

Edgar Filing: SBE INC - Form S-8

SBE INC  
Form S-8  
April 02, 2004

As filed with the Securities and Exchange Commission on April 2, 2004

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

SBE, INC.

-----  
(Exact name of registrant as specified in its charter)

Delaware

94-1517641

-----  
(State of Incorporation)

(I.R.S. Employer  
Identification No.)

2305 CAMINO RAMON, SUITE 200  
SAN RAMON, CALIFORNIA 94583  
(Address of principal executive offices)

1996 STOCK OPTION PLAN  
2001 NON-EMPLOYEE DIRECTORS' STOCK OPTION PLAN  
(Full title of the plans)

DAVID W. BRUNTON  
CHIEF FINANCIAL OFFICER, VICE PRESIDENT, FINANCE  
AND SECRETARY  
SBE, INC.

2305 CAMINO RAMON, SUITE 200  
SAN RAMON, CALIFORNIA 94583  
(925) 355-2000

(Name, address, including zip code, and telephone number, including area  
code, of agent for service)

Copies to:  
JODIE M. BOURDET  
COOLEY GODWARD LLP  
ONE MARITIME PLAZA, 20TH FLOOR  
SAN FRANCISCO, CA 94111  
(415) 693-2000

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CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)
Shares of Common Stock, par value \$0.001 per share, reserved for future grant under the 1996 Stock Option Plan.	1,000,000	\$4.60	\$4,600,000
Shares of Common Stock, par value \$0.001 per share, reserved for future grant under the 2001 Non-Employee Directors' Stock Option Plan.	200,000	\$4.60	\$920,000
<b>Total</b>	<b>1,200,000</b>	<b>\$4.60</b>	<b>\$5,520,000</b>

- (1) This registration statement is intended to cover the offering of up to 1,000,000 shares of the Registrant's Common Stock pursuant to its 1996 Stock Option Plan, as amended (the "Option Plan"), and up to 200,000 shares of the Registrant's Common Stock pursuant to its 2001 Non-Employee Directors' Stock Option Plan, as amended (the "Directors' Plan") (the Option Plan and Directors' Plan being hereinafter collectively referred to as the "Plans"). This registration statement shall also cover any additional shares of Common Stock that become issuable under the Plans by reason of any stock dividend, stock split, recapitalization or any other similar transaction without receipt of consideration that results in an increase in the number of shares of the Registrant's outstanding Common Stock.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c). The price per share and aggregate offering price are based upon the high and low sales prices of Registrant's Common Stock on March 30, 2004 as reported on the Nasdaq SmallCap Market reporting system.

INCORPORATION BY REFERENCE OF CONTENTS OF  
 REGISTRATION STATEMENTS ON FORM S-8  
 NOS. 33-45998, 33-59167, 33-45998, 333-63377,  
 33-67821, 333-32896, 333-63228 and 333-87828

The contents of Registration Statements on Form S-8 Nos. 33-45998,

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33-59167, 33-45998, 333-63377, 33-67821, 333-32896, 333-63228 and 333-87828 filed with the Securities and Exchange Commission on February 26, 1992, May 8, 1995, August 19, 1998, September 15, 1998, November 24, 1998, March 21, 2000, June 18, 2001 and May 8, 2002, respectively, are incorporated by reference herein.

EXHIBITS

Exhibit  
Number

- 5.1 Opinion of Cooley Godward LLP
- 23.1 Consent of BDO Seidman, LLP, Independent Auditors
- 23.2 Consent of Cooley Godward LLP is contained in Exhibit 5.1 to this Registration Statement
- 24.1 Power of Attorney is contained on the signature pages

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Ramon, State of California, on March 30, 2004.

SBE, INC.

By: /s/ William B. Heye, Jr.

-----  
William B. Heye, Jr.  
Chief Executive Officer, President and Director

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints William B. Heye, Jr. and David W. Brunton, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

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Signature -----	Title -----	Date -----
/s/ William B. Heye, Jr. (William B. Heye, Jr.)	Chief Executive Officer, President and Director (principal executive officer)	March 30, 2004
/s/ David W. Brunton (David W. Brunton)	Chief Financial Officer, Vice President, Finance and Secretary (principal financial and accounting officer)	March 30, 2004
/s/ John Reardon (John Reardon)	Director	March 30, 2004
/s/ Ronald J. Ritchie (Ronald J. Ritchie)	Director	March 30, 2004
/s/ M.M. (Mel) Stuckey (M.M. (Mel) Stuckey)	Director	March 30, 2004

### EXHIBIT INDEX

Exhibit Number -----	Description -----
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24.1	Power of Attorney is contained on the signature pages