

STATE BOARD OF ELECTIONS
Special Board Meeting Via Videoconference
Friday, December 12, 2008

MINUTES

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

ALSO PRESENT: Daniel W. White, Executive Director
Rupert T. Borgsmiller, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Specialist II

The special meeting of the State Board of Elections was called to order via videoconference means at 2:00 p.m. Chairman Porter, Vice Chairman Schneider, Members Brady, McGuffage and Smart were present in the Chicago office and Member Keith was present in Springfield. Member Rednour was present via teleconference. Member Walters joined the meeting via teleconference at 2:30 p.m. and Member Smart held his proxy until his arrival.

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

The Executive Director presented an amended certification from Knox County for the Board's consideration. This was a non-contested race and did not change the winners or losers but only increased the number of votes received by candidate Hare for the office of Congress in the 17th Congressional district. Mark Mossman, Director of Election Information explained that the number of undervotes was added to the totals from the Galesburg Election Commission and once Knox County discovered the error they amended their canvass to include the actual vote totals received by the candidate. Vice Chairman Schneider moved to amend the certification as presented to the Board. Member Smart seconded the motion which passed by roll call vote of 8-0.

The next item on the agenda was a staff update report on implementation of Public Act 95-0971, which is ethics legislation referred to as Play to Pay effective January 1st. The Executive Director explained this bill prohibits business entities with contracts with the state of over \$50,000 from making

political contributions to office holders responsible for awarding such contracts and also provides that these entities must register electronically with the State Board of Elections. At the December 5 meeting a proposed emergency rule was discussed but no action was taken at that time but Board did direct staff to take steps toward implementation of the Act and to report back at today's special meeting. A Public Hearing was held in both Springfield and Chicago via videoconference to give interested parties an opportunity to comment. Approximately twenty people were present and three of those offered oral and written testimony. Mr. David Morrison, Deputy Director of the Illinois Campaign for Political Reform, Nathan Maddox, Counsel for the Secretary of State and Todd Maisch, Vice President of Governmental Affairs for the Illinois Chamber of Commerce all offered comment and were present at the meeting today. Executive Director White then asked Rupert Borgsmiller, Assistant Executive Director and Director of Campaign Disclosure to offer his remarks.

Mr. Borgsmiller summarized the steps that have been taken over the last several months to implement the legislation. He indicated that there are more than 5,300 contracts on file at the Comptroller's office valued at more than \$50,000.00 and all of those vendors will have to register with the SBE in January, as well as all of the vendors who will bid on those contracts. Mr. Borgsmiller also explained that numerous issues outlined in the legislation, such as procurement policies, were new to the staff and the timeframe it would take to develop and implement a computerized system as well as lack of funding, has led him to believe that a crude paper system was the best way to proceed at this time. Another factor besides the vendor registration was the contribution database and those contributions that the constitutional officers would be receiving would not be filed until semi-annual report due by July 20th.

Mr. Borgsmiller indicated that a meeting took place between himself, Steve Flowers, Director of IT and General Counsel Steve Sandvoss and have put together an outline for IT staff to work on implementation of the electronic registration. He also stated that some funding from the sweeps money was now available to assist in implementation and that it was his intent to hire an additional IT staff member and hoped to have an electronic registration database up and running by July 1st.

Executive Director White asked General Counsel Sandvoss to proceed with agenda items A thru F. Mr. Sandvoss indicated that an opinion request along with a proposed emergency rule was sent to the Attorney General's office and to this date a response has not been received and no indication was given that a response would be sent before Board action.

Mr. Sandvoss then gave a brief summary of the written comments from the three individuals who testified at the Public Hearing. Mr. Morrison believed that a temporary electronic database should be in place and Mr. Maddox indicated that it took his office a long time to design, develop and correct their lobbyist database and supports the paper based rulemaking and would assist the SBE in implementation. Mr. Maisch expressed his thoughts and indicated he will seek legislative action to address his concerns. He suggested the registration form be submitted via e-mail as a .pdf file and be searchable for those who would like to view them. He also noted other privacy issues with minor children and the release of social security numbers.

The next item on the agenda was consideration of alternative electronic and paper based solutions. Mr. Sandvoss indicated that using Facebook was not an option because of serious security issues and lack of control over the system. Modeling after the Secretary of State program was not really an option at this time because it took them over a year to develop and it would not be a simple adaptation. This led to a paper based solution which was included in the proposed emergency rule presented to the Board for consideration. Mr. Maisch's suggestion for filing by transmitting via e-mail attachment the form itself along with the link to the site where they could access the affiliated persons and entities is also included in the proposed rule.

Mr. Sandvoss informed the Board that Senator Harmon is going to introduce legislation to delay implementation of the Act by a period of six months.

Lynn Carter, Deputy General Counsel for Procurement for Central Management Services, offered her comments as well. She indicated that it suggests that all businesses register by February 2, but the statute indicates that on January 1 her office is prohibited from accepting bids that do not have a registration certificate attached to them.

Laura Minzer from the Illinois Chamber of Commerce indicated they have had conversations with their members, dealers and other groups about the possibility of filing a lawsuit for clarification.

Discussion ensued concerning other alternative electronic filing solutions. Steve Flowers, Director of Information Technology reiterated that it is not possible to design, develop, test and implement a database of this size in a two week period. He suggested spending as little time as they can on an interim solution and instead work hard on a compliant system. Mr. Flowers was also concerned if a buggy system was put in place we could have the potential for thousands of angry people due to technical difficulties and no staffing to respond to those calls.

Lengthy discussion ensued regarding judicial relief and exploring other creative electronic solutions, such as Google Health or something similar. Mr. Flowers indicated he could look into these types of programs a little further and if we tried to use the SOS database it would be almost as much work to create one from scratch but he would definitely work with Mr. Maddox to try and find pieces that would be valuable to the SBE's database.

The Chairman asked if the next step would be to adopt the emergency rule and go from there. The General Counsel agreed that if the Board adopted the emergency rule it would be immediately sent to JCAR for the pre-review which is for formatting purposes only. In response to Ms. Carter's concerns the General Counsel suggested additional language could be added to the rule that deals with those business entities that are not yet required to file but will be required to do so once the bid is submitted. He also clarified to the Board that during the pre-review stage at JCAR they will only determine if in fact an emergency exists, and if so, the emergency rule will be published in the register and will be effective for 150 days. Mr. Borgsmiller then explained that in the meantime staff would be working on an electronic system that he hopes will be in place by the end of June.

Vice Chairman Schneider moved to authorize staff to take steps necessary to promulgate an emergency rule in the form presented to the Board by General Counsel incorporating the suggestions made at the public hearing by Mr. Maisch from the Illinois Chamber of Commerce; that staff be further instructed to make such technical refinements to that rule as it believes are necessary or prudent

following, as necessary, consultation with other interested parties including, but not limited to, the Department of Central Management Services. Member McGuffage seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

Executive Director White assured the Board that staff will continue to look into any creative alternative ways to create an electronic system to be up and running as soon as possible.

With there being no further business before the Board Vice Chairman Schneider moved to adjourn until January 20, 2009, or until call of the Chairman whichever occurs first. Member Brady seconded the motion which passed unanimously. The meeting adjourned at 3:25 p.m.

Respectfully submitted,

Amy Calvin, Administrative Specialist II

Daniel W. White, Executive Director