MINUTES

The State Board of Elections Board Meeting was held on Thursday, May 3, 2012. The meeting was held in the General Assembly Building, House Room C in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer, Secretary; Justin Riemer, Deputy Secretary; Joshua Lief, Senior Assistant Attorney General and SBE Counsel; David Blackwood, Policy Analyst; Martha Brissette, Policy Analyst; Chris Piper, Election Services Manager and Matt Abell, Election Administration Lead. Chairman Judd called the meeting to order at 2:00PM.

The first order of business was the approval of the Minutes from the State Board of Election Board Meeting held on March 20, 2012. After careful review, Vice-Chair Bowers made a motion to approve the Minutes. Secretary Palmer seconded the motion and the Board unanimously approved the Minutes.

The second order of business was the Secretary's Report delivered by Secretary Palmer. The Secretary's Report is an agenda item for each Board Meeting describing recent developments at SBE. Secretary Palmer reported that the 32nd National Veterans Wheelchair Games would take place at the Greater Richmond Convention Center on June 25, 2012 thru June 30, 2012. Secretary Palmer reported that SBE received a grant from the Department of Defense and that those resources would make it possible to explore voting equipment accessibility. Secretary Palmer reported that the event would be an ideal location to highlight new technologies. Secretary Palmer reported that all absentee ballots for the June Primary were mailed on time and that the required locality surveys were completed. Secretary Palmer noted that these surveys are mandated as a result of a consent decree with the Department of Justice (DOJ). Secretary Palmer reported that training for the newest version of Datacard's Advocate 2.1.33.88 Electronic Pollbook system is scheduled for May 22 and 23, 2012 at New River Community College in Dublin, Virginia. Secretary Palmer reported that the certification of Dominion Optical Scan voting equipment is set for May 15 through 17, 2012. Secretary Palmer invited the election community to stop by SBE during that time period to observe the voting equipment testing

The third order of business was the presentation of the resolution honoring the work of Inez Poe, retiring General Registrar of Powhatan County. Chairman Judd invited Inez Poe to the podium for the presentation. Vice-Chair Bowers presented the resolution to Inez Poe and each Board member extended their sincere thanks for 40 years of service to the election community. Inez Poe addressed the Board and expressed that she enjoyed her time and work as the General Registrar of Powhatan County.

The next order of business was the General Registrar requests for temporary full-time status for the City of Bedford and Charles City County. Deputy Riemer informed Board Members the Electoral Boards submitted the required requests in a timely manner. Deputy Riemer noted the requests are authorized under Chapter 890, 2011 Acts of Assembly and SBE recommended approval of the submitted requests. Vice-Chair Bowers moved the Board approve the requests from the Electoral Boards of the City of Bedford and Charles City County. Chairman Judd seconded the motion and the Board unanimously approved the motion. Chairman Judd asked if there were any comments and there were none.

The next order of business was the "Stand by your Ad Complaints" presented by David Blackwood, SBE Policy Analyst. Mr. Blackwood identified the first matter for Board consideration as the complaint against Citizens Against Deceptive Campaigning. Mr. Blackwood informed the Board that SBE was forwarded a complaint concerning a flyer sponsored by Citizens Against Deceptive Campaigning. Mr. Blackwood noted that this was the second offense and that the offense occurred within fourteen days of the elections, therefore staff recommend assessing a civil penalty of five hundred dollars. Chairman Judd asked if there were any public comments and Tim McCulloch approached the Board. Tim McCulloch noted that he was previously fined for this offense and this error was unintentional and asked the Board for consideration of leniency. Chairman Judd asked for a clarification of the assessed civil penalty and Election Services Manager Chris Piper explained that the assessed civil penalty was doubled because it occurred within fourteen days of an election according to statute. Tim McCulloch stated that he felt the civil penalty assessed in October of 2011 and this violation before the Board should be treated as a single violation with a single civil penalty assessed. Vice-Chair Bowers moved to reduce the civil penalty to two hundred and fifty dollars for the second

63 offense. Secretary Palmer seconded the motion. Chairman Judd asked if there were any
64 public comments and with there being none the Board unanimously passed the motion.
65 David Blackwood identified the second matter for Board consideration as the
66 complaint against Greg McLemore. David Blackwood informed the Board that on April
67 2, 2012, the State Board of Elections received a complaint concerning two advertisements
68 paid for by Greg McLemore. Mr. Blackwood stated that the candidate has been formally
69 notified about the violation and there was no response. Mr. Blackwood explained that the
70 format of the disclosure statement was incorrectly stated on the advertisements. Mr.
71 Blackwood informed the Board that staff recommended assessing a civil penalty of one
72 hundred dollars. Chairman Judd asked if the candidate was present or if there was public
73 comment and there were none. Secretary Palmer moved to adopt staff recommendations
74 of assessing a civil penalty of one hundred dollars. Vice-Chair Bowers seconded the
75 motion and the Board unanimously passed the motion.
76 David Blackwood identified the third matter for Board consideration as the
77 complaint against candidate Lee Shewmake. Mr. Blackwood informed the Board that in
78 March of 2012, the State Board of Elections received a complaint concerning a newsletter
79 sponsored by Lee Shewmake that was absent the required candidate authorization
80 statement. Mr. Blackwood stated that the candidate has been formally notified about the
81 violation and there was no response. Mr. Blackwood informed the Board that staff
82 recommended accessing a civil penalty of one hundred dollars. Chairman Judd asked if
83 the candidate was present or if there was public comment and there were none. Secretary
84 Palmer moved to accept the staff recommendations of assessing a civil penalty of one
85 hundred dollars. Vice-Chair Bowers seconded the motion and the Board unanimously
86 passed the motion.
87 The next order of business was the changes to the state voting system certification
88 program. Edgardo Cortés, SBE staff member, explained that a draft and final document
89 of the Sstate Ccertification of Vvoting systems was submitted to the Board for its
90 approval and adoption. Mr. Cortés stated this was an administrative requirement that
91 allows SBE more flexibility in certifying equipment to meet requirements specific to
92 Virginia. Mr. Cortés stated voting equipment would still be required to meet the federal
93 standards.. Chairman Judd asked if there were any comments from the members of the
94 audience. Larry Haake, General Registrar of Chesterfield County, expressed his support

95 for the proposed revisions. Secretary Palmer extended his gratitude to the SBE team for
96 their efforts and expertise in preparing the proposed changes. Secretary Palmer moved
97 that the Board approve the changes to the State Certification Procedures. Vice-Chair
98 Bowers seconded the motion and the Board unanimously passed the motion.

99 The next order of business was the approval of the Revised Voter Registration
100 Drive Guidelines. Justin Riemer, Deputy Secretary, stated that § 24.2-416.3 of the Code
101 of Virginia requires the State Board to make available to any individual or group a
102 reasonable of number mail voter registration application forms. Deputy Riemer noted that
103 the Code also requires that "whenever the State Board, local electoral board, or general
104 registrar's office furnishes individuals or groups multiple copies of the voter registration
105 application, it shall provide accompanying instructions." Va. Code § 24.2-416.6. Section
106 24.2-416.6 also requires that SBE provide with the instructions a copy of § 24.2-1002.01,
107 the statute that addresses the criminal penalties for individuals who destroy or fail to
108 timely deliver registration applications to the State Board or local general registrar office.
109 Deputy Riemer stated that both SBE and the local general registrar offices receive
110 numerous requests for blank registration applications from individuals and groups that
111 wish to perform the task of registering individuals to vote. Deputy Riemer stated these
112 groups, both partisan and non-partisan, work to register unregistered voters and provide
113 an opportunity for individuals with outdated registration information to update their
114 registration records. Deputy Riemer noted that as a convenience to the applicant and to
115 ensure the completed applications make their way to the appropriate registrar, oftentimes
116 these groups offer to collect those completed registrations and deliver them to either SBE
117 or a local general registrar's office. Deputy Riemer added that the proposed guidelines
118 aim to educate third-party individuals and groups on the legal requirements to conduct
119 registration drives in the Commonwealth and the consequences for failing to comply with
120 applicable state and federal laws. Deputy Riemer noted that this document provides best
121 practices and other suggestions for conducting an effective and organized registration
122 drive. Deputy Riemer stated that these guidelines would serve as a "one-stop shop" for
123 individuals and groups engaging in voter registration outreach activities and SBE staff
124 strongly encouraged the Board to adopt these guidelines. Chairman Judd stated that the
125 proposed changes were welcomed and he believed that these changes would be an asset
126 to groups conducting voter registration drives. Chairman Judd asked if there were any

127 public comments and there were none. Vice-Chair Bowers moved that the Board adopt
128 the new proposed Guidelines for Conducting Voter Registration Drives. Secretary Palmer
129 seconded the motion and the Board unanimously passed the motion.

130 The next order of business was the certification request for Unity 3.2.1.1 voting
131 system. Edgardo Cortés, SBE staff member, stated that Virginia election officials are
132 looking to replace aging voting equipment and the DS200 (certified as part of the Unity
133 3.2.1.1) will provide local election officials with additional options for scanners.
134 Edgardo Cortés noted that the DS200 was developed utilizing the 2002 Voting System
135 Standards. Edgardo Cortés invited Larry Haake, General Registrar of Chesterfield
136 County, to the podium to relay his professional experiences with the DS200 scanner.
137 Larry Haake stated that Chesterfield County tested the equipment during the March 2012
138 Primary and reported that all equipment utilized had a one hundred percent accuracy
139 rating. Secretary Palmer stated that work provided on this project was a true testament to
140 the partnership that had developed between Chesterfield County and SBE and that all
141 Virginia election communities would benefit from this working relationship. Chairman
142 Judd moved that the Board certify ES&S's Unity 3.2.1.1, voting system for use in
143 elections in the Commonwealth of Virginia, pursuant to the State Certification of Voting
144 Systems Requirements and Procedures. Vice-Chair Bowers seconded the motion and the
145 Board unanimously passed the motion.

146 The next order of business was the consideration of the proposed Regulations on
147 Material Omissions on Candidate Petitions and Material Omissions on Referendum
148 Petitions. David Blackwood noted that at the last Board Meeting and in consideration of
149 the *Lux* v. *Judd* decision that the proposed changes were posted on Regulatory Town Hall
150 and that no comments were received from the public. Chairman Judd expressed that he
151 had concerns over the proposed regulation as presented to the Board. Chairman Judd
152 suggested amending the proposed regulation. Joshua Lief, Senior Assistant Attorney
153 General and SBE Counsel, recommended to the Board that the proposed changes before
154 the Board should be accepted in order to avoid any constitutional or legal conflicts. After
155 considerable discussion by Board members and SBE staff, Josh Lief suggested that due to
156 the amount of litigation dealing with ballot access to the Board pass the proposed changes
157 and that over the next couple of weeks SBE staff would fine tune the changes and present
158 those changes at the May 24, 2012 Board Meeting. Secretary Palmer moved that the

159 amendments to the regulations be tabled by the Board until the next Board Meeting.
160 Vice-Chair Bowers seconded the motion and the Board unanimously passed the motion.

161 The next order of business was the consideration of a proposed regulation
162 defining when an absentee ballot by mail was cast. (When Absentee Ballot is Voted).
163 This proposal would amend subsection E of the regulation titled "When Ballot Cast"
164 located in 1VAC20-60-40. Martha Brissette, Policy Analyst, stated that the proposed
165 changes to the regulation were placed on Town Hall for public comment. Ms. Brissette
166 stated that no comments were received with the exception of a general registrar who
167 asked that the terminology utilized in the proposed regulation remain clear and
168 consistent. Martha Brissette explained that the proposed change to text would read in
169 subsection E as: "An absentee voter who votes other than in person shall be deemed to
170 have cast his ballot at the moment he personally delivers the ballot to the general registrar
171 or electoral board or relinquishes control over the ballot to the United States Postal
172 Service or other authorized carrier for returning the ballot as required by law". Martha
173 Brissette asked the Board to approve these changes and explained that, if approved, this
174 regulation would be submitted to the Department of Justice for preclearance. Vice-Chair
175 Bowers moved that the Board approve the proposed regulation. Chairman Judd seconded
176 the motion and without further public comment the Board unanimously passed the
177 motion.

178 The next order of business was the consideration of form changes related to voter
179 registration, absentee and administrative documents. Garry Ellis, NVRA/Voter
180 Registration Coordinator, presented the proposed changes to the Voter Registration
181 Application and Voter Card to the Board. Secretary Palmer moved to table the proposed
182 changes to the Voter Registration Application and the Voter Card until the May 24, 2012
183 Board Meeting. Chairman Judd seconded the motion and without further public comment
184 the Board unanimously passed the motion.

185 Secretary Palmer moved to approve proposed changes presented by Martha
186 Brissette, Policy Analyst, to the Envelope B for domestic absentee voters, Absentee
187 Ballot Application Form Instructions, Statement of Absentee Voter Ballot not received or
188 lost, Statement of Responsibility for voter lists, and the HAVA complaint form.
189 Chairman Judd seconded the motion and the Board unanimously approved the motion.
190 Board Members directed that Ms. Brissette work with the Office of Attorney General on

any preclearance submissions required. The Board also approved proposed changes to the voter information card that Mr. Ellis presented to allow staff to proceed with plans for printing. Ms. Brissette explained to the Board that staff was undertaking a general review of forms for voters requesting assistance as part of a project SBE is working on with the Virginia Board for People with Disabilities and would present recommended forms changes at a later meeting.

The next order of business was the consideration of certification to the Director of the Department of Conservation and Recreation November 8, 2011 Water Conservation District Director Winners. Matt Abell, Elections Administration Lead, informed the Board members that a last minute change had been received and that this agenda item would be removed from the current agenda and placed on the agenda for the May 24, 2012 Board Meeting. Matt Abell expressed his apologies for this occurrence. Chairman Judd acknowledged that this was an acceptable request and the Board Members agreed to move this agenda item to the May 24, 2012 Board meeting.

Chairman Judd asked if there was any other business to come before the Board for the Good of the Order and with there being none Chairman Judd made a motion to adjourn. Secretary Palmer seconded the motion and the Board unanimously passed the motion. The Board shall reconvene on May 24, 2012 at 2:00 PM in the General Assembly Building, House Room C. Chairman Judd asked for any further public comments. There being none, the meeting was adjourned at approximately 4:20PM.

Secretary

Chair

Vice-Chair