



**Pulaski County Election Commission
Meeting Minutes
April 24, 2014
5:00 p.m.**

Members Present

Leonard A. Boyle, Sr.
Chris Burks
Alex Reed

Staff Present

Bryan Poe
Tonya Washington

Visitors Present: Karla Burnett Hutchens, Pulaski County Attorney; Janelle Lilly, Reporter, KATV 7; Julian Fisher, Holly Dickson, ACLU of Arkansas

The meeting was called to order by Chairman Leonard A. Boyle, Sr. A quorum was determined; all members present.

Approval of Meeting Minutes, April 17 and April 22, 2014

Motion to approve meeting minutes was made by Chairman Boyle. It was moved by Commissioner Reed and seconded by Commissioner Burks. All in favor; motion passed unanimously by voice vote.

Business

Poll Worker Training - being conducted at the time of this meeting.

Mr. Poe deferred to Karla Burnett Hutchens to discuss the decision in the *PCEC v. SBEC*. Comment from Commissioner Burks regarding the outcome of the case. Commissioner Burks stated that Judge Tim Fox's decision today was a victory for free, fair and equal elections in Arkansas. He noted that he was proud of the Election Commission taking it's oath to the Arkansas Constitution seriously in doing its job to uphold orderly elections in Pulaski County. He stated that he takes his oath to the Arkansas Constitution seriously. He thinks the order of Judge Fox reflects fidelity with the Arkansas Constitution and reflects a seriousness about what the constitution says and he is proud that this board is a part of that effort.

Commissioner Burks asked that in light of Judge Fox's decision which struck down Act 595 of 2013, voiding the Voter ID law, is it her opinion that the law would divert back to the previous law where voters would be asked to show ID but if they do not have an ID would they still be able to vote. Mrs. Hutchens answer was, yes. Commissioner

Burks asked if this commission needs to make preparations due to Act 595 of 2013 being void.

Mrs. Hutchens noted at this point Act 595 of 2013 is void but there is a possibility that it could be stayed if an appeal is filed. If the decision is not stayed by the court, then poll worker training needs to be conducted to make sure they are aware that Voter ID is not required to be presented.

Commissioner Reed asked who challenged the constitutionality of Act 595 of 2013.

Mrs. Hutchens stated that the Arkansas Republican Party, the intervenor in the case, challenged the constitutionality of the law.

Commissioner Burks asked Mrs. Hutchens if it was her opinion that under Judge Fox's order that when asked to interpret a provision of Act 595, looked at the statute itself and found that he could not interpret that provision without ruling the whole statute unconstitutional? Mrs. Hutchens answered, yes. The rules that were promulgated were pursuant to Act 595 and that it amended voter qualifications under section 201 subsection(b). It was on the table in front of the judge that voter qualifications had been amended by this act.

Commissioner Burks noted that this office also asked for an opinion prior to the lawsuit. One of our questions in the Attorney General opinion we sought, voted on by this commission, was the constitutionality of Act 595. Mrs. Hutchens stated the question regarding constitutionality dealt with equal protection between in-person and absentee voters. The answer given in our question dealt with the fact that absentee and in-person voters don't have to be treated the same because they are inherently two different groups of people for election purposes. Judge Fox's decision today deals more with the fact that Act 595 attempted to add to the voter qualifications which is in conflict with the constitution.

Chairman Boyle asked Mrs. Hutchens where this leaves the commission in regards to the pending litigation at this point. Mrs. Hutchens stated that she has not had time to fully assess and determine what impact today's decision will have on pending litigation. The order declares the act void and unenforceable. Her advice would be to inform poll workers not to require identification on Election Day but not to prepare for these instructions at this time. We need to see what will happen with the appeal and if there is a stay ordered, we would then be back under the provisions of Act 595.

Commissioner Burks asked in the event there is a stay issued in the appeal process, if the commission needs to adopt the position found by the judge in the finding of facts that Act 595 of 2013 is unconstitutional, for the purpose of appeal, we take that

position. She stated there would be not need because the order rendered by Judge Fox is what the commission wanted.

Other Business

Mr. Poe noted that Valerie Bailey has filed for a stay with the Arkansas Supreme Court and is looking to get back on the ballot. Mrs. Hutchens said her office received a call from the Supreme Court and briefs are due by Monday, April 28, 2014 by 10:00 am. Valerie Bailey has moved for a stay of the judge's order that removed her from the ballot. In our defense, ballots are printed, some have been returned. It is not feasible at the point to alter the ballot at this point and time. Commissioner Reed asked what relief are they asking for. Mrs. Hutchens stated they pray that we add her back to the ballot or if we can't change the ballot that we create a separate ballot just for that race. The problem is that race is on almost every ballot in the county. A separate ballot would have to be created for almost every voter in the county, a ballot that the machines could not read. Those ballots would have to be hand counted at each precinct on election night because the results have to be posted on the door of each precinct; 750 ballots have already been mailed out, without a separate ballot and 250 have been returned. These issues will be pointed out to the Supreme Court.

The next meeting is scheduled:

- Tuesday, April 29, 2014 at 5:00 p.m.
- Wednesday, April 30, 2014, 5:00 p.m.
- Thursday, May 1, 2014, 5:00 p.m.

Meeting adjourned.