. Member Cadigan so moved and Vice Chairman Gowen seconded the Motion which passed unanimously.

Attorney Ross Seclar was present for the Respondent in Item 6.a.3) *SBE v. Citizens for Lightford, 13872*, 16MA020. The Committee offered 50%, \$9,260, in full satisfaction of the outstanding fines. Mr. Seclar detailed errors and mistakes by the committee and was prepared to pay the settlement offer at the Board Meeting. He also noted they were assessed fines that should not have been assessed. He asked the Board accept the settlement offer and certify Respondent Lightford for the November 8, 2016 General Election ballot. The General Counsel noted the offer is over 50% (85%) of the average quarterly receipts for last year, but less than half (27%) of the average quarterly balance. Therefore, it falls short of meeting the Settlement Policy. He did not recommend acceptance. Member McGuffage moved to accept the settlement offer on extenuating circumstances. Member Watson seconded the Motion which passed 7-1 with Member Keith voting No.

The General Counsel presented Appeals of campaign disclosure fines where the hearing officers recommend the appeals be granted and he concurred. Member Carruthers so moved and Vice Chairman Gowen seconded the Motion to adopt the Hearing Officers and General Counsel's recommendation to Grant the appeals in the following matters: Those matters are: 6.a.4) *SBE v. Committee to Elect Jay C. Hoffman, 1334*, 16AD021; 5) *SBE v. Friends of Mickey Goral, 5594*, 16MQ099; 6) *SBE v. Friends of John C. D'Amico, 17634*, 16AM011; 7) *SBE v. Citizens for a Better Steger, 23545*, 16AM016; 8) *SBE v. Friends of Tony DelGiorno, 24388*, 16MQ117; 9) *SBE*

v. Citizens for Presta, 24580, 15AS036; 10) *SBE v. Citizens for John Fitzgerald Lyke, Jr.*, 31694, 15AS045; and 11) *SBE v. Citizens for Ryan Cadagin*, 31844, 16AM030.

Appeals of campaign disclosure fines where the hearing officers recommend appeals be denied were considered and the General Counsel concurred.

The Chairman recognized Martha Klems, Treasurer in the matter of 18) *SBE v. McDonough County Democratic Coalition*, 21214, 16AM013. Ms. Klems indicated she had made a mistake but it was not willful. Vice Chairman Gowen moved to reduce the fine to 25% or \$250. Member McGuffage seconded the motion which passed unanimously by roll call vote.

Michael J. Kasper was present for the Respondent in Item 6.a.12) *SBE v. Personal PAC*, 497, 16AD019. The General Counsel recommended a \$175 fine. Member Keith so moved and Vice Chairman Gowen seconded the Motion which passed 8-0 by roll call vote.

As to 6.a.17) *SBE v. Friends of John Bradley, Inc.*, 17626, 16AM010, Michael J. Kasper was present for the Committee. He acknowledged the committee was late and had problems in the past with A-1 filings, but asked the board to consider that this committee was one month away from filing all reports timely and the clock would have reset to a smaller percentage fine if they had hit the 2 year mark. Member McGuffage moved to Deny the Appeal and assess a 25% fine. Member Watson seconded the Motion which passed unanimously.

Michael J. Kasper represented the Respondent in 19) *SBE v. Friends of Jerry Costello II*, 23749. Multiple contributions were combined on the same A-1. Mr. Kasper argued that all checks were deposited at the same time, and it is more prudent to combine them on one A-1. Member McGuffage moved to Deny the Appeal; treat as 1 violation; and stay as a first violation. Vice Chairman Scholz seconded the Motion which passed 7-1 with Vice Chairman Gowen voting no.

Mr. Kasper appeared for the Respondent in 15) *SBE v. Friends of Mike Mathis*, 11403, 16AD027. The situation was similar as in the prior matter. Member McGuffage moved to treat the matter as a first violation and stay as a first violation. Member Cadigan seconded the motion which passed 7-1 with Vice Chairman Gowen dissenting.

The Chairman accepted the appearance of Pericles Abbasi for the Respondent in 6.a.21) *SBE v. Friends of Gilbert Villegas*, 26023, 15AJ036. Mr. Abbasi indicated he acknowledged the inadvertent error and asked it be reduced to 25%. Member McGuffage so moved and Vice Chairman Gowen seconded the Motion which passed unanimously by roll call vote.

As to matters: 13) *SBE v. Fox Valley Republican Women*, 5308, 16MQ098; 14) *SBE v. Illinois Citizens for Life PAC*, 6691, 16AD022;; 16) *SBE v. Citizens to Elect Paul Fichtner*, 16429, 16AD031; 16AM018; 20) *SBE v. PAC 50*, 25817, 16MA026; 22) *SBE v. Chicago New Latino Movement PAC*, 29473, 16MA012; 24) *SBE v. Friends of Bill Sullivan*, 31671, 15AS044; 25) *SBE v. Friends of Ricky Thomas*, 31817, 16MA027. No one appeared for the Respondents. The General Counsel concurred with the recommendations to Deny the Appeals. Vice Chairman Gowen so moved and Member Keith seconded the Motion which passed 8-0 by roll call vote.

Mr. Menzel presented Appeals of campaign disclosure fines where hearing officers recommended appeals be granted & denied. Candidate and Chairman of Item 6.a.26) *SBE v. Friends for Seth Uphoff*, 23987, 16MQ15 & 16AM020 filed a Waiver of Appeal and Appeal Affidavit. No one appeared for the Respondent. The Committee's first violation resulted in a total assessment of \$605. Candidate Uphoff raised the electronic filing defense to the first quarter filing of 2016. He amended the March and June 2016 Quarterly reports and amended an In-Kind contribution. The

hearing Officer found the Appeal of the \$25 fine be denied for lack of adequate defense and the A-1 In-Kind contribution be granted. The General Counsel concurred. John Keith so moved and Vice Chairman Gowen seconded the Motion which passed unanimously.

As to 6.a.27) *SBE v. Friends of North Park Fire, 29513*, 15MA120, the Committee raised an electronic filing defense for its' initial report and the Hearing Officer recommended the \$2,775 assessment for failure to timely file the March 2015 quarterly report be granted. However, he recommended the \$2,400 civil penalty for the late, second quarterly report filing be denied, but treated as a first violation. No one appeared for the Respondent. Mr. Menzel agreed. Member Cadigan moved and Vice Chairman Gowen seconded a Motion to adopt the Hearing Officer and General Counsel's recommendations to Grant and Deny the Appeal. The Motion passed 8-0 by roll call vote.

Items 6.a.28-42, failure to comply with final board orders dated May 18, 2016, were presented by the General Counsel. He recommended imposing a civil penalty not to exceed \$5,000. Member Keith moved to assess items 28 to 42 collectively and each case be issued a \$5,000 fine for Failure to Comply with a Board Order. Member Carruthers seconded the Motion. The Motion passed unanimously by roll call vote. Those Committees are as follows: 6.a.28) *SBE v. Nurses United for PAC*, 16CD001; 29) *SBE v. Citizens for Mike Smith*, 16CD004; 30) *SBE v. Citizens for Colvin*, 16CD010; 31) *SBE v. Citizens to Elect Alvin Parks, Jr.*, 16CD017; 32) *SBE v. Citizens for Tyler Smith*, 16CD021; 33) *SBE v. Friends of Frank McPartlin*, 16CD024; 34) *SBE v. Friends of David Moore*, 16CD035; 35) *SBE v. Friends for Strzelczyk*, 16CD036; 36) *SBE v. United Party*, 16CD038; 37) *SBE v. Citizens to Elect Frazier Garner*, 16CD049; 38) *SBE v. Friends of Amara Enyia*, 16CD053; 39) *SBE v. Land of Reagan*, 16CD070; 40) *SBE v. Citizens to Elect LaCoulton J. Walls*, 16CD073; 41) *SBE v. Stars Committee*, 16CD076; and 42) *SBE v. Friends of Darren Tillis*, 16CD081.

Mr. Menzel recommended assessing a final board order to Committee 24838, Riley's Friends, in the amount of \$300; \$20 reduction and Escheatment of \$200 as indicated on page 154 of the Board's packet and to assess Civil Penalties necessitating a Final Board Order to all committees contained on page 155 of the packet. Member Coffrin so moved and Vice Chairman Gowen seconded the Motion. The motion passed unanimously.

The Board recessed to executive session at 1:49 p.m. and returned to open session at 2:14 p.m.

Member Keith summarized the actions taken by the Board in closed session.

As to 6.a.44) *Topinka v. Citizens for Judy Baar Topinka*, 16CD110. The parties were present by counsel. The General Counsel concurred with the Hearing Officer that the D-4 Complaint was not filed on justifiable grounds and no further action be taken. Member Keith moved and Member Cadigan seconded the motion to adopt the Recommendation of the Hearing Officer in which the General Counsel concurred. The motion passed unanimously.

As to 45) *Eck v. Walkup*, 16CD108 and 46) *Eck, Jr. v. Committee for Michael Walkup*, 16CD112 & 16CD113 were heard simultaneously. Complainant did not appear at the Closed Hearing. Member Keith moved and Member McGuffage seconded the Motion to adopt the Hearing Officer and General Counsel's Recommendation that the complaint be dismissed for lack of prosecution; was not filed on justifiable grounds; and no further action in these matters. The Motion passed unanimously.

Steve Sandvoss began his Report of the Executive Director with 7.a) Preparations for the November 8, 2016 General Election included a listing of election judge trainings including dates,

jurisdiction and zone, presenter and attendance. That information is contained on pages 156 and 157 of the Board's packet.

Cristina Cray presented a letter to the Board from the Governor to the Legislature explaining why he vetoed SBE 250.

Senate Bill 172 update: 1) to ensure we comply with the mandate that all early voting sites be on the SBE's public website, each election authority will provide us with the required information. Using access to the IRVS website, they will provide not only early voting site data, but locations for Election Day Grace Period registration and voting. This information will be provided to everyone who chooses to use our "Am I Registered" feature; 2) Passage of the Stop Gap Budget ensured ERIC dues and membership fee were paid. However, not enough funds were appropriated to cover the cost of the mailing mandate that all eligible but unregistered residents be notified of how to register to vote as well as how to change an existing registration.

Matt Emmons, Information Technician II, **reported on the IVRS Database Intrusion beginning with a timeline.** The **Board became aware of the breach on July 12** and since discovery of the breach, staff has worked to determine the scope of the intrusion, secure databases and web applications, comply with state law enforcement regarding personal information loss and assist law enforcement in their investigation of the attack. He confirmed websites are fully functional and was able to **confirm that no voting history information and no voter signature images were captured.** He was confident no data in the IVRS was added, changed or deleted. It appeared that less than half of 1% of the records in the database were viewed, and many of those contain information that is otherwise publicly available from other sources. The Board is cooperating with the FBI and Homeland Security in an ongoing investigation. His report is available on the Board's website. Mr. Emmons assured the Board the cyber intrusion has no effect on State voting systems or voter rolls, and does not in any way impact the integrity of the November 8th General Election. Kevin Turner, Director of Information Technology, complimented Mr. Emmons on his thorough and well written report. **Mr. Turner added that we have on staff a 35+ year experienced programmer who has written incredible programs;** continues to monitor the databases; and compiled information that was passed onto law enforcement.

On August 8th, the SBE hosted a 10 member Vietnamese Delegation from the Republic of Vietnam. Three of the delegates acted as interpreters and the others are current or former government officials within the government of Vietnam. They were interested in American culture and society, and specifically elections and government at the Federal, State and local level. Directors of Election Operations, Voting Registration Systems and Campaign Disclosure conducted the bulk of the presentation. Biographies of attendees were included in the Board's Packet.

The SBE has voluntarily assisted SERS with counting the ballots for their Trustee Elections at minimal cost to the agency. Mr. Cadigan raised questions as to liability or other problems that could occur. Discussion ensued among the Board. It was agreed that staff will research the Intergovernmental Act and the Board will respond to SERS when they request assistance in the future.

Fiscal status reports of 1) FY16 – month ending July 31; and 2) FY16– Help Illinois Vote Fund were presented for informational purposes.

Two year plan of staff activity for the months of August & September were presented for informational purposes.

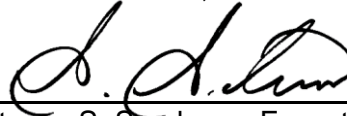
Comments from the general public. Sharon Meroni and Dr. Eric Cooper addressed the Board.

There being nothing further before the Board, Member Keith moved to recess until Monday, September 19, 2016 at 10:30 a.m. in Springfield or the call of the Chairman. Member Cadigan seconded the motion which passed unanimously. The meeting adjourned at 3:09 p.m.

Respectfully submitted,



Darlene Gervase, Admin. Asst. III



Steven S. Sandvoss, Executive Director