



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Tuesday, August 13, 2013
General Assembly Building
Room C
9:00 AM

BOARD WORKING PAPERS

Master Copy



**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: August 13, 2013
LOCATION: General Assembly Building, Room C
TIME: 9:00 a.m.*

- I. CALL TO ORDER** *Charles E. Judd
Chair*
- II. APPROVAL OF MINUTES** *SBE Board Members*
- III. SECRETARY'S REPORT** *Donald Palmer
Secretary*
- IV. REPORT FROM LEGAL COUNSEL** *Joshua Lief
SBE Legal Counsel*
- V. RESOLUTION HONORING ANN LOUKX
Former General Registrar of Accomack County** *SBE Board Members*
- VI. NEW BUSINESS**
- A.** Certify the August 6, 2013 Virginia Special Election – 14th Senate *Matt Abell
Election Services Lead*
- B.** Certification of Voting Equipment *Gary Fox
Voting Technology Specialist*
- i.** ES&S -3.4.0.1
- ii.** Dominion – 4.14
- C.** When a Ballot is Cast Regulation *Myron McClees
SBE Policy Analyst*
- VII. OTHER BUSINESS & PUBLIC COMMENT**
- VIII. EXECUTIVE SESSION** *SBE Board Members*
- IX. GOOD OF THE ORDER**
- ADJOURNMENT**



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Call to Order

BOARD WORKING PAPERS



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STATE BOARD *of* ELECTIONS

Approval of Minutes
May 22, 2012
&
June 25, 2013

BOARD WORKING PAPERS

MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, May 22, 2013.
4 The meeting was held in the General Assembly Building, Room C, in Richmond,
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles
6 Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Joshua Lief,
7 Senior Assistant Attorney General and SBE Counsel; Justin Riemer, Deputy Secretary;
8 Nikki Sheridan, Confidential Policy Advisor; Susan Lee, Elections Uniformity Manager;
9 Chris Piper, Election Services Manager; Martha Brissette, SBE Policy Analyst; Eugene
10 Burton, Voting Equipment Coordinator; and Matt Abell, Election Administration Lead.
11 Chairman Judd called the meeting to order at 10:00AM.

12 The first order of business was the Secretary's Report delivered by Secretary
13 Palmer. Secretary Palmer welcomed Scott Van Der Hyde who is a law student at
14 William & Mary and will be interning with SBE this summer. Secretary Palmer reported
15 that a primary will be held on June 11, 2013 and the Board would meet on June 25, 2013
16 to certify those results. In response to a question from Vice-Chair Bowers, Secretary
17 Palmer reported that the Request for Information (RFI) had been submitted for the new
18 photo identification bill. Secretary Palmer reported that the SBE team is preparing the
19 community outreach and implementation plan in support of the new photo identification
20 bill. Secretary Palmer reported that SBE staff is continuing to work on the online voter
21 registration bill. In a response to a question from Chairman Judd, Secretary Palmer
22 reported that updates occurring within the VERIS system would allow the general
23 registrar to scan documents to store voter registration application. Secretary Palmer
24 reported that this new feature should be available by late June 2013. Secretary Palmer
25 reported that this change request was being funded in part by Fairfax County and that this
26 change would allow the electronic storage of documents.

27 The second order of business was the Legal Report delivered by Joshua Lief,
28 Senior Assistant Attorney General and SBE Counsel. Mr. Lief introduced Kate Maxwell
29 who would be interning with the Attorney General's Office in support of SBE during this
30 summer. Mr. Lief reported that he had received a decision on SBE's demurrer in the
31 Fairfax County Democratic Party case. Mr. Lief reported that he is also continuing to
32 work with SBE on the interstate crosscheck program. Mr. Lief reported that the Attorney

33 General's Office submitted the preclearance documents to the Department of Justice for
34 the bills signed by the Governor that will take effect in 2013 and is awaiting word on
35 their status.

36 The third order of business was the presentation of the resolution honoring the
37 work of Betty Weimer, retiring General Registrar of Prince William County. The Board
38 presented the resolution to Ms. Weimer and each Board member extended their sincere
39 thanks for her twenty-eight years of service to the election community. Chairman Judd
40 also noted the many years of service that Ms. Weimer contributed to the Voter
41 Registrars' Association of Virginia.

42 The next order of business was the Electoral Board request for temporary full-
43 time status for the Richmond County General Registrar. Deputy Riemer informed the
44 Board Members the Electoral Board submitted the required request in a timely manner.
45 Deputy Riemer noted the request is authorized under Chapter 890, 2012 Acts of
46 Assembly and recommended approval of the submitted request. Vice Chair Bowers
47 moved the Board to approve the request from the Electoral Board of the Richmond
48 County for the months of May and June 2013 and Secretary Palmer seconded the motion.
49 Chairman Judd asked if there were any questions. Robin Lind, Virginia Electoral Board
50 Association, stated that he was appreciative of the support SBE Board Members provide
51 by approving these requests. Chairman Judd asked if there were any comments and there
52 were none. The Board Members unanimously approved the motion.

53 The next order of business was the drawing of the ballot order for the Senate of
54 Virginia Special Election to be held on August 6, 2013. Matt Abell, Election
55 Administration Lead, explained the process. Vice Chair Bowers drew the first position of
56 the Democratic Party and Secretary Palmer drew the second position of Republican
57 Party. Chairman Judd declared that the ballot order had been determined with the
58 Democratic candidate listed first and the Republican candidate listed second.

59 The next order of business was the request for approval of the updated voter
60 registration application presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
61 stated that on May 1, 2013, SBE staff issued an official communication to the Virginia
62 election community announcing that a draft form redesigning the current Virginia Voter
63 Registration Application was available for public comment through May 15, 2013. Ms.
64 Brissette stated that staff had received more than 50 comments and that those comments

65 had been provided to Board Members for review. Ms. Brissette stated that due to the
66 substantive comments, SBE staff recommended a working group be assembled to
67 consider the format and redesign of the voter registration application.

68 Ms. Brissette indicated that staff was proposing a short-term update to the current
69 application's Privacy Act Notice while the working group developed a more
70 comprehensive redesign of the voter registration application. SBE Board Members
71 reviewed the proposed Privacy Act Notice and responded with questions regarding the
72 reasons for the change and what should be the appropriate language. Ms. Brissette
73 explained the current requirements for disclosing voter registrations to third parties and
74 the process for redacting social security numbers, including a discussion of the original
75 consent decree that restricted access to the social security number on the application. Ms.
76 Brissette gave additional explanation regarding the proposed language in response to an
77 inquiry from Vice-Chair Bowers for additional clarification on what was being asked of
78 the Board. Mr. Lief then gave an explanation of the two interest interests involved with
79 the issue, namely the privacy advocates who do not want the social security numbers on
80 the applications and the groups seeking open access to the applications, including Project
81 Vote and that those two interests conflict. Both groups have sued. Mr. Lief explained the
82 original 1993 case and consent decree resulting in the Privacy Act Notice noting that the
83 social security number would not be open to the public. Then the court ruling in Project
84 Vote has resulted in the forms being open to the public subject to some restrictions. The
85 editing to the Privacy Act Notice is somewhat of an intersection of the agency's attempt
86 to create language that indicates that the registration application may be open to the
87 public inspection with the exception of the social security number. Mr. Lief then
88 suggested that changes to the current Privacy Act Language should be made to make
89 clear that the social security number will not be made publicly available and that he
90 looked forward to participating in the working group to balance the issues. Vice-Chair
91 Bowers thanked Mr. Lief and then inquired whether the Privacy Act Notice changes
92 would be done first and then having the working group deliberate on fixing the entire
93 application based on the comments received.

94 Secretary Palmer clarified that the working group would not be suggesting
95 changes to the Privacy Act Notice if the Board Members today approved the language of
96 a revised Privacy Act Notice. Secretary Palmer indicated that he hoped the Board would

97 be able to approve new Privacy Act Notice language at this meeting and asked Mr. Lief
98 for his opinion. Sec. Palmer indicated his desire to have something ready for July 1 and
99 the upcoming gubernatorial election cycle. Mr. Lief stated that he agreed with that
100 approach and that the current language is wrong. The Board members and Mr. Lief
101 discussed the suggested changes to the Privacy Act Statement language. After a thorough
102 discussion specifically regarding the provisions of the notice of what will be open for
103 inspection to the public with the removal of the social security number, Chairman Judd
104 stated that the Board was going to amend the registration form with the suggested
105 language tweak to the Privacy Act Notice. Chairman Judd asked for a motion. Secretary
106 Palmer moved that the Board amend the current Privacy Act Notice on the current voter
107 registration application form to be consistent with the consent decree in *Project Vote v.*
108 *Long* by removing the sentence: “This registration card will not be open to inspection by
109 the public” and replacing it with “This registration card will only be open to inspection
110 by the public if the social security number is removed.” and inserting “and all lawful
111 governmental purposes” after the words “by courts”. Vice Chair Bowers seconded the
112 motion and Chairman Judd asked if there was any discussion on the motion or any public
113 comments. Catherine Flanagan approached the podium to address the Board, stating that
114 she represented Project Vote. Ms. Flanagan stated that the general expectation is that the
115 voter registration application is open to the public with the social security number
116 removed. Ms. Flanagan said it would be more accurate to say that the registration card
117 will be open to the public; however, the social security number is removed. Chairman
118 Judd said that is what the Board said in its motion. Chairman Judd asked if there were
119 any other comments and there were none. The Board Members unanimously approved
120 the motion to revise the Privacy Act Notice on the voter registration application.

121 The next order of business was the request for approval of the updated absentee
122 ballot application presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
123 referred the members of the Board to the materials dated May 21, 2013 which tracks the
124 suggested changes to the absentee ballot application. Ms. Brissette stated that on May 1,
125 2013, SBE staff issued an official communication announcing that a draft form
126 redesigning the current Virginia Absentee Ballot Application was available for public
127 comment through May 15, 2013. Ms. Brissette stated that staff received about 45
128 comments and incorporated many of those comments into the new design. Ms. Brissette

129 acknowledged the work of Joe Baker, the SBE Website Developer, who prepared the
130 format of absentee ballot application for Board approval. Ms. Brissette explained the
131 changes to the absentee ballot application including changes to the reason portion of the
132 application required by legislative changes, edits and additions to the instructions,
133 formatting changes, including the optional use of color printing by the general registrars
134 and the localities.

135 Chairman Judd made an inquiry regarding the provision in the application that
136 asks for the year of birth and if that would impact the ability of someone to be of age
137 when requesting an application. Ms. Brissette replied that you have to be registered to
138 vote to receive an absentee ballot. Deputy Riemer stated that the current application only
139 asks for the year of birth so that this is not a change from the existing application. The
140 Chairman noted that he thought it was in the previous application and Mr. Riemer
141 clarified that the full date was in the original revised draft presented to the Board but not
142 on the form in its current incarnation. Chairman Judd asked if the form was available on
143 the website and Ms. Brissette responded that was available for voters on the website.

144 Vice-Chair Bowers inquired if the instruction page should come before the actual
145 form rather than the other way around. Vice Chair Bowers suggested it may be easier for
146 the voter to have the voter see the instructions prior to filling out the form. Chairman
147 Judd indicated that you still have to look at the reasons on the back of the form when
148 completing the application. Secretary Palmer stated he understood the Vice-Chair's point
149 and indicated that the working group discussed the issue and there seemed to be
150 consensus that it would be friendlier to the office personnel if it is on the same page.
151 Chairman Judd then asked a question regarding the address form and suggested having
152 the addresses on the back of the actual application form. Absentee Ballot Coordinator
153 Terry Wagoner noted that the application is designed to accommodate both in-person
154 absentee voting and absentee voting by mail and the current design facilitates both since
155 only pages 3 and 4 are needed for in-person while the whole application will be mailed to
156 voters completing absentee applications by mail. Vice Chair Bowers then suggested
157 adding an instruction to the front of the absentee ballot application to "please flip over for
158 instructions," as well as a reference within the instructions to the list of general registrars'
159 addresses. Ms. Wagoner referred the suggestion to Joe Baker, SBE's form designer, as to
160 whether that suggestion could be incorporated into the document. Deputy Riemer then

161 commented for clarification that he believed Vice-Chair Bowers wanted the instructions
162 page to come in sequence before the actual application form. Vice-Chair Bowers said that
163 there should at least to have a note to the instructions on the opposite page. Ms. Wagoner
164 said that could be incorporated into the design. Secretary Palmer indicated that adding a
165 sentence at the top should be easy to do. Chairman Judd pointed out the reference to the
166 instructions next to the reason codes and questioned if that should be moved to top. Vice-
167 Chair Bowers said at a minimum move to the top. Deputy Riemer suggested to also leave
168 the reference to the instructions in the reason code section.

169 Chairman Judd then recognized Mr. Lief who said he had a few questions on the
170 form and on process. Ms. Lief said that we are implementing a law that changes to the
171 Codes and that any approval of the form should be subject to preclearance. Mr. Lief also
172 advised that although identifying the religion was repealed, the amended statute still
173 requires stating the nature of the religious obligation. Chairman Judd said the form should
174 follow the bill as passed and agreed the form for Reason 5(A) related to this reason
175 should conform to the amended statute. Chairman Judd inquired on the preclearance
176 issues and if the Board was on a deadline having to be met to have the form revised. Ms.
177 Brissette responded that the requirement to implement the law is contingent on
178 preclearance. Chairman Judd asked if it made more sense to lay the application aside
179 until preclearance or to wait until the Supreme Court says preclearance is not required.
180 Mr. Lief stated that the Board could approve subject to preclearance and give staff the
181 time to get things into place. Secretary Palmer said that would be his recommendation to
182 simultaneously adopt the form and submit for preclearance to be ready by July 1 since
183 individuals requesting absentee ballots after July 1 should be using the new form. Mr.
184 Lief said to the extent the form just implements the law the form would not need
185 preclearance but indicated that there are other changes. Chairman Judd moved that the
186 Board should approve the usage of the new absentee ballot application form subject to
187 preclearance to the law that caused the change in the form. Vice Chair Bowers made the
188 motion. Chairman Judd noted there was a motion on the floor and if there was discussion.
189 Secretary Palmer noted that he believes the motion covered the changes that were made
190 staff understands what those changes are and that he seconds that motion. Chairman
191 Judd said there was motion on the form and inquired if there were any other questions.
192 Therese Martin, representing the League of Women Voters, approached the podium. Ms.

193 Martin inquired about the mailing instructions and where the application should be
194 mailed and, secondly, regarding the change of registration address or name on the form.
195 Ms. Martin further questioned if the voter voting absentee ballot could be used for the
196 purposes of changing the voter's registration address or name. Chairman Judd said it
197 appeared this was a question and recognized Terry Wagoner, SBE Absentee Coordinator,
198 who stated that the absentee ballot application could be used to make changes to the
199 voter's address or name. Chairman Judd asked if there was a difference in this process for
200 the absentee application versus in-person and Ms. Wagoner indicated there was not any
201 difference. Chairman Judd inquired if there were any other questions and there were
202 none. The Board unanimously approved the motion.

203 The next order of business was the request for approval of updates to Guidelines
204 for Conducting Voter Registration Drive presented by Chris Piper, Election Services
205 Manager. Mr. Piper stated that the Voter Registration Drive Guidelines have been
206 reviewed to include the new statutory changes and requirements for SBE to provide
207 online voter registration drive training to groups and individuals who request 25 or more
208 voter registration applications from SBE or the local voter registration office. Additional
209 modifications made include a new affidavit and request form making note of the new
210 training requirements, changes to reflect online voter registration, changes indicating the
211 prohibition of pre-populating applications, changes to indicate that applications must be
212 delivered within 10 days (previously 15 days) of their collection, tweaks to emphasize
213 that applications held in violation of the 10 day period should still be delivered to a
214 registration office. Mr. Piper stated that suggestions from Project Vote and the League of
215 Women Voters were received that Monday and that some revisions to the Voter
216 Registration Drive Guidelines were made based on their comments. Mr. Piper indicated
217 that there are changes to the document from what was in the original Board packet and
218 that he would be happy to go through those changes. Chairman Judd requested that Mr.
219 Piper provide the Board the "from and to". Mr. Piper proceeded to review the suggested
220 changes.

221 Mr. Piper discussed that Project Vote's concerns were addressed in a five page
222 document. Suggested revisions on page 1 related to concerns that persons who did not
223 have internet access and the availability of training in the local registrar offices. Mr. Piper
224 said that issue was not reflected in page 1 but that a change was made on a bullet point to

225 page 17 that indicated the training materials would be made available at the general
226 registrar's office.

227 Mr. Piper explained recommended changes on page 3 that related to concerns on
228 putting the onus on the individual for conducting training for the other circulators of the
229 drives and staff modified the language to show that the individual taking the initial
230 training would sign on behalf of the organization. That would put the onus on the
231 organization as a whole rather than the individual. Chairman Judd stated that this was a
232 train the trainer type of training, Mr. Piper agreed it was and that the training being
233 developed is essentially that and will allow for others to conduct the training for others in
234 the organization.

235 Mr. Piper stated that Project Vote issued concerns regarding language that
236 indicated SBE has the authority to approve the person or the group and that a change was
237 made to the third bullet point on page 3 related to approval. Chairman Judd asked Mr.
238 Piper to clarify that the recommendation was to take away the requirement that SBE
239 approve the group or individual conducting the voter registration drive. Mr. Piper
240 clarified that what staff was stating was that the training be completed and once that is
241 completed SBE provides a certification but the statute does not say that SBE approves
242 these groups just that they have to complete the required training. Chairman Judd asked
243 Mr. Lief if that was this was within the letter of the Code that was passed. Mr. Lief asked
244 for a moment to review.

245 Mr. Piper referenced page 4, the Best Practices Overview, and concern that
246 indicated the document implied that all groups have to undergo the training requirement.
247 Mr. Piper stated that Project Vote had concerns that it mislead to indicate that all groups
248 need to complete the training. Mr. Piper said that he believed the language was very clear
249 that was not implied and that no change was made.

250 Mr. Piper said that concerns were brought up on #2 of page 4 that the online voter
251 registration language be changed to make clear that it was available to those with a
252 DMV-issued Driver's License or DMV ID card. Mr. Piper said that language was
253 tweaked to include that suggestion.

254 Mr. Piper said there was concern on paragraph 4 of page 2 on the bottom and that
255 SBE agreed that making clearer that listing a previous registration address is required but
256 that it does not result in the rejection of an application's registration application. Failure

257 to include citizenship status will result in rejection. Mr. Piper stated that changes were
258 made to state it was required to be included but that it does not state that it should be
259 rejected if not included. Chairman Judd said he was not sure if he was following what
260 was recommended. Chairman Judd reviewed the suggested change and Mr. Piper
261 explained that failure to include that information will not necessarily result in the
262 rejection of the application. Chairman Judd asked why it was in the original version if it
263 was not so. Chairman Judd asked if we were adhering to the Code as passed by the
264 General Assembly if we took that out. Mr. Riemer stated that there was not a uniformity
265 of practice throughout the Commonwealth on that. Mr. Riemer explained the applicant is
266 asked to provide that information on the last form of the registration application for the
267 purposes of sending that notice to the other jurisdiction. Mr. Riemer explained there were
268 various reasons why a voter does not include that information. Mr. Riemer said that the
269 Code is not entirely clear that the application should be rejected if that information is not
270 included. Some registrars will reject that application and some will not and there does not
271 appear to be any clear indication in the Code that mandates acceptance or mandates
272 rejection. The Code states it is required but does not say it will be rejected if it is not
273 included. Because of this point the language is reflected to state it is required but omits
274 reference that it will result in rejection. Mr. Riemer explained that it is an issue where
275 sometimes “shall” means it will be rejected and sometimes “shall” means you have to do
276 it but it is not going to disqualify the application. It seems to be a little unsettled and we
277 know that in the Commonwealth some will accept them and some will not. Chairman
278 Judd asked on what basis, “it is either the law or it is not the law?” Chairman Judd
279 recognized Mr. Lief. Mr. Lief said he was looking at the previous question that was
280 asked. On this issue it was a policy call for the Board.

281 Mr. Lief referenced the first question regarding “approval” of the groups. Mr. Lief
282 stated that the groups do not need to be approved.

283 Secretary Palmer stated that in our experience with this part of the Code in
284 ordinary course most judges would uphold this requirement and there is a mechanism in
285 place where you can go to court if your application is rejected. Some judges have
286 overruled the registrar on these issues and some judges have gone the other way.
287 Secretary Palmer said we get pushed both ways and that there was a lack of uniformity on

288 this issue and in the interest of being precise, this may be an policy we have to bring
289 before the Board.

290 Chairman Judd then recognized Mr. Piper who indicated he was moving to #3 on
291 page 10. Mr. Piper that that staff added language that said completed applications cannot
292 be signed without signed permission from the application and that is part of a regulation
293 that makes that clear.

294 Next, page 11 # 8, writing on applications. Project Vote brought up concern
295 regarding a circulator wanting to initial the application to get credit for getting that
296 application completed and concern that the language be removed and after discussion
297 determined that would be proper. Chairman Judd asked why it would be proper and
298 quoted the language on the existing registration drive guidelines regarding not writing on
299 or attaching anything to the application. Chairman Judd asked if the suggestion was to
300 remove language away including the Code citation. Mr. Piper replied that after
301 reviewing it the Code had no such prohibition. The prohibition relates to what was
302 discussed on not changing or modifying the registration application and what information
303 was provided by the applicant. Chairman Judd asked for confirmation that the suggestion
304 was to remove the separation that maybe the spirit of the Code suggests the application
305 should be separate from any ballot issue, or candidate or whatever, so the suggestion was
306 to remove that by taking it out. Mr. Piper said there does not seem to be validity in the
307 Code for having that section; that there did not seem to be any reason why we would
308 have that. Mr. Piper said that the issue was brought to our attention and after having
309 reviewed the matter determined it should be in there. Secretary Palmer said that staff was
310 looking at the issue and were not sure of the genesis of this and that he thinks in common
311 practice, he understands the concerns and that we tried to address it by inserting the
312 provision in #8 to not allow the circulator to add any information to the application that
313 has been signed by the voter or to alter it in any way. Secretary Palmer said that he thinks
314 one of the concerns is that one of the things the Registrars and circulators do is to
315 organize the applications for the registrar and so there are some opportunities where the
316 circulator attaching something to the registration is helpful to the Registrar.

317 Secretary Palmer said that Justin Riemer, Chris Piper researched what the genesis
318 was but could not find a basis for it. Chairman Judd recognized Mr. Lief and said that he
319 agreed with Mr. Piper that there was nothing in § 24.2-418 that specifically prohibits this

320 but that the Code does prohibit someone from altering the writing on someone's
321 application but given what we've seen in the last year or so regarding some of the drives
322 and issues with that it, might be appropriate for someone to put something on top of them
323 noting problems and giving the registrars some guidance on the registrations. The Code
324 does not expressly provide for that but the concern that the language prohibits them. Mr.
325 Lief said that there is no problem saying they should not write on the application. Mr.
326 Lief said there would not be a problem saying "Do not write on the application."
327 Chairman Judd said he understood a post-it note on a stack or a sheet of legal paper paper
328 clipped to a stack but to take out also especially the material related to candidates or
329 ballot measures and that he would be more inclined to take out the checkmark to accept
330 taking out the checkmark that says "Do not attach anything to the registration
331 application" and citing the Code but leaving in: "Do not write on or attach anything to the
332 registration application, especially material related to materials related to candidates or
333 ballot measures." Mr. Lief inquired said that the Code did not prohibit the third party
334 registration group from doing something like attaching a note indicating there was no
335 social security number the registrar may want to follow up. Mr. Lief said do not write on
336 or attach anything on or related to the ballot measures or candidates only attach
337 something related to completeness of the form. Chairman Judd said he would tweak
338 number 8 to read: "Do not write on or attach anything to the voter registration application
339 or any material related to candidates or ballot measures." Chairman Judd inquired if that
340 would allow them to put the post it note on. Mr. Lief stated he would leave out: "attach
341 anything to the voter registration application related to candidates or ballot measures."
342 Mr. Lief said that would allow them to put a cover on it. Chairman Judd said he would
343 move to amend when there is a motion. Mr. Piper asked for clarification on the language
344 of #8: "Do not write on or attach anything to the voter registration application related to
345 candidates or ballot measures." Mr. Piper and the Chairman agreed that we would strike
346 the citation and checkmark.

347 Mr. Piper then moved on to the second bullet point on page 17 of the revised
348 materials. Mr. Piper explained that this issue was addressed previously in the meeting.
349 Staff recommended an update that clarified the training materials would be available at
350 the registrar's office.

351 Mr. Piper then moved to the second question under “Other Questions” regarding
352 the National Voter Registration Application (NVRA). Mr. Piper indicated that Project
353 Vote expressed concern that the existing language could leave individuals to believe that
354 the national registration application is not acceptable in Virginia. Mr. Piper said a
355 revision was made to the second sentence in the second bullet point to add that the
356 required information regarding the felon disqualification is in the long-form instructions.

357 Mr. Piper then moved to the availability of voter list section in page 17,
358 particularly the use of the word “maybe” regarding the availability of registered voter list.
359 Mr. Piper stated that we agreed with Project Vote that if a group was conducting a
360 registration drive, the case law was clear the list of registered voters was available. The
361 Chairman inquired as to the term “maybe” and if there were instances where the answer
362 to the question of obtaining a list of registered voters would be “no”. Mr. Piper said “no,”
363 the Code says the list can be purchased for groups for political purposes and for voter
364 registration activity. Mr. Piper said if one is there reading the document they will be
365 doing voter registration activity and would have availability to the list. Chairman Judd
366 indicated he understood.

367 Mr. Piper moved on to page 20 of the revised document and the sworn affidavit.
368 Mr. Piper said Project Vote brought up questions on the limit of the maximum number of
369 applications that could be procured. Mr. Piper stated that SBE set the maximum number
370 of 200 simply as a matter of resources and that’s why there is a maximum, and that’s why
371 it’s not going to change at this point in time. The second issue brought up on the
372 Affidavit was staff’s recommendation to strike “mark” on the third bullet point of number
373 2. Mr. Piper said that based on earlier conversation the Chairman may want to consider in
374 his motion to add that back in. Chairman Judd indicated “yes.” Mr. Piper indicated that
375 “number” was missing on the fourth bullet point in number two and that there was
376 additional language to make clear that the information from the registration application
377 would be available publicly. Mr. Piper also said that Project Vote suggested the deletion
378 of #5 regarding the return of unused applications to the office and that staff agreed that
379 there was no requirement to return unused applications.

380 Chairman Judd then brought up the first bullet point on number 2 and asked who
381 provided the receipt. Mr. Piper said the application provides a tear off receipt that anyone
382 with a registration should provide the receipt. The Chairman followed up to confirm it

383 was the circulator. Mr. Piper indicated, yes, for the circulator. Chairman Judd then
384 brought up the suggested change regarding the deletion of “or other personal
385 information” from the third bullet point in number 3. Mr. Judd inquired regarding what
386 the logic was behind scratching that information. Mr. Piper quoted from the Project Vote
387 comments that the line “suggests that other personal information, not just social security
388 numbers may not be revealed; however, the personal information other than the social
389 security number of all voters is not protected, except for applicants who check the box
390 applicable to protected voters.” Mr. Piper stated that this went back to the discussion
391 earlier on the Privacy Act Notice and the consent decree. Mr. Piper stated the language
392 makes clear that the personal information may be available to the public. Chairman Judd
393 asked Mr. Lief if that was consistent with the ruling. Mr. Lief stated it could be an
394 expansion of the ruling. Mr. Lief said that the application itself is a public record after
395 deposit with the registrar. Mr. Lief said this was an area somewhat outside of that
396 whether the registration group could copy this information. Chairman Judd said we took
397 it out because it was asked for by Project Vote. Mr. Piper said that we agreed in a
398 discussion yesterday that we could help make it clearer that the personal information
399 could be made public. Mr. Lief said that is correct; the registration document is a public
400 document once it is in the registrar’s office. Mr. Lief said this was a policy call but that
401 he would have to look at the issue closer. Mr. Lief said it was not covered in the Project
402 Vote case. Secretary Palmer asked if it was specifically prohibited by law. Mr. Lief said
403 he did not believe so. Secretary Palmer said it is not covered by Project Vote specifically
404 in the law regarding whether a registration group wants to write down by phone number
405 and address and whether there is a strict prohibition. Secretary Palmer said there are
406 things that address the margins of the issue but nothing that specifically addresses that
407 issue. Chairman Judd asked when this was drafted originally before Project Vote edited
408 this document what the language meant. Mr. Piper stated it related to making copies of
409 the applications before turning them in. Chairman Judd then made the distinction
410 between registrations before they are submitted to the registrar and after they are
411 submitted and that groups could copy and then not submit to the registrar. Mr. Riemer
412 stated that the original version of the document had been adopted by the Board and that
413 staff started receiving queries from the campaigns that were engaged in registered drives
414 and that there was a flat-out prohibition that said you can’t take any information from an

415 application and transcribe it with a piece of paper and that we got into the weeds on the
416 issue very in-depth with what the campaigns could in fact copy and that at the time it
417 seemed like we did not think we had a very good case to prohibit the transcription of that
418 information. Mr. Riemer stated we wanted to prohibit but the law was unclear. Mr.
419 Riemer stated that maybe we could not change it for now and look at it more in-depth but
420 we had already amended the document to remove some of that strict language. Mr. Lief
421 said that he did recall that issue. Mr. Lief said he did not believe there was a rule
422 prohibiting the copying of the information. Mr. Lief said that the way it was originally
423 framed in that it was required by the Project Vote ruling which it does not apply to but
424 that Virginia laws does not prohibit the copying of personal information. Mr. Lief said
425 that was what we told the campaigns and that is what the campaigns did and used that
426 information to contact the individuals. Secretary Palmer stated that during the
427 deliberations there was some other personal information, such as protected voters address
428 and that is technically covered and suggested adding that to the language to be more
429 precise. Sec. Palmer stated that he wanted the document to be on firm ground. Chairman
430 Judd asked about protected addresses. Chairman Judd asked what we were doing to dumb
431 down the system yet again and asked how the organization would know whether
432 someone has a protected address, the general registrar knows but how would the
433 organization know and that he was worried we were opening a can of worms and that we
434 need to be very careful about that. Chairman Judd stated we have rules for a reason and
435 that human nature is to check the boundaries and that is what was being done now but
436 that we needed to be very very careful about making it so loose and so open and in the
437 effect it will have on those that do want to register.

438 Mr. Piper then moved on to the changes made to the checklist on page 22 of the
439 revised materials. Mr. Piper said there were some questions about the applicability
440 requirements of the checklist and Mr. Piper stated a change was made to indicate the
441 checklist was "recommended". The list is something we recommend and not require and
442 that staff covered their questions regarding the affidavit applicability requirements by
443 changing the title. Lastly, they discussed the distribution of the affidavit and that we
444 struck the last checkbox on the affidavit. Chairman Judd referenced the last check box
445 regarding the affidavit requirement and asked for confirmation that the suggestion was to
446 strike the language. Mr. Piper responded that the language in the checklist also referred to

447 the organization's volunteers and employees and that it would be incorrect to state that
448 the volunteers and/or employees were required to sign the affidavit and that is why it was
449 stricken. Chairman Judd said that the same argument applies to the other items on the
450 checklist. Chairman Judd stated that the same argument can be made that the other
451 members of the organization did not read the 17 pages or 20 pages nor have they
452 completed the sworn affidavit, nor have they prepared an alphabetical list of the
453 applications. Chairman Judd said he wasn't sure, he didn't understand why we were
454 taking the teeth out of this thing and we need it. The reason why you need guidelines is
455 because people are always checking boundaries and that you need boundaries.

456 Mr. Piper concluded by stating the comments from Project Vote. The League of
457 Woman Voters comments were similar. Mr. Piper said that staff felt strongly that we
458 covered every aspect of voter registration drives. Mr. Piper said the training being
459 developed will be very significant train the trainer and the material will be provided to
460 each person that requests applications. Chairman Judd stated his concern about making it
461 shorter and that staff did an excellent job of creating the one pager and that you have all
462 the meat behind it and he agrees you want to shorten it any more than that and that is
463 good. Chairman Judd said the Board was presented with the suggested changes of the
464 guidelines and asked for any discussion from the Board. Chairman Judd entertained a
465 motion. Vice-Chair Bowers moved to approve the revised and amended guidelines for the
466 voter registration drive packet before the Board with amended changes to include the
467 amendment of the Chair's recommendations earlier for items 8 on page 11, page 20, #2
468 bullet point 3 that refers to adding back in the word "mark" in regards to the voter
469 registration application form. Secretary Palmer seconded the motion. Chairman Judd
470 noted there was a motion on the floor and asked for comment from the floor.

471 Robin Lind spoke on behalf of the Goochland County Electoral Board. Mr. Lind
472 said some were confused on the issue of how registration applications were not treated
473 the uniformly throughout the state which he believes was the case. Mr. Lind said he
474 understood the counsel to state that there was no specific prohibition on sharing the
475 private information but he did not understand if that included the social security number
476 which he think was included in § 24.2-1002.1 where the Code states it is a felony to use
477 the social security number or any part thereof of any applicant except for official use.
478 Mr. Lind said he hoped the guidelines for the drives point that out. Mr. Lind said he did

479 not know how you could prohibit people who are organized to conduct drives from just
480 putting them on a copy machine and making copies so they can glean that information
481 but it should be pointed out they cannot copy that social security number.

482 Catherine Flanagan, from Project Vote, asked if the Board was entertaining
483 comments about everything that was discussed and Chairman Judd confirmed that there
484 was a motion on the floor so her comments would include everything. Ms. Flanagan
485 commented on the revision on page 4 in the revised version and that there was a
486 discussion about a distinction between citizenship status which would result in rejection
487 of the application versus an application that does not include previous registration
488 address. Mr. Flanagan noted the discussion about a lack of uniformity and that voters
489 should know that their application rejected if they do not provide previous registration
490 information. Right now it is not clear since it states is required but does not say whether it
491 would be rejected only that it could be. Ms. Flanagan said voter should be informed and
492 said that uniformity is desirable and that it is within the Board's purview to say that
493 registrars should not reject these applications. Ms. Flanagan moved to page 22 and the
494 circulators writing on the application. Ms. Flanagan said that their circulators do write
495 initials on the applications and that allows them to contact the circulator if there is a
496 particular problem. Ms. Flanagan said it is the only way to do quality control. Ms.
497 Flanagan moved on to comments on page 17 regarding the federal form and that the
498 revisions still make it unclear if Virginia will use and accept the federal form. Ms.
499 Flanagan said the instructions on the national form mention the felon laws and that the
500 voter by signing affirms the voter is eligible to vote. Chairman Judd responded that the
501 intention is to provide 20 pages of instruction for the circulator not the voter and it is
502 incumbent on the circulator to be familiar with Virginia Code and the law. Ms. Flanagan
503 responded that circulators should know that Virginia will accept the national form.
504 Chairman Judd noted that the three minute time period for speakers was up. Ms. Flanagan
505 then moved on to the issue of whether the drives can copy. Ms. Flanagan said groups use
506 copies to conduct verification to make sure that eligible applicants are actually put on the
507 rolls. Ms. Flanagan said they believed a good reading of the *Long* case would allow or
508 mandate. Chairman Judd interjected a reminder to Ms. Flanagan regarding the motion on
509 the floor and that her remarks should address that. Ms. Flanagan referenced the section on
510 getting the voter lists and it suggests that an individual conducting a drive may not be

511 able to get the list or that there is some qualification. Ms. Flanagan acknowledged the
512 “maybe” was deleted from the language but that the language still suggests that only
513 certain members can get voter lists. Chairman Judd then quoted the language from the
514 guidelines regarding who has accessibility to the lists and that it was spelled out to
515 prevent commercial use of the list. Ms. Flanagan said all members of the public could
516 receive the list under the NVRA public disclosure. Chairman Judd then noted the
517 language in § 24.2-405 of the Code that states the limitations for voter participation and
518 registration. Chairman Judd said he found it interesting that one individual, one
519 circulator, would want to get the entire voter list and that he thought she may be
520 stretching it. Chairman Judd asked if there were other comments.

521 Therese Martin, representing the League of Women Voters approached the
522 podium with two questions. Ms. Martin inquired if the Board-approved voter registration
523 guidelines would be available throughout the state at the local general registrars’ office.
524 Ms. Martin stated that her interpretation of the materials indicated that there was
525 flexibility in the method of the training. Ms. Martin also asked whether the affidavit on
526 page 20 should be limited to “I” or include language indicating the individual was a
527 representative of the organization. Secretary Palmer responded to Ms. Martin’s inquiry
528 and stated that the online training portal was being developed and will be functional by
529 July 1, 2013. Secretary Palmer stated that the training content would be uniform across
530 the Commonwealth but allow flexibility to general registrars to provide additional points
531 that reflect the specifics of their locality such as in a college town or rural area. Secretary
532 Palmer noted the expectation was that individuals could go into the registrar’s office and
533 get the same training in a written matter. Chairman Judd asked if there were any other
534 comments from the audience and with there being none the Chairman returned the
535 meeting to the desk. Vice-Chair Bowers commended the staff, especially Mr. Piper for
536 presenting, on the importance of the materials and their thoroughness and that as
537 someone who has been on the ground as recently as last year it is very important to have
538 this tool when issues do arise and to have clarification, transparency, and contact
539 information for the what if’s. Chairman Judd asked if the Vice-Chair followed these
540 guidelines and Vice-Chair Bowers responded that she did and that Garry Ellis and Justin
541 Riemer helped train her.

542 Secretary Palmer referenced the question of the affidavit posted by the League of
543 Woman Voters and asked Mr. Piper whether the working group had discussed the issue
544 of whether the individual or representative of organizations would be required to sign the
545 affidavit. Mr. Piper indicated the issue has been discussed and that the person picking up
546 the applications was signing the affidavit and the feeling was that this would still cover
547 and put the personal liability on the individual representing the organization since the
548 organization is listed on the affidavit; however, there were no strong feelings one way or
549 the other on adding “my organization.” Mr. Piper said it would not be an issue if the
550 Board wanted to amend the original motion.

551 Mr. Lief commented that the Code seems to provide that they are signing a sworn
552 affidavit that such individual or organization will abide by the laws. A president or
553 director of an organization, the Code seems to contemplate them signing on behalf of the
554 organization. Then if they would be held accountable there would be standard criminal
555 procedure rules involving what their knowledge or involvement was. The letter of the
556 Code says that such individuals or agents represent the group so it contemplates that
557 someone representing the organization would sign an affidavit. Chairman Judd asked for
558 confirmation that it was still “first-person.” Mr. Lief responded “yes, correct”, the Code
559 contemplates the signing on behalf of the organization. Chairman Judd inquired if there
560 were additional comments and with none the Board unanimously approved the motion.
561 Chairman Judd thanked Mr. Piper and said he hoped Mr. Piper did not charge by the
562 hour.

563 The next order of business was the “Stand by your Ad Complaints” presented by
564 Chris Piper, SBE Election Services Manager. Mr. Piper identified the first matter for
565 Board consideration as the complaint against Ronald Wood. Mr. Piper informed the
566 Board that on or about February 25, 2013, the State Board of Elections received a
567 complaint that Mr. Ronald Wood was “inside” the Portsmouth Court house passing out
568 campaign business cards promoting his candidacy for Portsmouth City Sheriff in the
569 November 2013 General Election. Mr. Piper stated that the candidate has been formally
570 notified about the violation and a response was received. Mr. Piper informed the Board
571 that staff recommended assessing a civil penalty of \$100.00. Chairman Judd inquired if a
572 representative of the committee was present. Chairman Judd noted that, absent a
573 representative of the Ronald Wood, a motion was appropriate. Vice Chair Bowers moved

574 to waive the civil penalty since an apology was given and remedial measures occurred.
575 Secretary Palmer seconded the motion and Chairman Judd asked if there was any further
576 public comment and with there being none the Board unanimously passed the motion.

577 The next order of business was the “Request to Waive Civil Penalties” presented
578 by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter for Board
579 consideration as the complaint against ACRE Virginia, (PAC 12-00115). Mr. Piper
580 informed the Board that the committee was penalized on December 18, 2012 for not
581 filing its campaign finance report due November 6, 2012 in a timely manner. Mr. Piper
582 stated that the committee requests a waiver of the penalty because they claim they were
583 not aware that a separate large dollar contribution report was required within three
584 business days if the committee received a single \$10,000 contribution. Mr. Piper
585 informed the Board that staff recommended assessing a civil penalty of one hundred
586 dollars. Mr. Piper stated that in Board Policy 2001-003, the Board stated that, among
587 other reasons, good cause allowing Board waiver of campaign finance civil penalties
588 does not include the committee’s lack of knowledge of how to file, the need to file or due
589 date of filing. Vice Chair Bowers moved that the civil penalty be assessed to PAC 12-
590 00115 and Secretary Palmer seconded the motion. Chairman Judd inquired if there was a
591 representative from the ACRE or if there were any comments and there were none. The
592 Board unanimously approved the motion.

593 The next order of business was the “Request to Waive Civil Penalties” presented
594 by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter for Board
595 consideration as the complaint against the Virginia Parent Political Action Committee,
596 (PAC 12-00918). Mr. Piper informed the Board that the committee was penalized on
597 January 15, 2013 for not filing their campaign finance report due January 15, 2013 in a
598 timely manner. Mr. Piper stated that the committee requests a waiver of the penalty due
599 to the fact they switched from paper to electronic and thought the filing deadline time
600 was midnight. Mr. Piper stated that in Board Policy 2001-003, the Board stated that,
601 among other reasons, good cause allowing Board waiver of campaign finance civil
602 penalties does not include the committee’s lack of knowledge of how to file, the need to
603 file or due date of filing. Mr. Piper informed the Board that staff recommended assessing
604 a civil penalty of one hundred dollars. Secretary Palmer moved that the civil penalty be
605 assessed to PAC 12-00918 and Vice Chair Bowers seconded the motion. Chairman Judd

606 inquired if there was a representative from the Virginia Parent Political Action
607 Committee or if there were any comments and there were none. The Board unanimously
608 approved the motion.

609 The next order of business was the "Independent Expenditures Violation"
610 presented by Chris Piper, SBE Election Services Manager. Mr. Piper identified the matter
611 for Board consideration as the complaint against Community Leaders for Change, PAC-
612 12-01422. Mr. Piper stated that on or about March 1, 2013, the State Board of Elections
613 became aware that ads were taken out on behalf of Community Leaders for Change. Mr.
614 Piper stated that it is clear from the evidence provided that the committee made
615 independent expenditures opposing a candidate(s), but they did so through a third party
616 which made in-kind contributions to the committee. Mr. Piper informed the Board that
617 staff recommends assessing a civil penalty of \$700.00 which is \$100.00 each for each of
618 the seven ads that were published. Secretary Palmer moved that the civil penalty be
619 assessed to PAC 12-01422 and Vice Chair Bowers seconded the motion. Chairman Judd
620 inquired if there was a representative from the Community Leaders for Change or if there
621 were any public comments and there were none. The Board unanimously approved the
622 motion.

623 The next order of business was the Electronic Pollbook Certification & Approval
624 of Pilot Program present by Eugene Burton, Voting Equipment Coordinator. Mr. Burton
625 stated that the City of Richmond has requested to pilot the new electronic pollbook
626 system at the primary on June 11, 2013. Mr. Burton stated that the electronic pollbooks
627 were tested on May 20 and 21, 2013 at SBE. Mr. Burton stated that SBE staff identified
628 some deficiencies and has provided a report to the vendor and the City of Richmond. Mr.
629 Burton stated that the vendor will have the noted deficiencies corrected prior to the June
630 2013 primary. Mr. Burton stated that staff recommendations are to approve the pilot
631 requested by the City of Richmond. Chairman Judd moved that the Board approve the
632 pilot program requested by the City of Richmond and Vice Chair Bowers seconded the
633 motion. Chairman Judd inquired if there were any comments. Bill Thomas, Chairman of
634 the Richmond City Electoral Board, approached the podium. Mr. Thomas stated that he
635 appreciated the Board Members considering the City of Richmond for the pilot program.
636 Chairman Judd inquired if there were any other comments and there were none. The
637 Board unanimously approved the motion.

638 Chairman Judd stated that the New Business portion of the agenda had concluded
639 and inquired if there was any other business to come before the Board. Therese Martin,
640 representing the League of Women Voters approached the podium. Ms. Martin extended
641 her compliments to the redesign of the forms. Chairman Judd thanked Ms. Martin for her
642 comments. Chairman Judd inquired if there were any other comments. Mr. Bruce Tyler
643 approached the podium. Mr. Tyler stated that he sent a letter to SBE on December 31,
644 2013 in regards to some issues regarding the Richmond City General Registrar's office.
645 Mr. Tyler inquired as to any further action by SBE Board Members. Secretary Palmer
646 stated that SBE did issue a response to Mr. Tyler and informed Mr. Tyler that he spoke to
647 the general registrar on the issues. Secretary Palmer stated that the agency will be
648 working on improvements to the absentee ballot process which is of concern to Mr.
649 Tyler. Secretary Palmer stated that the issues that Mr. Tyler raised fall within the General
650 Assembly to make the process more efficient. Mr. Tyler stated that he appreciated the
651 input from SBE but felt that the general registrar was negligent in her actions. Chairman
652 Judd thanked Mr. Tyler for his comments.

653 Chairman Judd asked if there was any other business to come before the Board for
654 the Good of the Order and with there being none Chairman Judd made a motion to
655 adjourn. Vice Chair Bowers seconded the motion and the Board unanimously passed the
656 motion. The Board shall reconvene on June 25, 2013 at 10:00 AM in the General
657 Assembly Building, Room C. The meeting was adjourned at approximately 12:40PM.

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668 Vice-Chair

Secretary

Chair

Vice-Chair

MINUTES

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The State Board of Elections Board Meeting was held on Tuesday, June 25, 2013.

The meeting was held in the General Assembly Building, 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; Joshua Lief; Senior Assistant Attorney General & SBE Counsel; Justin Riemer, Deputy Secretary; Nikki Sheridan, Confidential Policy Advisor; Chris Piper, Election Services Manager; Susan Lee, Election Uniformity Manager; Martha Brissette, SBE Policy Analyst; Myron McClees, SBE Policy Analyst; Lindsay Fraser, Elections Uniformity Analyst; and Matt Abell, Elections Services Lead. Chairman Judd called the meeting to order at 10:00a.m.

The first order of business was the approval of the SBE Board Minutes from the May 14, 2013, May 22, 2013 and the June 11, 2013 Board Meetings. Chairman Judd stated that each set of Board Meeting Minutes would be addressed separately. Secretary Palmer moved *to take the May 22, 2013 draft Board Meeting Minutes off the agenda for further revision*. Vice Chair Bowers seconded the motion and the Board unanimously approved the motion. Chairman Judd asked if Board Members had any additions or corrections to the May 14, 2013 Board Minutes and there were none noted. Chairman Judd moved *that the May 14, 2013 Minutes be approved as submitted*. Secretary Palmer seconded the motion. Chairman Judd asked if there was any discussion and with none the Board unanimously approved the Minutes. Chairman Judd asked if Board members had any additions or corrections to the June 11, 2013 Board Minutes and there were none noted. Secretary Palmer moved *to adopt the June 11, 2013 Minutes*. Vice Chair Bowers seconded the motion and the Board unanimously approved the motion.

The seconded order of business was the Secretary's Report delivered by Secretary Palmer. Secretary Palmer stated that there was legislation that will be implemented on July 1, 2013. Secretary Palmer stated that the online registration legislation portal will be in testing and SBE will be conducting webinars and training sessions with the general registrars this week and into next week with the testing continuing with the DMV and the transferring of data. The general registrars will receive electronic registration data similar to how they would receive other information through VERIS. Secretary Palmer noted the diligent efforts of SBE staff in preparing for this legislation. Secretary Palmer stated that

33 online registration training will be implemented on July 1, 2013. Secretary Palmer noted
34 the Board Members reviewed and adopted the Third Party Voter Registration Guidelines
35 and affidavit. Secretary Palmer stated that SBE staff is working on the training to
36 include how it will be conducted in person at the general registrars' office and how it
37 would be conducted online through the SBE website. Secretary Palmer states that SBE
38 requested that the general registrars work with SBE staff in a workgroup and a 10
39 member ad hoc committee had been formed for the purpose of reviewing the voter
40 registration application. Secretary Palmer noted that any substantive changes would occur
41 after the November 2013 Gubernatorial Election. Secretary Palmer stated SBE has been
42 working with groups of states in comparing registration data. Secretary Palmer stated that
43 we have made good progress in working with our neighboring states in the potential
44 comparison of voter registration rolls: Washington, D.C., West Virginia, and North
45 Carolina. Chairman Judd asked if SBE has communicated with Maryland. Secretary
46 Palmer replied that Maryland is part of the ERIC project and we have been encouraging
47 Washington, D.C. to participate in the ERIC project because the information is extremely
48 accurate as it works with DMV and state registration lists. Chairman Judd asked
49 Secretary Palmer to explain the difference between online registration in that we have the
50 ability to have a perspective voter to get on the SBE website, pull up the registration
51 form, key in the information, then print it out, and sign it then send it to the general
52 registrar. Chairman Judd asked when the information gets to the general registrar will the
53 registrar then make a hard copy and compare the data? Secretary Palmer replied that it is
54 part of the process and if you do not go through the online process for a particular reason,
55 you can still fill out your information and print it out and mail it in and that data will be
56 collected in a hopper, so when the general registrar does receive the paper application the
57 process will be easier. Chairman Judd asked about the online registration process without
58 the printout, signing and sending it in, "How do we handle the signature of the voter?"
59 Secretary Palmer replied that the signature is obtained when a person goes to the DMV
60 and goes through the verification process of obtaining an identification card they provide
61 a signature and then that signature is digitalized so when the individual is on the SBE
62 website and certifies who they are and that this is their information and it is accurate they
63 certify that they are allowing their signature to be pulled by SBE and provided on the

64 electronic document that will then be provided to the local general registrar. Chairman
65 Judd thanked Secretary Palmer for the information.

66 The next order of business was the Legal Report delivered by Joshua Lief, SBE
67 Counsel. Mr. Lief reported that the Attorney General's Office submitted the preclearance
68 documents to the Department of Justice for the bills signed by the Governor that will take
69 effect in 2013. Mr. Lief reported that there are two pending cases; the *Libertarian Party*
70 case which is in the Federal Circuit Court of Appeals and the *Fairfax County Democratic*
71 *Party* case against SBE and the General Registrar and electoral board of Fairfax County.
72 Mr. Lief reported that the Supreme Court decision on Section 4 and 5 of the Voting
73 Rights Act was received this morning and that the Supreme Court had held the Section 4
74 coverage formula of the Voting Rights Act invalid. Chairman Judd asked if there were
75 any comments. Vice Chair Bowers asked which bills had been submitted to the
76 Department of Justice (DOJ) for approval and would that include the voter identification
77 bill. Mr. Lief replied that the Attorney General's Office did not submit the voter
78 identification bill to DOJ because that does not take effect until 2014 and offered to send
79 the list of bills via email to Vice Chair Bowers. Chairman Judd asked if there were any
80 comments and there were none.

81 The next order of business was the presentation of the resolution honoring the
82 work of Theresa Kyle, retiring General Registrar of Hampton City. The Board presented
83 the resolution to Ms. Kyle and each Board member extended their sincere thanks for her
84 32 years of service to the election community. Ms. Kyle thanked SBE for the years of
85 support and noted that she was looking forward to her retirement.

86 The next order of business was to ascertain the results of the Primary Election on
87 June 11, 2013 pursuant to § 24.2-534 of the Code of Virginia. Matt Abell, Election
88 Administration Lead, explained the certification process to the Board and SBE staff
89 members. SBE Board members and SBE staff partnered to complete the certification
90 process. Chairman Judd instructed Mr. Abell to announce the results of the Primary
91 Election. Mr. Abell stated that having examined the certified abstracts of the votes given
92 in the counties and cities of the Commonwealth at the Democratic and Republican
93 Primary Elections held on June 11, 2013, for Lieutenant Governor, Attorney General and
94 House of Delegates, Districts 6, 15, 16, 28, 29, 33, 54, 63, 85, 86 and 90, the State Board
95 determined the following individuals received the most votes in said elections and thus

96 have won his/her party's nomination for the November 5, 2013 General Election. Mr.
97 Abell provided the following details:

- 98 • Receiving the greatest number of votes cast in the Democratic Party
99 Primary Election for Lieutenant Governor (78,476), Senator Ralph S.
100 Northam was duly nominated as the candidate of the Democratic Party in
101 the general election for Lieutenant Governor of Virginia.
102
- 103 • Receiving the greatest number of votes cast in the Democratic Party
104 Primary Election for Attorney General (73,069), Senator Mark R. Herring
105 was duly nominated as the candidate of the Democratic Party in the
106 general election for Attorney General of Virginia.
107
- 108 • Receiving the greatest number of votes cast in the Democratic Party
109 Primary Election for House of Delegates, District 63 (2,507), Delegate
110 Rosalyn R. Dance was duly nominated as the candidate of the Democratic
111 Party in the general election for House of Delegates, District 63.
112
- 113 • Receiving the greatest number of votes cast in the Democratic Party
114 Primary Election for House of Delegates, District 86 (1,255), Jennifer B.
115 Boysko was duly nominated as the candidate of the Democratic Party in
116 the general election for House of Delegates, District 86.
117
- 118 • Receiving the greatest number of votes cast in the Democratic Party
119 Primary Election for House of Delegates, District 90 (1,817), Delegate
120 Algie T. Howell, Jr. was duly nominated as the candidate of the
121 Democratic Party in the general election for House of Delegates, District
122 90.
123
- 124 • Receiving the greatest number of votes cast in the Republican Party
125 Primary Election for House of Delegates, District 6 (684), Jeffrey L.
126 Campbell was duly nominated as the candidate of the Republican Party in
127 the general election for House of Delegates, District 6.
128
- 129 • Receiving the greatest number of votes cast in the Republican Party
130 Primary Election for House of Delegates, District 15 (3,661), Delegate C.
131 Todd Gilbert was duly nominated as the candidate of the Republican Party
132 in the general election for House of Delegates, District 15.
133
- 134 • Receiving the greatest number of votes cast in the Republican Party
135 Primary Election for House of Delegates, District 16 (2,421), Les R.
136 Adams was duly nominated as the candidate of the Republican Party in the
137 general election for House of Delegates, District 16.
138
- 139 • Receiving the greatest number of votes cast in the Republican Party
140 Primary Election for House of Delegates, District 28 (1,362), Speaker

141 William J. Howell was duly nominated as the candidate of the Republican
142 Party in the general election for House of Delegates, District 28.

143

144 • Receiving the greatest number of votes cast in the Republican Party
145 Primary Election for House of Delegates, District 29 (1,573), Mark J. Berg
146 was duly nominated as the candidate of the Republican Party in the
147 general election for House of Delegates, District 29.

148

149 • Receiving the greatest number of votes cast in the Republican Party
150 Primary Election for House of Delegates, District 33 (2,958), David A.
151 LaRock was duly nominated as the candidate of the Republican Party in
152 the general election for House of Delegates, District 33.

153

154 • Receiving the greatest number of votes cast in the Republican Party
155 Primary Election for House of Delegates, District 54 (1,366), Delegate
156 Robert D. “Bobby” Orrock was duly nominated as the candidate of the
157 Republican Party in the general election for House of Delegates, District
158 54.

159

160 • Receiving the greatest number of votes cast in the Republican Party
161 Primary Election for House of Delegates, District 85 (1,341), Scott W.
162 Taylor was duly nominated as the candidate of the Republican Party in the
163 general election for House of Delegates, District 85.

164

165 Chairman Judd declared the results of the June 11, 2013 Election Primary officially
166 certified.

167 The next order of business was the drawing of the ballot order for the November
168 5, 2013 General Election. Chris Piper, Election Services Manager, explained the process.
169 Vice Chair Bowers drew the first position of the Democratic Party and Secretary Palmer
170 drew the second position of the Republican Party. Chairman Judd announced that the
171 Democratic candidate would appear first on the ballot and the Republican candidate
172 would appear second on the ballot.

173 The next order of business was the Appeals of Petition Signature Insufficiency
174 Proposed Regulation presented by Chris Piper, Election Services Manager. Mr. Piper
175 stated that the current regulation was submitted to Regulatory Town Hall and comments
176 were received that were taken into consideration when revising the new regulation. Mr.
177 Piper stated that a summary of the comments were provided to Board members. Mr. Piper
178 referred all questions to SBE Policy Analyst, Myron McClees. Mr. McClees stated that in
179 a recent court case SBE was required to establish an appeal process for a candidate to

180 challenge their perceived insufficiency of gathering a sufficient amount of signatures. Mr.
181 McClees noted the prominent changes as the deletion of “State Board of Elections” from
182 Section B which may have created confusion as the petitions are submitted to the local
183 Electoral Board. Mr. McClees noted the inclusion of a sentence on Section F that states
184 “Electronic mail will be the preferred method of notifying the candidate if such address
185 has been provided by the candidate, otherwise, notice shall be sent by first-class mail”.
186 Mr. McClees stated there was a deletion in Section (G)(5) of the last sentence: “A
187 candidate may provide documents establishing that the petition signer filed a Virginia
188 voter registration application or change of address application to their local registrar
189 during the period in which the locality’s voter registration procedures were suspended in
190 accordance with § 24.2-416.” Chairman Judd asked about Section F where Mr. McClees
191 added the sentence about first-class mail and stated: “I understand in the Richmond issue
192 the candidate provided no contact information, would there be the ability to call them by
193 phone?” Mr. McClees stated that it would be a problem if there was no ability to contact
194 the candidate. Chairman Judd asked if there was a way the candidate could prove that it
195 was sent it by first-class mail. Mr. McClees replied that there was not. Chairman Judd
196 inquired if there were any other questions or comments. Secretary Palmer thanked the
197 SBE staff for working on this regulation. Chairman Judd asked if there were any other
198 questions or comments. Vice Chair Bowers moved that *the Board approve the proposed*
199 *regulation IVAC-20-50-30, Appeals of Petition Signature Insufficiency, to implement*
200 *recently enacted legislation Chapter 684 of the Acts of Assembly.* Secretary Palmer
201 seconded the motion and Chairman Judd inquired if there were any comments and there
202 were none. The Board unanimously carried the motion.

203 The next order of business was the Material Omissions on Candidate Petitions
204 Regulation presented by Myron McClees, SBE Policy Analyst. Mr. McClees stated that
205 this regulation was placed on Regulatory Town Hall for comment and SBE did receive a
206 comment. Mr. McClees stated that most of the changes are with Section B(6) of the
207 regulation. Mr. McClees stated that B(6) was removed as a requirement “The circulator is
208 (i) not a legal resident of the Commonwealth,” Mr. McClees stated that Section B(9) was
209 added: “A person other than the circulator signed the petition affidavit”. Mr. McClees
210 noted a change was desired to Section E(3) which reads “the signer provides an address
211 that matches the petitions signer’s address in the Virginia voter registration system unless

212 the signer provided an address that is within the same precinct where a voter is currently
213 registered in the Virginia voter registration system and the signer can be reasonably
214 identified as the same registered voter” which was to change the word “unless” to “or”.
215 Mr. McClees stated that this change deals with a voter who moves within their precinct.
216 Chairman Judd questioned if a voter has moved within a precinct is their signature valid
217 for the petition. Mr. McClees replied that the signature would be valid for the petition.
218 Chairman Judd asked about the omissions of the sentence in Section C stating “If the
219 circulator signs the petition in the “Signature of Registered Voter,” his signature shall be
220 invalidated but the petition shall be valid notwithstanding any other error or omission.”
221 Mr. McClees replied that this information was contained in Section C(2). Chairman Judd
222 thanked Mr. McClees for the clarification. Chairman Judd asked if there were any other
223 questions.

224 Mr. Lief stated that he had worked with SBE staff on this regulation and had a
225 concern about Section B(2) asking for the address of the candidate and that is not a
226 required by Code. Mr. Lief stated that he also had a question about the double-sided
227 petition requirement listed on Section B(1) and both of these items were more Board
228 policy rather than Code. Mr. Lief stated that he had an additional question on Section D
229 and suggested a change in the language to now read: “The following omissions shall be
230 treated as nonmaterial provided the general registrar can independently and reasonably
231 verify validity of the petition or signature.” Chairman Judd asked if SBE Board members
232 understood that revision and Board members acknowledge the suggested change. Mr.
233 Lief also stated there was some concern with D(4) and the language suggested that a
234 petition signer must provide the last four of their social security number. Mr. Lief stated
235 that pursuant to the Code a signer “may” provide the last four but does not have to
236 provide the last four. Mr. Riemer stated that it is not material if you omit your last four
237 for the affidavit signer rather than actual petition signer. Mr. Riemer stated that D(4)
238 relates to the affidavit and the Code specifically states that failure to include the last four
239 of the social security number should not render any petition signature invalid. Vice Chair
240 Bowers stated that she was in agreement with the changes and these changes provides
241 clarification. Chairman Judd asked if there were any other comments and there were
242 none. Chairman Judd moved *to accept the suggested changes to the regulation in that*
243 *Section D would now read: “The following omissions shall be treated as nonmaterial*

244 *provided the general registrar can independently and reasonably verify the validity of the*
245 *petition or signature” and the change to Section E(3) to read: “The signer provides an*
246 *address that matches the petition signers’ address in the Virginia voter registration*
247 *system or the signer provided an address that is within the same precinct where a voter is*
248 *currently registered in the Virginia voter registration system and the signer can be*
249 *reasonably identified as the same registered voter.”* Secretary Palmer seconded the
250 motion. Chairman Judd asked if there was any public comment and there was none and
251 the Board unanimously passed the motion. Chairman Judd moved *to approve the*
252 *proposed regulations as amended.* Vice Chair Bowers seconded the motion. Chairman
253 Judd asked if there were any public comments. Walt Latham, York County General
254 Registrar, approached the podium and stated that there was a section in the regulation that
255 dealt with the street type and expressed concern about that issue. Mr. McClees stated that
256 the address was a part of a previous regulation. Chairman Judd asked if there were
257 additional public comments and there were none. The Board unanimously passed the
258 motion.

259 The next order of business was the Material Omissions on Referenda Petitions
260 Regulation presented by Chris Piper, Election Services Manager. Mr. Piper stated that
261 Myron McClees, SBE Policy Analyst, worked on this project and believed that the same
262 changes made to the Material Omissions on Candidate Petitions Regulation would apply
263 to the regulation currently before the Board. Mr. McClees informed the Board that the
264 changes were similar and that the changes adopted by the Board on the Candidate
265 Petitions could be incorporated in the Referenda Petitions. Mr. McClees noted the change
266 in Section F(3) which was similarly changed from “unless” to “or” and the change
267 suggested by counsel to the Board in Section E in regards to: “The following omissions
268 shall be treated as nonmaterial provided the general registrar can independently and
269 reasonably verify the validity of the petition or signature”. Chairman Judd asked if there
270 were any other comments. Chairman Judd stated that he wanted to make a comment
271 about Section B(1) that states: “The petition submitted is not the double-sided document,
272 or a copy thereof, provided by the State Board of Elections.” Chairman Judd stated that it
273 should read “The petition submitted is not the double-sided document, or a double-sided
274 copy thereof, provided by the State Board of Elections” because of the case where a
275 candidate did not meet the requirements because they copied the forms and the

276 documents were not double-sided. Vice Chair Bowers stated that she agreed with
277 Chairman Judd's proposed changes. Secretary Palmer asked if there were any comments
278 from SBE staff. Mr. Piper acknowledged the change as acceptable and stated that the
279 Candidate Petition regulation should be amended to reflect this same language. Chairman
280 Judd stated that Section B(1) would now read: "The petition submitted is not the double-
281 sided document, or a double-sided copy thereof, provided by the State Board of
282 Elections" and Section E(1) will read: "The following omissions shall be treated as
283 nonmaterial provided the general registrar can independently and reasonably verify the
284 validity of petition or signature" and Section F(3) should read: "The signer provides an
285 address that matches the petition signers' address in the Virginia voter registration system
286 or the signer provided an address that is within the same precinct where a voter is
287 currently registered in the Virginia voter registration system and the signer can be
288 reasonably identified as the same registered voter." Chairman Judd moved *that those*
289 *proposed amendments be added to the Material Omissions for Referendum Petitions*
290 *currently under consideration.* Vice Chair Bowers seconded the motion. Chairman Judd
291 asked if there were any other comments and there were none. The Board unanimously
292 approved the motion. Chairman Judd then noted a second motion was required to adopt
293 the regulation. Vice Chair Bowers moved *that the Board adopt the proposed amendments*
294 *to regulation IVAC 20-60-20 material omissions on referendum petitions and petition*
295 *signature qualification, to implement recently enacted Chapter 684, Acts of Assembly.*
296 Secretary Palmer seconded the motion. Chairman Judd asked if there were any
297 comments. Walt Latham, General Registrar York County, approached the podium. Mr.
298 Latham stated that he was concerned about the Referenda Petitions versus the Candidate
299 Petitions since in the Hampton Roads area there are a lot of cities that have provisions in
300 their charters dealing with initiative referenda and recalls. Mr. Latham stated that some of
301 the petitions regulations in the charters are more particular than the ones approved. Mr.
302 Latham inquired if there could be an insertion in the regulation to clarify how the
303 regulation stood in relationship to the charter. Chairman Judd asked Mr. Lief if the
304 charter takes precedent over the regulation. Mr. Lief replied "yes", that a city charter is an
305 act of the General Assembly. Chairman Judd inquired if there were any other public
306 comments and there were none. The Board unanimously approved the motion.

307 Secretary Palmer moved that *the Board amend the Candidate Petition on Section*
308 *B(1): “The petition submitted is not the double-sided document, or a double-sided copy*
309 *thereof, provided by the State Board of Elections”*. Vice Chair Bowers seconded the
310 motion. Chairman Judd asked if there were any further comments and there were none.
311 The Board unanimously approved the motion.

312 The next order of business was the When a Ballot is Cast Regulation presented by
313 Myron McClees, SBE Policy Analyst. Mr. McClees stated that the comments received
314 on this regulation pertain to the underlying statute as opposed to the regulation; therefore
315 those recommendations received could not be incorporated. Chairman Judd stated that
316 the issue at hand was whether the election official could place a ballot back in the scanner
317 that had been kicked out due to an overvote once the voter had left the polling place.
318 Chairman Judd asked Mr. McClees if this was the issue being addressed. Mr. McClees
319 stated that the scanners are programmed to not count that specific race in that situation
320 and the scanner will then ask you do you wish to accept “Yes” or “No” and if you select
321 “Yes” the scanner is going to accept that ballot and it is going to count every race except
322 for the office that received the overvote. Mr. McClees stated that if you select “No” then
323 the ballot is placed in the canceled ballots. Mr. McClees stated that the scanner would
324 never count all the votes if an overvote occurs. Chairman Judd asked if there were any
325 comments. Secretary Palmer stated that there is a distinction between optical scan and
326 how that system works and the touch screen and the distinction is if the voter is at a touch
327 screen and you try to cast your vote the screen tells you that you have overvoted and your
328 ballot is not cast until you resolve that issue. Secretary Palmer stated with the optical scan
329 the General Assembly believes that you tried to cast the vote, and then the voter has left
330 which creates some concern in the field about the remedial measures. Secretary Palmer
331 noted that the regulation is being revised so that it conforms to the law. Vice Chair
332 Bowers asked about the kickback of the votes being cast and placed into the optical
333 scanner, and how long before the machine receives the ballot, before it recognizes an
334 error and rejects the feed? Vice Chair Bowers also asked if there was a way to ensure
335 that the voter wait to ensure that the ballot was fed properly before exiting the polling
336 station. Secretary Palmer replied that this process occurs quickly and the desired time was
337 around 3-5 seconds. Chairman Judd asked about the recommendation on Section D where
338 it adds: “Notwithstanding the previous sentence, if a voter inserts a ballot into an optical

339 scanner and departs prior to the ballot being returned by the scanner due to an overvote,
340 the officer of election may cast the ballot for the absent voter” to the end of the sentence:
341 “If any voter’s ballot was not so cast by or at the direction of the voter, then the ballot
342 cannot be cast by any officer of election or other person present.” Chairman Judd asked if
343 there were any other questions. Vice Chair Bowers moved that *the Board accept staff*
344 *recommendation*. Secretary Palmer seconded the motion and Chairman Judd asked if
345 there were any public comments. Therese Martin, League of Women Voters of Virginia,
346 approached the podium. Ms. Martin stated that she was present at the Virginia Senate
347 Privilege and Elections Committee Meeting when this matter was discussed. Martin
348 asked: “How can you accept an overvote”? Chairman Judd and Vice Chair Bowers both
349 replied “You cannot accept the overvote”. Ms. Martin stated that it is misleading as
350 something has to been done to eliminate the overvote. Secretary Palmer stated if you
351 have an overvote the only way that you can really correct it would be on a new ballot and
352 so there is no way to correct it and you would have to submit that ballot with the overvote
353 so that the rest of the races are counted. Secretary Palmer stated that if you were voting
354 with the optical scan the only way to fix that would be to take that ballot and get a new
355 ballot and fix it, which really is the only way to rectify an overvote. Ms. Martin asked:
356 “What happens to that overvote”? Secretary Palmer replied: “That race is not counted”.
357 Chairman Judd stated that Mr. McClees mentioned that the machine could be
358 programmed to count the ballot but not tabulate the overvote. Chairman Judd asked if
359 that counted the ballot or did it that kick the ballot out. Mr. McClees replied that all
360 scanners are programmed to only accept a certain amount for each race. Chairman Judd
361 stated that the overvote is not counted. Vice Chair Bowers asked Mr. McClees that in the
362 example that he gave if the person double votes are the other votes counted at that time
363 and then that person only votes for the other offices where a double vote has not
364 occurred? Vice Chair Bowers inquired if the voter was still present would they just vote
365 for the overvoted office or would they have to revote the entire ballot. Mr. McClees
366 replied that in this situation where a person overvotes and they are still present they are
367 given the opportunity to cast an entirely new ballot and that other ballot is placed into an
368 envelope for accounting purposes. Chairman Judd asked if there were any other public
369 comments. Greg Riddlemoser, General Registrar of Stafford County, approached the
370 podium. Mr. Riddlemoser stated that there are several practical applications to the

371 administrative guidance that the Board is providing. Mr. Riddlemoser stated that after the
372 voter has checked in and has passed the electronic pollbook any number of things can
373 occur. Mr. Riddlemoser stated that if we look at the voter's intent that they were going to
374 cast the ballot there are more reasons that a ballot is rejected by the scanner than just
375 overvotes. Mr. Riddlemoser stated that if the voter is still present we can ask the voter's
376 intent to overvote and corrections are made if desired but every race is counted where an
377 overvote did not occur. Mr. Riddlemoser stated that perhaps an amendment could occur
378 due to legislative intent if the ballot is rejected for an overvote or some other mechanical
379 reason the officer of election may inserted the ballot. Chairman Judd stated that the
380 language the Board was adding is: "If any voter's ballot was not so cast by or at the
381 direction of the voter, the ballot cannot be cast by any officer of election or other person
382 present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical
383 scanner and departs prior to the ballot being returned by the scanner due to an overvote,
384 the officer of election may cast the ballot for the absent voter." Chairman Judd asked Mr.
385 Riddlemoser how does that differ from your proposal? Mr. Riddlemoser replied that the
386 ballot scanning device may reject the ballot for reasons other than overvote. Chairman
387 Judd asked Mr. Riddlemoser to provide an example. Mr. Riddlemoser replied if the ballot
388 is inserted into the optical scan and the electronic eye does not see the reference marks in
389 the right sequence it will reject the ballot and your guidance is that the only time an
390 officer of election can reinsert the ballot is when an overvote has occurred. Mr. Lief
391 stated that the General Assembly made clear that this change to the Code was directed to
392 the situation for when the voter had cast an overvote. Secretary Palmer asked Mr.
393 Riddlemoser if there was a difficulty in the ballot going through the scanner multiple
394 times would that ballot be placed in a separate area and counted by hand. Mr.
395 Riddlemoser replied that our guidance is that when a voter attempts to put the ballot in
396 and the machine rejects the ballot and the voter is no longer present that is handled as a
397 precinct void. Deputy Riemer stated that in reviewing the amended Code section once the
398 legislation takes effect there may be other instances where this scenario may be
399 appropriate for the officer of election to reinsert the ballot. Deputy Riemer stated that the
400 changes in the law should allow for the officer of election to reinsert in the event that the
401 title of the office is erased. Chairman Judd asked if the Board is under a time constraint
402 for this regulation update. Secretary Palmer stated that the Code goes into effect on July

403 1, 2013 and while this is providing additional guidance, the Board could table this
404 regulation and develop the language further. Chairman Judd moved *to table*. Vice Chair
405 Bowers seconded the motion and the Board passed the motion unanimously.

406 The next order of business was the revised regulation on Material Omissions from
407 Absentee Envelope B presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette
408 stated that the Board was presented the regulation at the May 2013 Board Meeting and
409 this regulation went out for comment on Virginia Town Hall. Ms. Brissette stated that
410 there has been some language changed due to the comments received by SBE. Ms.
411 Brissette explained the changes and noted that in Section C(10) of the regulation the voter
412 is still expected to use and seal Envelope B. Chairman Judd asked if there were any
413 comments. Vice Chair Bowers asked Ms. Brissette about Section C(10). Vice Chair
414 Bowers asked if the amended language of Section C(10) was comprehensive in that item
415 10 states: “The ballot is imperfectly sealed within Envelope B, provided that the ballot is
416 contained within Envelope B, there is evidence that a good faith effort was made to seal
417 the envelope, the outer envelope with Envelope B and ballot arrived sealed, and the
418 circumstances create no reason to suspect fraud”. Ms. Brissette replied “That is correct”.
419 Mr. Lief stated that it is a requirement under the Code that the voter seal the envelope.
420 Ms. Brissette stated that the general registrars requested guidance during the 2012
421 General Election about Envelope Bs arriving unsealed. Chairman Judd asked if there
422 were any other comments. Chairman Judd inquired about several items on the regulation,
423 including the issue of generational suffix and order of the name provided by the voter,
424 that were not reviewed during this update and expressed concern that the regulation was
425 weakened. Secretary Palmer stated this regulation is always subject to change by the
426 Board and that the Board addressed some of the issues last year, however the Board may
427 put those areas of concern through the review process in the future. Vice Chair Bowers
428 asked for clarification on the outer envelope with the prestamped return address and
429 whether the generational suffix on the front would permit General Registrar’s to discern
430 between which individual was to vote with the ballot provided. Chairman Judd stated that
431 he had expected to see some of those previously mentioned desired changes on the
432 revised regulation before him and that basically we are dealing with Section C(10) and
433 Section B(9). Chairman Judd stated that he would like SBE to address these concerns as
434 soon as possible. Secretary Palmer moved that *the Board approve the revised staff*

435 *amendment to the regulation on Envelope B dealing with sealing the voted ballot* and
436 Vice Chair Bowers seconded the motion. Chairman Judd asked if there were any public
437 comments. Walt Latham, General Registrar of York County approached the podium. Mr.
438 Latham stated that this issue had become a real concern for his locality because envelopes
439 become unsealed in the process of delivery to the General Registrar Office. Chairman
440 Judd asked if there were any other comments from the public and there were none. The
441 Board unanimously approved the motion.

442 The next order of business was the Material Omissions on the Federal Write-In
443 Absentee (FWAB) ballots presented by Martha Brissette, SBE Policy Analyst. Ms.
444 Brissette stated that the regulation the Board is reviewing has not changed since the
445 Board review the regulation at the May Board Meeting. Ms. Brissette stated that staff
446 recommendation was to approve the regulation as proposed. Chairman Judd asked if
447 there were any comments and there were none. Chairman Judd moved that *the Board*
448 *approve the staff proposed amendment providing a substantial compliance standard for*
449 *assembling the voted FWAB package.* Vice Chair Bowers seconded the motion.
450 Chairman Judd asked if there were any public comments and there were none. The Board
451 unanimously approved the motion.

452 The next order of business was the Early Processing of Absentee Ballots
453 Regulation presented by Lindsay Fraser, Election Uniformity Analyst. Ms. Fraser stated
454 that the regulation before the Board contained updates due to recently enacted legislation.
455 Ms. Fraser stated that this regulation allows the general registrars to take preprocessing
456 actions as needed when absentee ballots arrive in their offices prior to Election Day Ms.
457 Fraser stated that one comment was received on Regulatory Town Hall that supported the
458 suggested change. Chairman Judd stated that the change requested was that the title of the
459 regulation currently reads “Alternative Counting Procedures” and the change requested is
460 that the regulation should be titled “Alternative Processing Procedures for Absentee
461 Ballots” returned before Election Day. Chairman Judd asked if there were any comments
462 and there were none. Secretary Palmer moved that *the Board approve the proposed*
463 *amendments of regulation IVAC-20-70-40, Alternative Counting Procedures, to*
464 *implement recently enacted Chapter 501, Acts of Assembly (HB2107).* Vice Chair Bowers
465 seconded the motion. Chairman Judd asked if there were any public comments and there
466 were none. The Board unanimously approved the motion.

467 Chairman Judd opened the meeting to other business and public comments. Walt
468 Latham, York County General Registrar, approached the podium. Mr. Latham stated that
469 today was the 225th Anniversary of Virginia's ratification of the U.S. Constitution.
470 Chairman Judd asked if there were any other public comments. Michelle Kanter Cohen,
471 Election Counsel, Project Vote approached the podium. Ms. Kanter Cohen stated that
472 although she had not read the entire opinion it appears that Section 4 appears to be
473 unconstitutional and not Section 5. Ms. Kanter Cohen stated that Project Vote made
474 comments regarding the periodic review of regulations and that she was available to
475 answer any questions the Board may have. Chairman Judd asked if there were any other
476 public comments. Therese Martin, League of Women Voters, approached the podium.
477 Ms. Martin stated that she wished to thank the SBE staff for all their efforts in making the
478 changes to the Third Party Voter Registration Guidelines.

479 Chairman Judd asked if there was any other business to come before the Board for
480 the Good- of-the-Order. Secretary Palmer stated that currently notices of regulations are
481 posted through Virginia's Regulatory Town Hall and SBE would like to utilize the SBE
482 website which will increase efficiency. Secretary Palmer suggested that the Board
483 Members consider this action. Chairman Judd expressed similar concerns and agreed that
484 utilizing the SBE website is appropriate and would like the Board to expedite this
485 consideration. Secretary Palmer stated that SBE staff would bring a regulation to the
486 Board at the next Board Meeting. Secretary Palmer informed the Board Members that
487 there would be a program on July 10, 2013, "Boots & Ballots 2013" at the Virginia State
488 Capitol. Chairman Judd asked if there were any other comments and with there being
489 none Secretary Palmer moved *to adjourn*. Vice Chair Bowers seconded the motion and
490 the Board approved the motion to adjourn. The meeting was adjourned at approximately
491 12:35PM.

492 The Board shall reconvene on July 24, 2013 at 10:00a.m. in the General
493 Assembly Building, Room C.

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499 Chair

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Secretary

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Vice-Chair

DRAFT



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Secretary's Report

BOARD WORKING PAPERS



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Report from Legal Counsel

BOARD WORKING PAPERS
Presented by Josh Lief



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Resolution Ann Loukx

BOARD WORKING PAPERS



Virginia State Board of Elections Resolution
Commending Ann Loukx.

WHEREAS, Ann Loukx will retire after 29 years of outstanding service in the Registrar’s Office for Accomack County, the last twenty-five of which she served as General Registrar; and

WHEREAS, during her time in the registrar’s office, Ann Loukx has seen the voter rolls in Accomack County increase to approximately 23,000 voters; and

WHEREAS, Ann Loukx has served well voters and candidates of Accomack County by staying abreast of changes to state and local election laws and ordinances; and

WHEREAS, Ann Loukx oversaw the county’s transition to new voting equipment during the 2004 Presidential Election; and

WHEREAS, Ann Loukx has made many substantial and lasting contributions to Accomack County during her tenure and leaves behind an organization well-positioned to continue to provide superior service to voters in the future; and

WHEREAS, after her retirement, Ann Loukx will have more time to spend with her loving husband, Jim, and their five children, thirteen grandchildren, and great grandchild; now, therefore, be it

RESOLVED by the State Board of Elections, That the Virginia Election Community hereby commends Ann Loukx, a dedicated public servant and outstanding Virginian, and wish her great happiness in her retirement; and, be it

RESOLVED FURTHER, That the Secretary of the State Board of Elections prepare a copy of this resolution for presentation to Ann Loukx as an expression of the Virginia Election Community’s appreciation for her great service to Accomack County and the Commonwealth.

Chair

Vice Chair

Secretary



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Certify the August 6, 2013 Virginia Special Election 14th Senate

BOARD WORKING PAPERS
Presented by Matt Abell



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Certification
of
Voting Equipment
ES&S-3.4.0.1

BOARD WORKING PAPERS
Presented by Gary Fox
Voting Technology Specialist



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Gary W. Fox, Voting Technology Specialist
Date: August 6, 2013
Re: Certification of ES&S Unity 3.4.0.1 voting system

Suggested motion for a Board member to make:

I move that the Board certify ES&S (Election System & Software) Unity 3.4.0.1 voting system for use in elections in the Commonwealth of Virginia, pursuant to the *State Certification of Voting Systems: Requirements and Procedures*.

Applicable Code Sections: §§ 24.2-628 & 629.

Attachments:

Your Board materials include the following:

- Product sheets for ES&S Unity 3.4.0.1 voting system.
- Virginia State Certification Testing Test Report for ES&S Unity 3.4.0.1 voting system.
- EAC Grant of Certification of ES&S Unity 3.4.0.0 voting system.
- Wyle Labs Test of 3.4.0.1 voting system.
- State of Iowa approval of Unity 3.4.0.1.
- Chesterfield County election test.

Background:

On October 31, 2012, the Election Assistance Commission (EAC) issued their Grant of Certification of the ES&S Unity 3.4.0.0. Virginia's use of the system required the capability of use with land-line telecommunications. ES&S created the Unity 3.4.0.1, which is the same system as ES&S Unity 3.4.0.0 with the addition of land-line telecommunications abilities (modem). Wyle Laboratories completed successful testing of the Unity 3.4.0.1 on November 2, 2012. Subsequently, ES&S submitted Unity 3.4.0.1 to Virginia for certification.

Following the steps prescribed in the *Virginia State Certification of Voting Systems: Requirements and Procedures*, ES&S initiated the certification evaluation by a letter to the Secretary of State Board

of Elections on November 7, 2012. ES&S also provided their corresponding Technical Data Package (TDP) and Corporate Information (required under step 2 of the *Requirements and Procedures*). Both of these submissions were deemed complete and in sufficient detail to warrant Step 3, the Preliminary Review.

During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the TDP, Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon ES&S' agreement with the test plan, the evaluation was conducted on March 18-20, 2013, in the State Board of Elections offices in Richmond, Virginia. The system successfully completed the evaluation. In accordance with §24.2-629, the system was tested in the June 11, 2013 Democratic Primary in Chesterfield County. The test was a success (see attached letter from the Chesterfield Electoral Board, Office of the General Registrar).

The ES&S Unity 3.4.0.1 voting system has successfully completed Virginia State Certification.

DS200™

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The Next Generation of Paper-Based Vote Tabulation

ES&S' DS200™ combines the best attributes of a paper-based system with the flexibility and efficiency of a digital environment. Building on ES&S' vast experience, it incorporates best practices and customer feedback to take traditional optical scan ballot tabulation to a new level. The DS200™ is an intelligent, advance, integrated solution featuring the most advanced patented digital image technology available in the market today.

Top 5 Reasons DS200™ is the Best

Efficient: Accumulates and transmits votes directly from the polling place

Adaptable: Designed with the flexibility to process a wide range of ballot sizes and designs

Convenient: Lightweight, compact, and easy to set up and use in the polling place

Progressive: Offers extra USB ports and expandable memory to accommodate future EAC standards

Intelligent: Utilizes Intelligent Mark Recognition, eliminating the guesswork from tabulation



experience.
reliability.
security.
innovation.

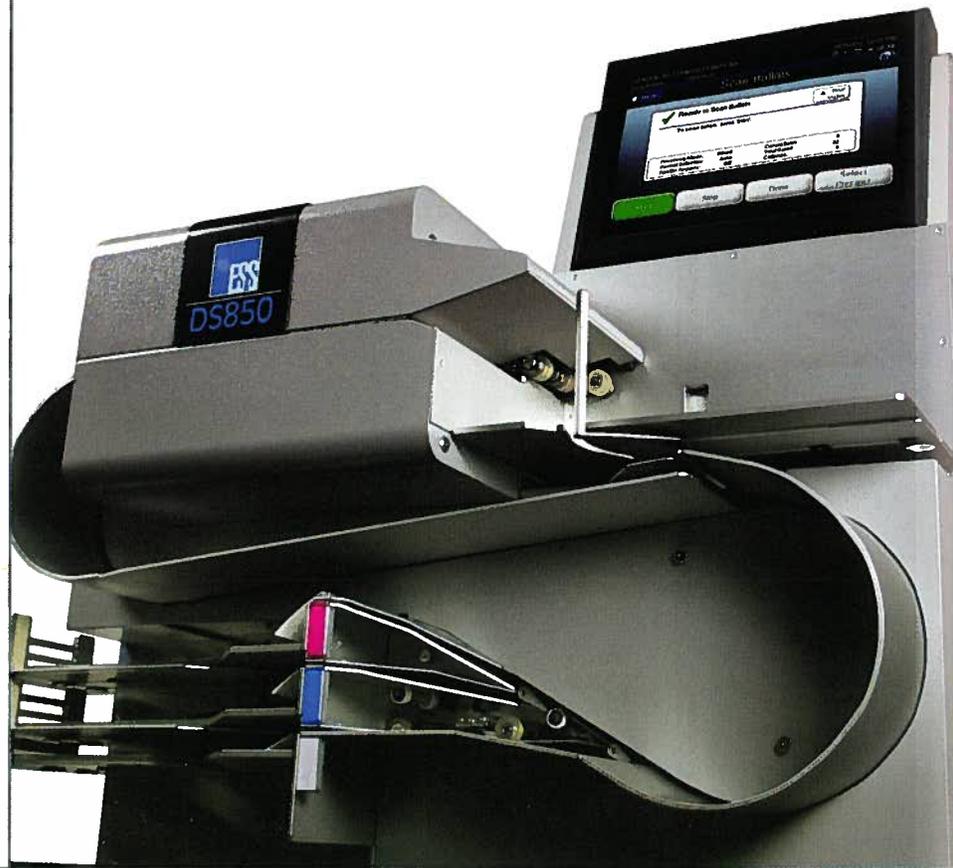


DS850™ Central Scanner & Tabulator

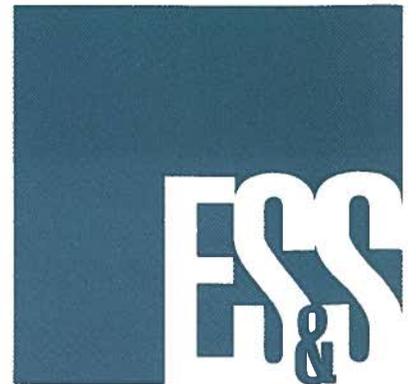
The Next Generation of Paper-Based Vote Tabulation

ES&S remains at the forefront of the Election Industry by continuing to provide cutting-edge digital scanners and tabulators. In 2009, we launched the DS850™ Central Tabulator to complement the DS200™ Precinct Scanner.

The DS850™ is unrivaled in speed and accuracy. Its high-speed digital imaging solution allows for smooth, continuous ballot scanning from start to finish – saving valuable time during the election process!



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Test Report

ES&S Unity 3.4.0.1
State Certification Testing
March 18-21, 2013
Virginia State Board of Elections
1100 Bank Street, 1st Floor
Richmond, VA 23219

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1 Authority

Section § 24.2-629 of the *Code of Virginia* authorizes the Virginia State Board of Elections, in the manner prescribed by the Board, to have examined a production model of such equipment and ballots associated with a vendors request for State Certification. The corresponding Virginia State Certification of Voting Systems *Requirements and Procedures* (Rev. 3/3/2010) prescribes the manner of which the Virginia State Board of Elections will conduct the state certification testing. Subsequent to the evaluation, the Board is required to prepare and file in its office a report of its finding as to:

- (i) the apparent capability of such equipment to accurately count, register, and report votes;
- (ii) whether the system can be conveniently used without undue confusion to the voter;
- (iii) its accessibility to voters with disabilities;
- (iv) whether the system can be safely used without undue potential for fraud;
- (v) the ease of its operation and transportation by voting equipment custodians and officers of election;
- (vi) the financial stability of the vendor and manufacturer;
- (vii) whether the system meets the requirements of this title;
- (viii) whether the system meets federal requirements;
- (ix) whether issues of reliability and security identified with the system by other state governments have been adequately addressed by the vendor; and
- (x) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

2 Background

Following the steps prescribed in the Virginia State Certification of Voting Systems *Requirements and Procedures* (Rev. 4/2012), ES&S initiated the certification evaluation of Unity 3.4.0.1 by submitting a letter to the Virginia State Board of Elections on November 07, 2012. ES&S provided their corresponding Technical Data Package and Corporate Information

(required under step 2 of the *Requirements and Procedures*) on November 07, 2012. Both of these submissions were deemed complete and in sufficient detail to warrant Step 3, the Preliminary Review. During the preliminary review, the state-designated evaluation agent (Pro V&V, Inc.) conducted a preliminary analysis of the TDP, Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon ES&S's agreement with the test plan, the evaluation was conducted on March 18-21, 2013 in the State Board of Elections offices in Richmond, Virginia.

The Unity 3.4.0.1 application is for certification for use in the Commonwealth of Virginia as a modified voting system. On October 31, 2012, the Election Assistance Commission (EAC) issued their Grant of Certification of the Unity 3.4.0.0 system, signifying successful completion of conformance testing to the 2002 *Voting System Standards*.

Unity 3.4.0.0 was a modification to Unity 3.2.1.1 currently certified for use in the Commonwealth of Virginia. This modification included upgrades to HPM, ERM, the DS200 firmware and the addition of the DS850.

Election Systems and Software (ES&S) has requested certification of Unity 3.4.0.1. The Unity 3.4.0.1 application is a modification to Unity 3.4.0.0. The original voting system certified for use by the Commonwealth of Virginia is Unity 3.2.1.1, which was certified for use in March of 2011. The Unity 3.2.1.1 system further represents an upgrade to the previously certified system, Unity 3.0.1.1.

Unity 3.4.0.1 is equivalent to Unity 3.4.0.0 with one exception: the Unity 3.4.0.1 suite adds landline modeming feature to the DS200 v.1.6.1.0.

3 Testing Overview

The evaluation of Unity 3.4.0.1 was designed to achieve the goals set forth in the test plan. The goals were constructed to verify that the Unity 3.4.0.1 system conforms to the *Code of Virginia*. The evaluation successfully addressed each of the test goals in the following way:

Test Goal	Testing Response
Ensure Unity 3.4.0.1 provides support for all Virginia election management requirements (i.e. ballot design,	This was tested by evaluating the Unity 3.4.0.1 system with 7 Virginia specific

results reporting, etc).

election scenarios using a combination of different ballot programming approaches, ballot designs, ballot sizes, languages, and tabulators. The programmed elections were actual elections from Virginia counties. The end-to-end scenario was directly from recent elections in Virginia.

Simulate pre-election, Election Day, absentee, and post-election activities on the DS200 and corresponding components of the Unity Election Management System (EMS) for 5 election scenarios

The DS200 was tested in pre-election, in-person absentee, Election Day, absentee, and post-election situations and evaluated against documented behavior and expected results for all 5 scenarios.

Verify modem transmission on the DS200

Use of the DS200 to transmit results via modem was evaluated during each election scenario with the exception for the Fairfax mass ballot test.

Simulate pre-election, Election Day, and post-election activities on the DS850 and corresponding components of the Unity EMS for 5 election scenarios

The DS850 was tested in pre-election, in-person absentee, Election Day, absentee, and post-election situations and evaluated against documented behavior and expected results.

Verify security features of the DS200 data transmission feature

The SFPT server and the DS200 modem were analyzed for maintenance backdoors and an analysis was performed on related security questions.

4 Testing Setup

According to the test plan, the evaluation consisted of 7 election scenarios and a security analysis to be executed utilizing one Unity EMS workstation, one DS200, one DS850, and a printer for reports. Results from the DS200 will be transmitted via the modem for all scenarios except Fairfax 2010 General Election . The seven election scenarios used for the evaluation were

Pre-programmed scenarios:

1. Hanover 2009 Primary Election, 11-inch ballots
2. Chesterfield 2007 General Elections, 14-inch ballots
3. Chesterfield 2008 General Elections, 14-inch ballots
4. Chesterfield 2009 Primary Election, 14-inch ballots
5. Fairfax (or equivalent size/complexity) 2010 General Election Multi-Language (English, Spanish), 14-inch ballots
6. Fairfax (or equivalent size/complexity) 2011 Primary Elections Multi-Language (English, Spanish), 11-inch ballots

End-to-end scenario:

7. Fairfax (or equivalent size/complexity) 2012 Presidential Primary Elections (with Preference language) Multi-Language (English, Spanish), 11-inch ballots
8. Security analysis for DS200 modem transmission

The pre-programmed scenarios were programmed by ES&S test managers prior to the evaluation and were executed from the point where the election is completed in the Election Data Manager. Each testing scenario began with opening the election in EDM, reviewing the election definition, and proceeding with the remaining preparations for Election Day and absentee voting.

The end-to-end scenario created a new election for an existing county, generate elections definitions for the tabulators and verify loading of the election definition on the tabulators.

The security analysis focused on data transmission, denial of service attack and modem configuration.

More details on the testing setup are found below:

Election Scenario	Ballot Programming	Unity EMS Configuration	Equipment Used	Ballot Length	Languages	# Ballots Run
Hanover 2009 Primary Election	Ballot Style	Standalone workstation	DS200, DS850	11-inch	English	300
Chesterfield 2007 General Election	Ballot Style	Standalone workstation	DS200, DS850	14-inch	English	140
Chesterfield 2008 General Election	Ballot Style	Standalone workstation	DS200, DS850	14-inch	English	
Chesterfield 2009 Primary Election	Ballot Style	Standalone workstation	DS200, DS850	14-inch	English	
Fairfax 2010 General Election	Ballot Style	Standalone workstation	DS200, DS850	14-inch	English, Spanish	10,080
Fairfax 2011 Primary Election	Precinct	Standalone workstation	DS200, DS850	11-inch	English, Spanish	240
Fairfax 2012 Presidential Primary Election (End-to-End)	Ballot Style	Standalone workstation	DS200, DS850	11-inch	English, Spanish	---
Security Analysis	---	---	DS200	---	---	---

4.1 Test Candidate

Supporting the evaluation, ES&S provided the following components of the Unity 3.4.0.1 which were verified by serial number, hardware version, and firmware/software version.

Software Component	Version
DS200	1.6.0.0
DS850	2.2.0.0
Unity EMS Election Data Manager	7.8.1.0

Hardware Component	Version	Serial Number(s)	Description
DS200	1.2	DS0110340442	Precinct scanner and tabulator
DS850	1.0	DS8510090038	Central scanner and tabulator that includes the following components: <ul style="list-style-type: none"> • OKI Report Printer, Model B431dN, Serial Number AK16009203AO • UPS, APC, 1500, Serial Number JB1103003990 • OKI Microline Printer, Model 420, Serial Number AE72001788CO
USB (Delkin, SanDisk)	---	Various	512 MB, 1G, 2G, 4G, 8G USB Drives
SFTP Server	---	GX260-GN8JF2	Dell Optiplex
CISCO Router	---	ASA5525	Router
EMS	---	3TZLFI	Dell Optiplex 980 that includes: <ul style="list-style-type: none"> • OKI Printer, Model B430dN, Serial Number AF9B042814AO
Switch	---	04110051	Viking DLE 200B Switch

4.2 Test Decks

Test decks for the pre-programmed scenarios were provided ES&S and verified by the test team.

Ballots were provided in the quantity and marked in the manner prescribed in the test plan.

5 Findings

The evaluation followed the procedure as provided in Section 6 of the Test plan. During the procedure, the test team (including members of the State Board of Elections and the evaluation agent) made observations of general system behavior and attempted to verify specific behavior related to Virginia legal requirements. Therefore, the findings are organized below into findings related to each Virginia requirement and other findings which were reported during the evaluation.

5.1 Virginia Requirements

The evaluation of the Unity 3.4.0.1 produced the following findings for each requirement of the *Virginia Code*. For each requirement, the Unity 3.4.0.1 was evaluated for its ability to meet and pass the requirement and whether or not anomalies were reported.

1. § 24.2-629. The voting system shall accurately count, register, and report votes.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 met the following condition(s) of satisfactions:

- ✓ All results reports provide the correct/expected results for the test ballots inserted. This includes individual machine and aggregated results.
- ✓ Public and protected counters increment for each ballot.

The evaluation of Unity 3.4.0.1 found that the tabulated results matched the expected results for each test deck of ballots inserted into each tabulator. The public counters incremented appropriately and tabulator audit logs correctly recorded ballot tabulation events. The DS200 and DS850, specifically, provided a protected counter which correctly incremented with each ballot tabulated. The Unity EMS correctly aggregated and reported results from each of the various tabulators into pre-defined and consolidated reporting groups. Comparison of the results tapes from individual machines and the result reports generated in EMS with the test ballots for all three election scenarios was used as the basis for verifying accurate counting and reporting of votes.

- 2. § 24.2-629. The voting system shall provide the ability for voting for all candidates of as many political parties as may make nominations at any election; on as many questions as may be submitted at any election; and at all general or special elections, permit the voter to vote for all of the candidates of one party or in part for the candidates of one or more parties.**

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Election scenarios (including primary elections) are fully supported by voting system without anomaly or burden.
- ✓ The voter is allowed to vote as intended and otherwise permissible.
- ✓ Overvotes are correctly handled and reported.
- ✓ Undervotes are correctly handled and reported.
- ✓ Blank ballots are correctly handled and reported.
- ✓ Write-Ins are correctly handled and reported.

The Unity 3.4.0.1 system supported primary election and general election scenarios of various setups and sizes without anomaly or burden. The evaluation found that Unity 3.4.0.1 provided the ability for voting for all candidates of as many political parties as were nominated in the election scenarios. Furthermore, the system demonstrated the ability for the voter to vote for all candidates of one party or in part for the candidate of one or more parties.

- 3. § 24.2-629. The voting system shall enable the voter to vote for as many persons for an office as lawfully permitted; prevent the voter from voting for the same person more than once for the same office (only on DREs); and enable the voter to vote on any question he is lawfully permitted to vote on, but no other.**

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Voter is shown questions based on eligibility (i.e. precinct)
- ✓ Voter is only shown questions (s)he is eligible to vote on
- ✓ Voter is not shown questions (s)he is not eligible to vote on

- ✓ Voter is permitted to select for correct number of options on each question.

The evaluation of Unity 3.4.0.1 found that voters were shown questions based on eligibility determined by the voter's ballot style assignment or precinct. Each ballot style was generated such that voters were only shown questions for which the voter was eligible to vote on and no others. The voter was permitted to vote for as many or as few questions as desired on the ballot style and was able to cast a vote for the number of persons configured for each question.

4. § 24.2-629. The voting system shall correctly register or record, and accurately count all votes cast for candidates and on questions.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ All results reports provide the correct/expected results for the test ballots inserted. This includes individual machine and aggregated results.
- ✓ Accurately record vote count for each candidate
- ✓ Record number of overvotes, undervotes, write-ins, and blank votes for each question.

The evaluation of Unity 3.4.0.1 found that the tabulated results matched the expected results for each test deck of ballots inserted into each tabulator. The system supported statistical counters for each candidate and option on a question plus counters for write-ins, undervotes, and overvotes. Each statistical counter was verified to accurately record the tabulated results from the test deck.

5. § 24.2-629. The voting system shall be provided with a "protective counter" whereby any operation of the device before or after the election will be detected.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 met the following condition(s) of satisfactions:

- ✓ Each tabulator stores a life-time ballot count which can be accessed and recorded prior to and at the conclusion of an election. The protective counter must be in persistent memory.

and the names of its candidates for the offices of President and Vice-President and a mechanism which registers the collective vote cast for such electors.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Ballots designed, printed, voted, and tabulated in end to end scenario must provide this language and behavior

Both the DS200 and the DS850 tabulators support the ability for each voter to vote for all the presidential electors of one party by one operation. The ballot design and printing capabilities of Unity 3.4.0.1 provide for ballots containing the words "Electors For" preceded by the name of the party or other authorized designation and the names of its candidates for the offices of President and Vice-President. Additionally, the results reporting capabilities provide a mechanism to register a collective vote cast for each such electors presented on the ballot.

9. § 24.2-629. The voting system shall ensure voting in absolute secrecy; and systems requiring the voter to vote a ballot that is inserted in an electronic counting device shall provide for secrecy of the ballot and a method to conceal the voted ballot.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Audit logs contain no record of voter's identity.
- ✓ Ballot can be kept reasonable private through the use of a privacy sleeve.
- ✓ Ballot box provides secrecy protections and access controls.
- ✓ Voter is not required to have assistance when voting

No mechanism is available within Unity 3.4.0.1 to connect a voted ballot back to the voter. The Unity 3.4.0.1 system provides sufficient accessibility support to allow voters with disabilities to vote independently. No personal identifying information is required by the voting system in order to operate and no personal identifying information is transmitted to or

stored by any ballot tabulator. Each precinct-count tabulator is provided with a secure ballot box (secured with lock/key and tamper-evident seals) to conceal the tabulated ballots. Privacy sleeves and privacy booths can be used by a voter to conceal the ballot prior to insertion into the tabulator

10. §24.2-629 & 24.2-648. The voting system shall segregate ballots containing write-in votes from all others.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Each tabulator correctly out stacks ballots with valid write-in voters from ballots without write-in votes
- ✓ Write-in ballots are physically separated from other ballots.

Both the DS200 and the DS850 tabulators provide the ability to segregate ballots containing write-ins from all other ballots. The DS200 detects write-ins on the ballots as they are tabulated and divert the write-in ballots to a separate side of the ballot box from the other ballots. The DS850 will detect a write-in during the tabulation and out stacks to a configurable tray in order for the operator to remove the write-in ballot and set it aside.

11. § 24.2-629. The voting system shall (for systems requiring the voter to vote a ballot that is inserted in an electronic counting device) report, if possible, the number of ballots on which a voter voted for a lesser number of candidates for an office than the number he was lawfully entitled to vote and the number of ballots on which a voter voted for a greater number of candidates than the number he was lawfully entitled to vote.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Each tabulator correctly records and reports the number of overvotes, undervotes, write-ins, and blank votes for each question

The Unity 3.4.0.1 provides statistical counters for each question which record the number of

- ✓ Poll workers are provided a sufficient mechanism to open polls and determine the state of the device.
- ✓ Poll workers are provided a sufficient mechanism to close polls and place the device in a state such that further voting is not permitted.
- ✓ These functions are protected by sufficient access controls.

The evaluation of Unity 3.4.0.1 found that officers of the election are provided a secure and access-controlled mechanism to open polls and determine the state of the each device. At the close of polls, election officers are provided a mechanism to close polls and place each device in a state such that further voting is not permitted without special authorization. The opening and closing of polls on the DS200 and DS850 is limited to administrative password access only.

17. § 24.2-629. The voting system shall be capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the election.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Each device stores tabulated results such that a sudden power failure during and after an election will not erase the results.

The DS200 and DS850 store and retain existing votes on persistent memory cards as soon as each ballot is tabulated. Therefore, the evaluation showed that power failure during and after an election does not impact the storage of the tabulated results. The DS850 also stores the tabulated results on persistent memory but requires the operator to Save Results in order to write results to the hard drive. If power is lost, any results tabulated but not saved to hard drive will be lost. All saved results are maintained.

18. § 24.2-629. The voting system shall provide an audit trail.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Each software module, tabulator, and supported electronic devices provides an accessible audit trail.
- ✓ Audit logs must be in human-readable form.
- ✓ Audit logs provide timestamps for all entries
- ✓ Audit logs provide entries for all privilege escalation events.
- ✓ Audit logs provide entries for all events impacting the tabulated results.
- ✓ Audit logs do not record voter identifying information or information related to the tabulated results.
- ✓ Audit logs record system or component failures

The evaluation of the Unity 3.4.0.1 system showed that each software module, tabulator, and supported device provides an accessible audit trail. Audit logs are in human-readable format and available for printing. Audit logs provide timestamps for all entries and provide entries for all events impacting the tabulated results. The audit logs evaluated do not record voter identifying information or information related to the tabulated results. Furthermore, the evaluated audit logs provide sufficient detail to indicate system or component failures.

19. § 24.2-629. The voting system shall prevent fraudulent use.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 met the following condition(s) of satisfactions:

- ✓ Each component provides physical and logical access controls.
- ✓ Each component prevents unauthorized individuals from manipulating voting system configurations, controls, or tabulated results.
- ✓ Each component provides mechanisms for detecting fraudulent use from authorized and unauthorized actors.

The Unity 3.4.0.1 system was determined to provide a sufficient level of security controls to prevent fraudulent use when coupled with standard security and ballot accounting procedures. For example, each component provides physical and logical access controls with the ability to use tamper evident seals to detect access attempts. Each component further prevents unauthorized individuals from manipulating voting system firmware, configurations, controls, or tabulated results without the proper access credentials. In

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Generated ballots follow the guidance provided in the Virginia SBE guidance document (15. Managing Paper Ballots).

The ballot design capabilities provided by the Unity 3.4.0.1 system are sufficient to allow election officers to comply with the guidelines for managing paper ballots found in the Virginia State Board of Elections guidance documents.

23. § 24.2-613. The voting system shall provide ballot generation capabilities that support the ordering of the names of candidates according to § 24.2-613. Form of ballot.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Generated ballots providing the ordering of names are required

The ballot design and generation capabilities provided by the Unity 3.4.0.1 system provide election officials the ability to comply with this Virginia ballot design requirement.

**24. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:
candidates for federal, statewide, and General Assembly offices only shall be identified by the name of his political party. (The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.)**

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Unity 3.4.0.1 system provide election officials the ability to comply with this Virginia ballot design requirement.

25. § 24.2-613. The voting system shall provide ballot generation capabilities that

- ✓ The container has separate compartments for ballot segregation.

The ballot insertion path provided on the DS200 and DS850 tabulators were confirmed to have an opening of sufficient size to admit a single unfolded ballot and no more. Both scanners detected and rejected attempts to cast more than one ballot at a time. The ballot boxes provided with these tabulators were confirmed to have a lock and key protection for the ballot box and there was no other ballot entry path to the counted-ballots bin of the ballot box other than through the tabulator itself.

35. § 24.2-653. The voting system shall (for ballot containers paired with voting tabulation devices) support the following handling of provisional ballots:

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot container by an officer of election.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 met the following condition(s) of satisfactions:

- ✓ Physical inspection of the ballot containers confirm this handling of provisional ballots is afforded.

The ballot boxes evaluated with Unity 3.4.0.1 system provided a separate and secure partition of the ballot box to insert and store provisional uncounted ballots.

36. 24.2-625.2. The voting system shall not utilize wireless technology of any type with any of the voting system modules to transfer data.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ All data used in the course of the testing is transferred by means of a physical electronic device or communication medium.
- ✓ Wireless technology is disabled or remove from each voting system component.

The evaluation confirmed that no component of the Unity 3.4.0.1 system was utilizing

- ✓ Provides correct non-visual presentation of ballot to voter
- ✓ Provides mechanism for non-visual marking of the ballot
- ✓ Preserves the integrity of the ballot
- ✓ Correctly transcribes the voter's intent onto the ballot
- ✓ Ballots are correctly read by each precinct-count tabulator
- ✓ Various contrast ratios for visually impaired voters
- ✓ Various font sizes for visually impaired voters
- ✓ Does not require the voter to have assistance during the voting process
- ✓ Provides adjustable volume control
- ✓ Provides assistance for voters with dexterity and mobility impairments.

Although this examination to not include evaluation to these requirements, the Unity 3.4.0.1 system meets these requirements with the use of the AutoMark VAT. The evaluation was of the AutoMark VAT was performed during the examination of Unity 3.2.1.1.

40. § 24.2-626.1. The voting system shall provide alternative language accessibility.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Multi-lingual election scenarios provide all voter facing instructions, warnings, and other presented language in Spanish.
- ✓ Accessibility provisions are supported in Spanish.

The Unity 3.4.0.1 system was evaluated for its alternative language accessibility with election scenarios from Fairfax County with English and Spanish translations on the ballot. All ballot styles were generated with both translations and were used to verify that each tabulator correctly tabulated multi-lingual ballots.

41. § 24.2-657. The voting system shall provide printed return sheets to display the tabulation results, which include the votes recorded for each office on the write in ballots and the vote on every question.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Results reporting from individual machines and in aggregate provide the tabulated results for each candidate and option for each question for each precinct (or division of the election scenario).
- ✓ Results reporting from individual machines and in aggregate provide the number of write-ins, overvotes, and undervotes for each question for each precinct (or division of the election scenario).

Results reports provided by ballot tabulators and the Unity EMS provide the tabulation results with the numbers of write-ins and votes recorded for each office and question on the ballot.

42. § 24.2-658. The voting system shall provide (from each device) two copies printed return sheet containing the results of the election.

Passed: Yes

Anomalies Reported: None

The Unity 3.4.0.1 system met the following condition(s) of satisfactions:

- ✓ Each devices provides two copies of its tabulated results

Each Unity 3.4.0.1 system device demonstrated the capability to print at least two copies of the results report. Furthermore, each device demonstrated the capability to print long (all precincts) and short (totals only) results reports.

5.2 Unity 3.4.0.1 Anomaly Findings

During the transmission of results in the Fairfax 2012 General Election the test team switched from the telephone simulator to analog phone lines maintained by the Commonwealth. The test notice anomaly behavior in the DS200's ability to connect to the SFTP Server. The test team was able to isolate the issue to the phone lines. Testing was done repeating the transmission 20 times. The successful transmission rate for a single modem session was 50%, but the test team was always able to transmit the results. After the test engagement, the test team contacted three other states that use the modem technology. Each of those state reports the same behavior

therefore this issue was addressed as a technology issue not a product issue.

6 Notes for Operation

Because of the expertise required to configure the modem and the transmission lines, I suggest any jurisdiction purchasing this system with the intent to utilize the modem feature work with both their selected telecommunication provider and ES&S to ensure the highest success rate for transfers.

7 Conclusions

The Unity 3.4.0.1 system, presented for examination, meets the requirements of Virginia Election Laws §24.2. As the evaluation agent, I recommend the Unity 3.4.0.1 be certified for use in the Commonwealth of Virginia.



U.S. ELECTION ASSISTANCE COMMISSION

Voting System Testing and Certification Program

1201 New York Avenue, NW, Suite 300

Washington, DC. 20005

October 31, 2012

Steve Pearson, Vice President, Certification
Election Systems & Software
11208 John Galt Blvd.
Omaha, NE 68137

Sent via e-mail

Re: Agency Decision – Grant of Certification

Dear Mr. Pearson,

As required under §5.9 of the EAC's Voting System Testing and Certification Program Manual, Election Systems & Software (ES&S) and Wyle Laboratories have provided the necessary documentation for the Unity 3.4.0.0 voting system verifying that 1) the trusted build has been performed, 2) software has been deposited in an approved repository, 3) system identification tools are available to election officials, and 4) signed a letter stating, under penalty of law, that you have:

1. Performed a trusted build consistent with the requirements of §5.6 of the EAC's Certification Manual;
2. Deposited software consistent with §5.7 of the EAC's Certification Manual;
3. Created and made available system identification tools consistent with §5.8 of the EAC's Certification Manual (a copy and description of the system identification tool developed must be provided with the letter); and
4. Upon a final decision to grant certification, the manufacturer accepts the certification and all conditions placed on the certification.

Based on the review of the documentation above and the fact that ES&S Unity 3.4.0.0 successfully completed conformance testing to the 2005 Voluntary Voting System Guidelines (2005 VVSG), the Voting System Testing & Certification Program Director has recommended EAC certification of this system. The system was tested to the 2005 VVSG, but is a modification to the 2002 Voting System Standards (2002 VSS) certified Unity 3.2.1.0 system, so it can only be certified to the 2002 VSS.

I have reviewed all of the documentation and concur with the Program Director's recommendation. As such, I hereby grant EAC Certification to ES&S Unity 3.4.0.0 to the 2002 Voting System Standards.

The EAC certification number issued for this system is: **ESSUnity3400**. In addition, a Certificate of Conformance shall be provided to ES&S as evidence of the EAC certification of the Unity 3.4.0.0. The Certificate of Conformance shall be provided to ES&S no later than five business day from the date of this letter, and it shall be posted on the EAC's Web site.

As stated in §5.11 of the EAC's Certification Manual, the EAC certification and certificate apply only to the specific voting system configuration(s) identified, submitted, and evaluated under the Certification Program. Any modification to the system not authorized by the EAC shall void the certificate.

If you have any questions or need further information, please do not hesitate to contact Brian Hancock or Jessica Myers at your earliest convenience. I thank you in advance for your time and attention to this matter and congratulate you on this achievement.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alice P. Miller".

Alice P. Miller
Chief Operating Officer and Acting Executive Director
Decision Authority

Cc: Brian Hancock, U.S. Election Assistance Commission
Frank Padilla, Wyle Laboratories



Wyle Letter No. T58286.03B-039

March 15, 2013

Commonwealth of Virginia
State Board of Elections
1100 Bank Street
Richmond, VA 23219

Attention: **Mr. Gary W. Fox, Voting Technology Specialist**
e-mail: gary.fox@sbe.virginia.gov

Subject: Additional Information on Testing Conducted on ES&S Unity 3401 Voting Systems

Dear Mr. Fox:

This letter is in response to the Pro V&V request for the Commonwealth of Virginia for additional information about the testing conducted by Wyle Laboratories, Inc. (Wyle) on the Election Systems and Software (ES&S) Unity 3401 Voting System.

On November 2, 2012, Wyle completed testing of the Unity 3401 voting system. This testing was performed to ensure that the modification to add land-line telecommunications abilities for precinct results transmission met the requirements of 2005 Voluntary Voting System Guidelines.

In response to the Commonwealth's request for a functional overview of the testing please see the below descriptions of the test conducted:

- Basic functionality: Wyle conducted a test involving one DS200 and the backend receiving equipment to verify that the telecommunications abilities were properly configured and performed as expected.
- Multiple Transmissions: Wyle conducted a test involving 4 DS200s and the backend receiving equipment to verify that the receiving equipment could process multiple simultaneous connections. In addition to the testing conducted by Wyle personnel, Wyle witnessed a machine volume test in Omaha at the ES&S facility on August 15, 2011. The testing was conducted by ES&S personnel under the supervision of on-site Wyle personnel. A total of sixteen DS200 units transmitted to the receiving equipment.
- DS200 Telecom Access: Wyle conducted testing to verify that the DS200 only transmitted results and would not accept any incoming connection request. Wyle personnel attempted to make a connection to the DS200 by dialing the number associated with the connected unit while the unit was idle and during transmission. No connections were able to be established.
- Vulnerability Scans on the System Backend: Wyle personnel conducted a vulnerability scan to determine that if access to the SFTP server on the DMZ was obtained would

Wyle Letter No. T58286.03B-039

To: Gary Fox / Commonwealth of VA

3/15/2013

Page 2

there be a risk to the private network that hosted the EMS. It was determined that only a request originating from within the private network could open any resources.

- Exploit the SFTP Connection: Wyle personnel attempted various ways to exploit the SFTP connection. There are essentially two authentications required before access can be granted to a user. The first is the establishment of a connection to the RAS service. This authentication is conducted via the Windows CHAP v.2 protocol. It requires a user name and password. It was determined that the RAS service will answer any request. Wyle personnel were unable to exploit the CHAP v.2 protocol. The strength of the security is dependent on the user name and password. The second authentication is with the SFTP service. It requires a user name and password. Both the username and the password are dynamically assigned via the EMS and transferred to the SFTP server via USB. Wyle personnel were unable to exploit the SFTP service.

If you have any question about the above testing please contact Frank Padilla at 256-716-4125 or at frank.padilla@wyle.com.

Sincerely,

WYLE LABORATORIES, INC.
Test & Engineering East



Dawn K. Bates
Contracts Manager

cc: Frank Padilla



OFFICE OF THE IOWA SECRETARY OF STATE

January 23, 2013

Mark Manganero
Iowa State Certification Manager
Election Systems & Software
11208 John Galt Boulevard
Omaha, NE 68137

RE: Unity 3.4.0.1

Dear Mr. Manganero:

This purpose of this letter is to confirm that at a meeting held on January 18, 2013, the Iowa Board of Examiners for Voting Systems met and approved for Unity 3.4.0.1 for use in the state of Iowa. The components of the system examined and approved for use are as follows:

a. Software

- i. Audit Manager v. 7.5.2.0
- ii. Election Data Manager v. 7.8.1.0
- iii. ESS Image Maker v. 7.7.1.0
- iv. AutoMARK Information Manager v. 1.3.257
- v. AutoMARK VAT Previewer v. 1.3.2907
- vi. Hardware Programming Manager v. 5.8.0.0
- vii. Election Reporting Manager v. 7.8.0.0
- viii. Log Monitor Service v. 1.0.0.0

b. Hardware

- i. AutoMARK VAT v. 1.3.2907, hardware versions 1.0, 1.1 & 1.3
- ii. Model 100 v. 5.4.4.5, hardware version 1.3
- iii. DS200 v. 1.6.0.0, hardware version 1.2
- iv. Model 650 v. 2.2.2.0, hardware version 1.1 & 1.2 (red and green visible light)
- v. DS850 v. 2.2.0.0, hardware version 1.0
- vi. Plastic Ballot Box, hardware versions 1.2 & 1.3
- viii. Steel Ballot Box, hardware version 1.0, 1.1 & 1.2

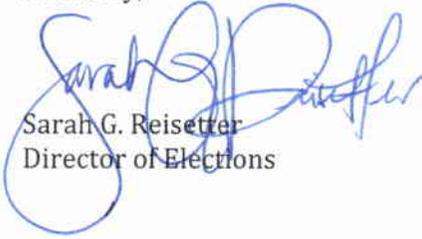
c. COTS Software (for modeming of unofficial results)

- i. Cerberus FTP Server v. 4.0.9
- ii. IPSwitch WS_FTP 12 v. 12.3

The voting equipment may be used as soon as rules for use of the DS200 and DS850 are adopted. The Board will be working on those rules in the near future and I anticipate they will be adopted sometime during the month of February, 2013. If that timeline changes for any reason, I will let you know.

A draft copy of the minutes from the January 18, 2013 meeting are included with this correspondence. If you have any questions about this information, please let me know.

Sincerely,



Sarah G. Reisetter
Director of Elections

**Cc: Grant Veeder, Chairperson, Iowa Board of Voting System Examiners
Dawn Williams, Examiner, Iowa Board of Voting System Examiners
Kyle Phillips, Examiner, Iowa Board of Voting System Examiners
Steve Pearson, Vice President for Certification, ES&S**



Chesterfield Electoral Board Office of the General Registrar

Office Location - 9848 Lori Road (Court Square) ♦ 804-748-1471 ♦ 804-751-0822 (fax)

Mailing Address - PO Box 1690 ♦ Chesterfield, VA 23832 ♦ registrar@chesterfield.gov ♦ www.chesterfield.gov/registrar

Electoral Board Members

Rosemarie Y. Hart ♦ Lu H. Henderson ♦ Robert A. Hodges

General Registrar

Lawrence C. Haake, III

June 18, 2013

Mr. Gary Fox
Voting Technology Specialist
Virginia State Board of Elections
1100 Bank Street
Richmond, VA 23219

RE: ES&S TEST OF EQUIPMENT IN CHESTERFIELD COUNTY JUNE 11, 2013

Dear Mr. Fox:

With your approval, Election Systems and Software (ES&S) delivered equipment being reviewed by the State Board of Elections (SBE) for certification and approval for purchase in Virginia to Chesterfield County for use in the June 11, 2013, Democratic Primary. This equipment was a DS200 ballot counter equipped with a modem and a DS850 high speed ballot counter. The results of the test follow.

DS200

ES&S delivered a DS200 equipped with a modem and programmed based on information from our standard programming for the June 11 primary. The certification test was to be on performance of the modem.

The DS200 was tested with the standard logic and accuracy test deck used on all other equipment in Chesterfield County and passed. The machine was used during the 45-day in person absentee voting, during which 104 ballots of 3 different styles were inserted into the machine.

Telephone lines were installed in Chesterfield County to allow the DS200 to call out to an ES&S server also located in Chesterfield County and with a different telephone line. On election night shortly after 1900 hours, the DS200 was directed to produce its totals count for the ballots. Following this, the modem test began and the DS200 successfully dialed and connected with the ES&S server and transmitted the results. The results were displayed in ES&S Election Reporting Module located on a client of the ES&S server.

Based on my observations, the DS200 modem test was a success.

Mr. Gary Fox
ES&S Equipment test
June 18, 2013

DS850

ES&S delivered a DS850 high speed ballot counter programmed based on information from our standard programming for the June 11 primary. The certification test was to be on overall performance and accuracy of the ballot counter.

The DS850 was tested with the standard logic and accuracy test deck used on all other equipment in Chesterfield County and passed. The machine was used during Election Day when 41 ballots of 3 different styles were processed through the counter.

The process involved a 3-step approach, during which ballots of each of 3 styles (representing 3 virtual precincts) were identified and counted. Each step involved processing of an unsorted uncounted ballot batch by the DS850 as follows:

- Step 1 – 41 ballots processed with 21 identified to count;
- Step 2 – 20 ballots processed with 11 identified to count;
- Step 3 - 9 ballots processed with 9 identified to count.

In each processing of the ballot batch, there were no ballot jams and no ballot misreads. Central Absentee officers of election conducted a hand count of the 41 ballots. The result of their ballot hand count was exactly the same as the ballot count from the DS850.

Based on my observations, the DS850 performed as expected with complete accuracy and with no problems.

Thank you for this opportunity to participate in the certification of this equipment.

Sincerely,

Lawrence C. Haake, III
General Registrar



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Certification
of
Voting Equipment
Dominion-4.14

BOARD WORKING PAPERS
Presented by Gary Fox
Voting Technology Specialist



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections

From: Gary W. Fox, Voting Technology Specialist

Date: August 6, 2013

Re: Certification of Dominion Voting's Democracy Suite 4.14 voting system

Suggested motion for a Board member to make:

I move that the Board certify Dominion Voting's Democracy Suite 4.14 voting system for use in elections in the Commonwealth of Virginia, pursuant to the *State Certification of Voting Systems: Requirements and Procedures*.

Applicable Code Sections: §§ 24.2-628 & 629.

Attachments:

Your Board materials include the following:

- Product sheets for Dominion Voting's Democracy Suite 4.14 voting system.
- Virginia State Certification Testing Test Report for Dominion Voting's Democracy Suite 4.14 voting system.
- Proof of EAC Certification of Dominion Voting's Democracy Suite 4.14 voting system.
- Caroline County election test.
- Isle of Wight County election test.

Background:

Following the steps prescribed in the *Virginia State Certification of Voting Systems: Requirements and Procedures*, Dominion Voting initiated the certification evaluation by a letter to the Secretary of State Board of Elections on March 19, 2013. Dominion Voting provided their corresponding Technical Data Package (TDP) and Corporate Information (required under step 2 of the *Requirements and Procedures*) on May 8, 2013. Both of these submissions were deemed complete and in sufficient detail to warrant Step 3, the Preliminary Review. During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the TDP, Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon Dominion Voting's agreement with the test plan, the evaluation was conducted on May 14 - 15, 2013, in the State Board of Elections offices in Richmond, Virginia. The system successfully completed the evaluation.

In accordance with §24.2-629, the system was tested in the June 11, 2013 Democratic Primary in Caroline County and the Isle of Wight County. The tests were successful (see attached letter and email). On July 18, 2013, the Election Assistance Commission (EAC) issued their Grant of Certification of the Dominion Voting Democracy Suite 4.14.

Dominion Voting's Democracy Suite 4.14 voting system has successfully completed Virginia State Certification.

A COST-EFFICIENT HIGH SPEED TABULATION SOLUTION THAT'S RELIABLE, SCALABLE AND EASY TO MAINTAIN.

Dominion's ImageCast Central is a simple and powerful solution that meets the demands of elections of any size.



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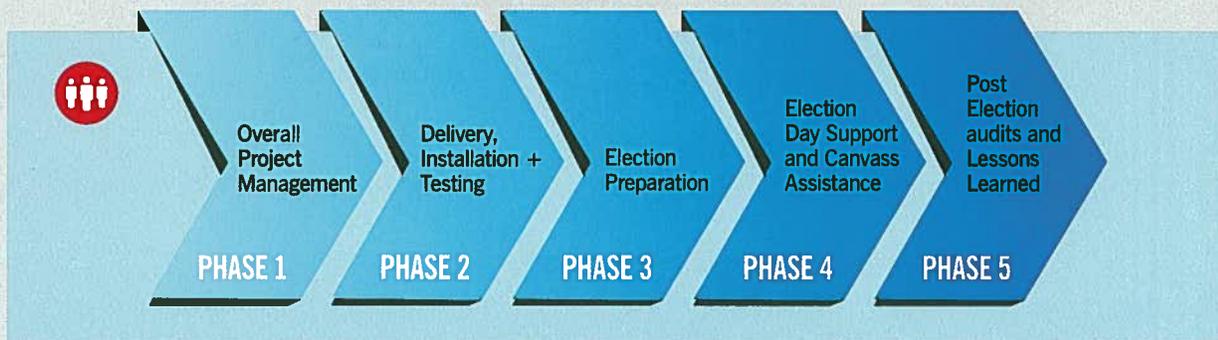


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ImageCast Central

A tried and proven tabulator that's designed around the feedback of our customers and backed by our dedicated Dominion team.



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SIMPLE AND POWERFUL; IT JUST WORKS

- Modular, customizable and scalable to any size
- Flexible with site layouts when space is at a premium
- Highly reliable and portable
- Seamless integration with Dominion's Democracy Suite



SECURE

STATE OF THE ART SECURITY FOR ADDED PEACE OF MIND

- AuditMark technology makes a digital cast-vote record (CVR) of the voter's choices
- Market leading security with Dominion's Election Management System (EMS)



SUPPORT

SPECIFICALLY DESIGNED TO PROVIDE THE IDEAL VOTING EXPERIENCE FOR ALL USERS (VOTERS AND VOTING PROFESSIONALS ALIKE)

- Improves maintainability and lowers the cost of ownership
- Uses compact third-party devices to offer higher sustained throughputs in the face of hardware failures and worldwide access to a vast pool of readily available replacement parts and certified technicians
- AuditCast™ ballot Image auditing capability

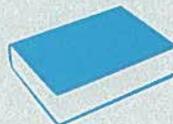


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The innovative ImageCast Evolution provides both accessible ballot scanning and accessible ballot marking solutions in one exceptional integrated device.




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INTEGRATION**



VVSG 2005

+



TABULATOR

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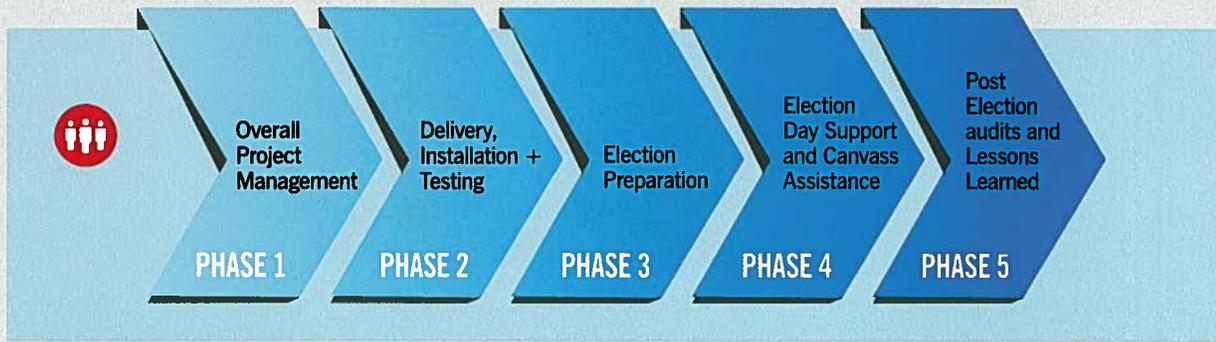
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Highly configurable and customizable interface and behaviour settings.

AuditCast™ ballot image auditing capability

Developed against VVSG 2007 NI (next iteration).

Multi-lingual audio-visual support for each voter.

Dual redundant compact flash memory cards

Optional tabulator status signal poll

Three-inch thermal printer.

Adjustable screen angles.

Accessible to all voters, with Audio Tactile interface (ATI) and off-the-shelf headphones



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A single voting terminal that provides all that voters need to cast their vote

An intuitive and precinct-level tabulation solution

2 machines in one, offers both optical ballot scanning and ballot marking solutions.

Provides Ballot review, second chance voting and accessible voting, all at one terminal



SECURE

STATE OF THE ART SECURITY FOR ADDED PEACE OF MIND

Integrated hardware and software ballot security features

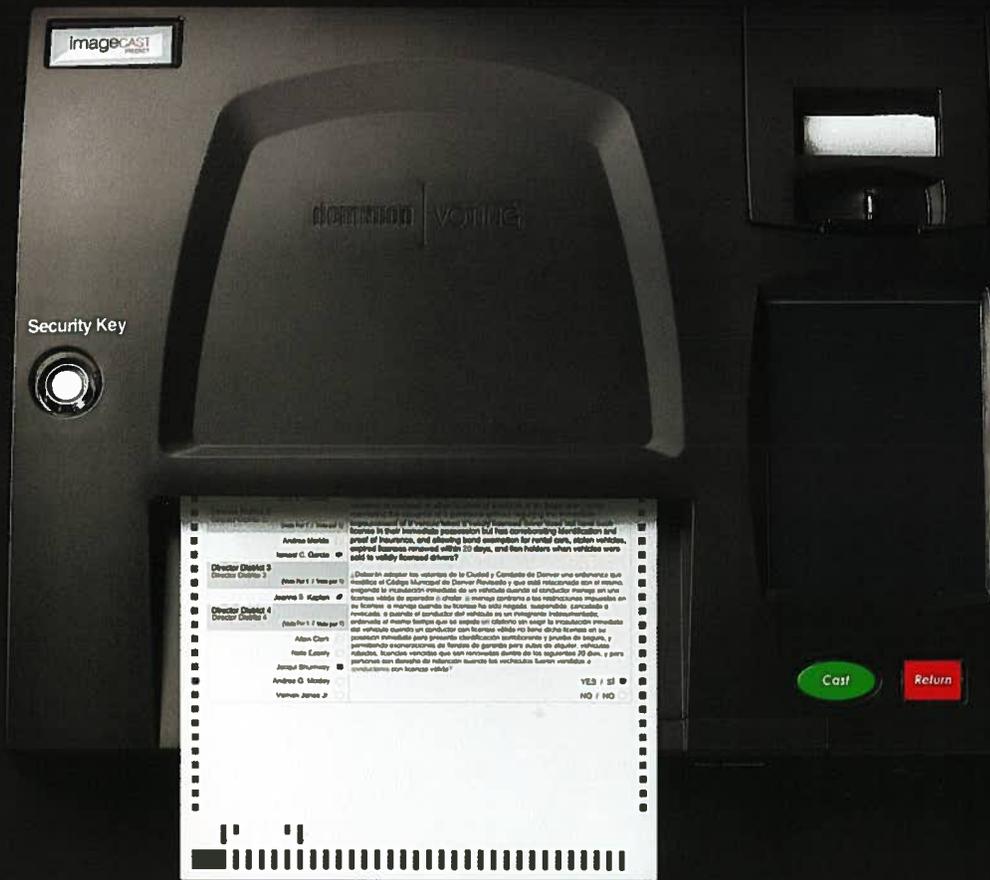
Access port security indicators

Security access door intrusion switches and interface port security status indicators

Integrated privacy shield and screen cover

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Dominion's ImageCast Precinct is a leader in simplicity and security, while providing the support that you expect when you need it most.



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100,000
MACHINES
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OVER
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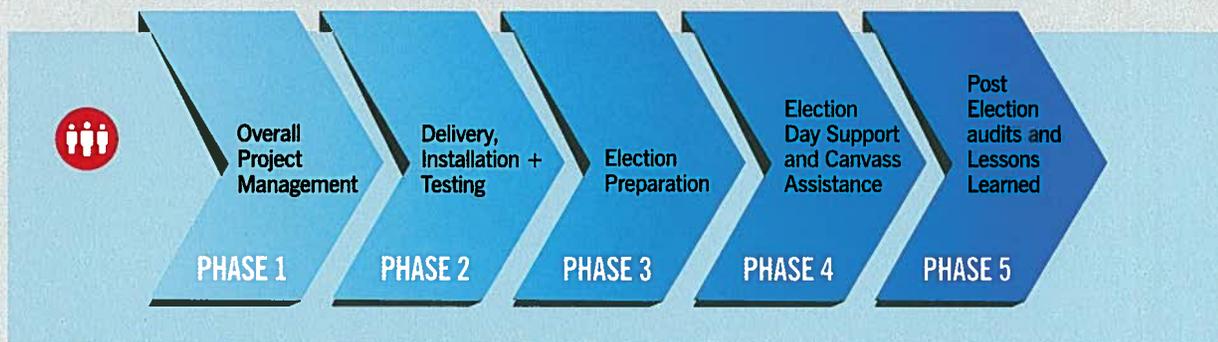
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Simple to setup, with one off/on switch and one security key

Lightweight, durable and highly reliable

Completely verifiable voting capabilities

Reliability coupled with unprecedented configuration

Minimizes risk of human error

Size and simplicity makes it ideal for any environment

From tropical jungles to concrete jungles to arctic tundra – the ImageCast Precinct has proven reliable under any condition, time and time again

Independent accessible ballot review

LCD touchscreen interface communicates clearly



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Integrated ballot security features

Tabulation and central databases encryption is future-proof and compliant with the VVSG next iteration.

Provides extensive internal security monitoring to ensure data integrity and maintain public confidence.



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Software and Hardware provides everything from voter lists and tabulation technologies to election management tools and reporting systems.

AuditCast™ ballot image auditing capability retains a secure digital image of every ballot cast in your election

Eliminates ambiguous vote markings

AuditCast™ ensures a 100% accurate count, every time

Accessible to all voters, with Audio Tactile interface (ATI) and off-the-shelf headphones



Test Report

Democracy Suite 4.14
State Certification Testing
May 14-15, 2013
Virginia State Board of Elections
1100 Bank Street, 1st Floor
Richmond, VA 23219

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1 Authority

Section § 24.2-629 of the *Code of Virginia* authorizes the Virginia State Board of Elections, in the manner prescribed by the Board, to have examined a production model of such equipment and ballots associated with a vendors request for State Certification. The corresponding Virginia State Certification of Voting Systems *Requirements and Procedures* (Rev. 3/3/2010) prescribes the manner of which the Virginia State Board of Elections will conduct the state certification testing. Subsequent to the evaluation, the Board is required to prepare and file in its office a report of its finding as to:

- (i) the apparent capability of such equipment to accurately count, register, and report votes;
- (ii) whether the system can be conveniently used without undue confusion to the voter;
- (iii) its accessibility to voters with disabilities;
- (iv) whether the system can be safely used without undue potential for fraud;
- (v) the ease of its operation and transportation by voting equipment custodians and officers of election;
- (vi) the financial stability of the vendor and manufacturer;
- (vii) whether the system meets the requirements of this title;
- (viii) whether the system meets federal requirements;
- (ix) whether issues of reliability and security identified with the system by other state governments have been adequately addressed by the vendor; and
- (x) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

2 Background

Dominion Voting initiated the certification evaluation by a letter to the Secretary of State Board of Elections on March 19, 2013. Along with the letter, Dominion Voting provided their corresponding Technical Data Package and Corporate Information (required under step 2 of the *Requirements and Procedures*). Both of these submissions were deemed complete and in

sufficient detail to warrant Step 3, the Preliminary Review. During the Preliminary Review, the state-designated evaluation agent conducted a preliminary analysis of the Technical Data Package (TDP), Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon Dominion's agreement with the test plan, the evaluation was conducted on May 14-15, 2013, in the State Board of Elections offices in Richmond, VA.

The Democracy Suite 4.14 application is for certification for use in the Commonwealth of Virginia as a new voting system. Dominion's Democracy Suite 4.14 is currently being evaluated by Wyle Laboratories for EAC Certification. The State Board of Elections will monitor this evaluation and conduct an analysis of the results of the federal test campaign to determine if any changes to Democracy 4.14 in the federal test campaign affect the testing performed by the State Board of Elections. If changes in the federal test campaign are deemed to affect the testing performed by the State Board of Elections, regression testing or another full evaluation may be required.

3 Testing Overview

The evaluation of Democracy Suite 4.14 was designed to achieve the goals set forth in the test plan. The goals were constructed to verify that the Democracy Suite 4.14 system conforms to the *Code of Virginia*. The evaluation successfully addressed each of the test goals in the following way:

Test Goal	Testing Response
Ensure Democracy Suite 4.14 provides support for all Virginia election management requirements (i.e. ballot design, results reporting, etc)	This was tested by evaluating the Democracy Suite 4.14 system with 3 Virginia specific election scenarios using a combination of different ballot programming approaches, ballot designs, ballot sizes, languages and tabulators.
Simulate pre-election, Election Day, absentee, and post-election activities on the ImageCast Evolution (ICE) component of the Democracy	The ICE component was tested in pre-election, Election Day, absentee, and post-election situations and evaluated against documented behavior and

Suite 4.14 EMS for 3 election scenarios

expected results for all 3 scenarios.

Verify the ICE unit can properly mark and scan ballots

Use of the ICE to provide polling place accessibility was evaluated during each election scenario.

Simulate pre-election, Election Day, absentee, and post-election activities on the ImageCast Precinct (ICP) components of the Democracy Suite 4.14 Election Management System (EMS) for 3 election scenarios

The ICP component was tested in pre-election, Election Day, absentee, and post-election situations and evaluated against documented behavior and expected results for all 3 scenarios.

Verify the ImageCast Central (ICC) use of ballots produced from ICE unit

Use of the ICE to provide polling place accessibility was evaluated during each election scenario. The marked ballots were used in the test decks tabulated on the ICCs.

Simulate pre-election, absentee, and post-election activities on the ICC component of the Democracy Suite 4.14 EMS for 3 election scenarios

The ICC component was tested in pre-election, absentee, and post-election situations and evaluated against documented behavior and expected results for all 3 scenarios.

Evaluate accessibility provisions of the ICE unit for 3 election scenarios

The ICE was utilized in all 3 election scenarios to mark one or more ballot styles using its assistive interfaces.

4 Testing Setup

According to the test plan, the evaluation consisted of 3 election scenarios to be executed utilizing one Democracy Suite 4.14 EMS workstation, one ICP, one ICE, and one ICC unit, plus a printer for ballots and reports. The three election scenarios used for the evaluation were

Pre-programmed scenarios:

1. General Election Multi-Language (English, Spanish)
2. Primary Election Multi-Language (English, Spanish)

End-to-end scenario:

3. Fairfax County 2010 General Election Multi-Language (English, Spanish)

The pre-programmed scenarios were programmed by Dominion Voting test managers prior to the evaluation and were executed from the point where the election is completed in the EMS. The end-to-end scenario was programmed in Democracy Suite 4.14 EMS as a new election during the test engagement. More details on the testing setup are found below:

Election Scenario	Ballot Programming	Democracy Suite 4.6 EMS Configuration	Equipment Used	Ballot Length	Languages
General Election	Precinct	Standalone workstation	ICP, ICE, ICC, EMS Workstation	14 in	English and Spanish
Primary Election	Precinct	Standalone workstation	ICP, ICE, ICC, EMS Workstation	11 in	English and Spanish
End-to-End	Ballot Style	Standalone workstation	ICP, ICE, ICC, EMS Workstation	14 in	English and Spanish

4.1 Test Candidate

Supporting the evaluation, Dominion Voting provided the following components of the Democracy Suite 4.14 which were verified by serial number, hardware version, and firmware/software version.

Hardware	Software	Hardware	Serial Number(s)	Description

Test Report

Dominion Voting Democracy Suite 4.14

Version 1.0

Component	Version	Version		
ImageCast Precinct (ICP)	4.14.5	321 C	NYNAEAO4579, NYNAEAG3541	ImageCast Precinct (ICP) ballot Tabulator
ImageCast Evolution (ICE)	4.14.10	401A	ICE2P1014	ImageCast Evolution (ICE) Precinct Ballot Tabulator.
ImageCast Central (ICC)	4.14.4	Canon DR-X10C	21D5BQ1	ImageCast Central Count (ICC)
Dell Computer	4.14.22	Dell Latitude 630	446LGH1	EMS Computer running Windows 7
iButton Reader	---	---	---	---
Ballot on Demand Printer	---	OKI Data	C9650	Printer used in conjunction with a Toshiba satellite laptop
Sandisk Image Mate Compact Flash Reader	---	SDDR-92	---	Compact Flash reader
Brother Laser Printer	---	HL-2240	---	Report Printer
ICP Ballot Box	---	---	---	Ballot Box for the ICP unit (one metal and one

				plastic)
ICE Ballot Box	---	---	---	Ballot Box for the ICE unit (one metal and one plastic)

4.2 Test Decks

Test decks for the pre-programmed scenarios were provided by Dominion and verified by the test team. Ballots were provided in the quantity and marked in the manner prescribed in the test plan. The test team hand marked and used the ICE unit to mark additional ballot during the test engagement. The test deck for Scenario 3 (end to end) was printed using the Dominion’s OKI Data ballot printer and was marked by test team on site. The test decks were used on all three types of tabulators in different operating modes based on the election scenario.

5 Findings

The evaluation followed the procedure as provided in Section 6 of the Test plan. During the procedure, the test team (including members of the State Board of Elections and the evaluation agent) made observations of general system behavior and attempted to verify specific behavior related to Virginia legal requirements. Therefore, the findings are organized below into findings related to each Virginia requirement and other findings which were reported during the evaluation.

5.1 Virginia Requirements

The evaluation of the Democracy Suite 4.14 produced the following findings for each requirement of the *Virginia Code*. For each requirement, the Democracy Suite 4.14 was evaluated for its ability to meet and pass the requirement and whether or not anomalies were reported.

1. § 24.2-629. The voting system shall accurately count, register, and report votes.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ All results reports provide the correct/expected results for the test ballots inserted. This includes individual machine and aggregated results.
- ✓ Public and protected counters increment for each ballot.

The evaluation of Democracy Suite 4.14 found that the tabulated results matched the expected results for each test deck of ballots inserted into each tabulator. The public counters incremented appropriately and tabulator audit logs correctly recorded ballot tabulation events. The ICE, ICP, and ICC, specifically, provided a protected counter which correctly incremented with each ballot tabulated. The Democracy Suite 4.14 EMS correctly aggregated and reported results from each of the various tabulators into pre-defined and consolidated reporting groups. Comparison of the results tapes from individual machines and the result reports generated in EMS with the test ballots for all three election scenarios was used as the basis for verifying accurate counting and reporting of votes.

- 2. § 24.2-629. The voting system shall provide the ability for voting for all candidates of as many political parties as may make nominations at any election; on as many questions as may be submitted at any election; and at all general or special elections, permit the voter to vote for all of the candidates of one party or in part for the candidates of one or more parties.**

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Election scenarios (including primary elections) are fully supported by voting system without anomaly or burden.
- ✓ The voter is allowed to vote as intended and otherwise permissible.
- ✓ Overvotes are correctly handled and reported.
- ✓ Undervotes are correctly handled and reported.
- ✓ Blank ballots are correctly handled and reported.
- ✓ Write-Ins are correctly handled and reported.

The Democracy Suite 4.14 system supported primary election and general election scenarios

of various setups and sizes without anomaly or burden. The evaluation found that Democracy Suite 4.14 provided the ability for voting for all candidates of as many political parties as were nominated in the election scenarios. Furthermore, the system demonstrated the ability for the voter to vote for all candidates of one party or in part for the candidate of one or more parties.

- 3. § 24.2-629. The voting system shall enable the voter to vote for as many persons for an office as lawfully permitted; prevent the voter from voting for the same person more than once for the same office (only on DREs); and enable the voter to vote on any question he is lawfully permitted to vote on, but no other.**

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Voter is shown questions based on eligibility (i.e. precinct)
- ✓ Voter is only shown questions (s)he is eligible to vote on
- ✓ Voter is not shown questions (s)he is not eligible to vote on
- ✓ Voter is permitted to select for correct number of options on each question.

The evaluation of Democracy Suite 4.14 found that voters were shown questions based on eligibility determined by the voter's ballot style assignment or precinct. Each ballot style was generated such that voters were only shown questions for which the voter was eligible to vote on and no others. The voter was permitted to vote for as many or as few questions as desired on the ballot style and was able to cast a vote for the number of persons configured for each question.

- 4. § 24.2-629. The voting system shall correctly register or record, and accurately count all votes cast for candidates and on questions.**

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ All results reports provide the correct/expected results for the test ballots inserted. This includes individual machine and aggregated results.
- ✓ Accurately record vote count for each candidate
- ✓ Record number of overvotes, undervotes, write-ins, and blank votes for each question.

The evaluation of Democracy Suite 4.14 found that the tabulated results matched the expected results for each test deck of ballots inserted into each tabulator. The system supported statistical counters for each candidate and option on a question plus counters for write-ins, undervotes, and overvotes. Each statistical counter was verified to accurately record the tabulated results from the test deck.

5. § 24.2-629. The voting system shall be provided with a "protective counter" whereby any operation of the device before or after the election will be detected.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Each tabulator stores a life-time ballot count which can be accessed and recorded prior to and at the conclusion of an election. The protective counter must be in persistent memory.
- ✓ The counter increments correctly for each ballot tabulated.

Each of the tabulators evaluated provides a protective (lifetime) counter.

6. § 24.2-629. The voting system shall be provided with a counter which shall show at all times during an election how many persons have voted.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Each tabulator provides a public counter which corresponds to the number of ballots processed for this election.
- ✓ The counter increments correctly for each ballot tabulated.

Each tabulator evaluated provided a public, election specific counter which is publically

displayed for each voter to see increment as a ballot is cast. The evaluation found that this counter correctly incremented for each ballot cast and matched the total number of ballots cast when the polls were closed.

7. § 24.2-629. The voting system shall be provided with a model, illustrating the manner of voting and suitable for the instruction of voters.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ The method of voting is consistent with standard voting models and behavior such that voting operation is intuitive and teachable.

The method of voting employed with the Democracy Suite 4.14 system is consistent with standard voting models and behavior such that the voting operation is teachable and understandable to voters.

8. § 24.2-629. The voting system shall enable each voter to vote for all the presidential electors of one party by one operation. It shall have a ballot containing the words "Electors For" preceded by the name of the party or other authorized designation and the names of its candidates for the offices of President and Vice-President and a mechanism which registers the collective vote cast for such electors.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots designed, printed, voted, and tabulated in end to end scenario must provide this language and behavior

Each Democracy Suite 4.14 System tabulator supports the ability for each voter to vote for all the presidential electors of one party by one operation. The ballot design and printing capabilities of Democracy Suite 4.6 provide for ballots containing the words "Electors For"

All ballots generated in the Democracy Suite 4.14 system have the option to include write-in candidates on one or more questions. Furthermore, ballots with write-ins votes were correctly detected, diverted, and tabulated.

15. § 24.2-681. The voting system shall be able to handle general and special election types in a substantively equivalent manner.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.6 met the following condition(s) of satisfactions:

- ✓ Support all election scenarios requested without undue variations to the voting operation for the election official or voter

The Democracy Suite 4.14 system supported all election scenarios requested without undue variations to the voting operation for the election official or voter.

16. § 24.2-606 -654. The voting system shall allow for the officers of election to open and close polls; and lock each voting and counting device against further voting.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Poll workers are provided a sufficient mechanism to open polls and determine the state of the device.
- ✓ Poll workers are provided a sufficient mechanism to close polls and place the device in a state such that further voting is not permitted.
- ✓ These functions are protected by sufficient access controls.

The evaluation of Democracy Suite 4.14 found that officers of the election are provided a secure and access-controlled mechanism to open polls and determine the state of the each device. At the close of polls, election officers are provided a mechanism to close polls and place each device in a state such that further voting is not permitted without special authorization. The opening and closing of polls on the ICE and ICP is limited to administrative password access only.

17. § 24.2-629. The voting system shall be capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the

election.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Each device stores tabulated results such that a sudden power failure during and after an election will not erase the results.

The ICE and ICP store and retain existing votes on persistent memory cards as soon as each ballot is tabulated. Therefore, the evaluation showed that power failure during and after an election does not impact the storage of the tabulated results. The ICC also stores the tabulated results on persistent memory but requires the operator to Save Results in order to write results to the hard drive. If power is lost, any results tabulated but not saved to hard drive will be lost. All saved results are maintained.

18. § 24.2-629. The voting system shall provide an audit trail.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Each software module, tabulator, and supported electronic devices provides an accessible audit trail.
- ✓ Audit logs must be in human-readable form.
- ✓ Audit logs provide timestamps for all entries
- ✓ Audit logs provide entries for all privilege escalation events.
- ✓ Audit logs provide entries for all events impacting the tabulated results.
- ✓ Audit logs do not record voter identifying information or information related to the tabulated results.
- ✓ Audit logs record system or component failures

The evaluation of the Democracy Suite 4.14 system showed that each software module, tabulator, and supported device provides an accessible audit trail. Audit logs are in human-

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Generated ballots providing the ordering of names are required

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

24. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

candidates for federal, statewide, and General Assembly offices only shall be identified by the name of his political party. (The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.)

Passed: Yes

Anomalies Reported:

None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

25. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

Independent candidates shall be identified by the term "Independent." The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

Passed: Yes

Anomalies Reported:

None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

26. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

No individual's name shall appear on the ballot more than once for the same office.

Passed: Yes

Anomalies Reported:

None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Unity Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

27. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

In preparing the ballots for general, special and primary elections, the electoral boards shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates who may be voted for that office. The following language shall be used: "Vote for not more than".

Passed: Yes

Anomalies Reported:

None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

28. § 24.2-614. The voting system shall (for presidential election ballots) provide ballot generation capabilities that support the following ballot requirement:

The ballot shall contain the name of each political party and the party group name, if any, specified by the persons naming electors by petition pursuant to § 24.2-543. Below the party name in parentheses, the ballot shall contain the words "Electors for, President and, Vice President" with the blanks filled in with the names of the candidates for President and Vice President for whom the

candidates for electors are expected to vote in the Electoral College.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

29. § 24.2-640. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

The names of the various candidates shall be printed in type not less than fourteen point.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement.

30. § 24.2-615. The voting system shall provide ballot generation capabilities that support the following ballot requirement:

Ballots generated by the voting systems shall be uniform throughout the election district in which the same candidates are running to fill the same offices and throughout the district in which a question is submitted to the voters.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

arranged, printed, delivered, and provided in the same manner as the general election ballots except that at the top of each official primary ballot shall be printed in plain black type the name of the political party and the words "Primary Election." The names of the candidates for various offices shall appear on the ballot in an order determined by the priority of the time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board or the State Board as in the case of a tie vote for the office. No write-in shall be permitted on ballots in primary elections.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the Democracy Suite 4.14 system provide election officials the ability to comply with this Virginia ballot design requirement for primary elections.

34. § 24.2-623. The voting system shall have a lock and key and an opening of sufficient size to admit a single folded or unfolded ballot and no more.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Physical inspection of the ballot containers confirm this attribute.
- ✓ The container has separate compartments for ballot segregation.

The ballot insertion path provided on the ICE and ICP precinct tabulators were confirmed to have an opening of sufficient size to admit a single unfolded ballot and no more. Both scanners detected and rejected attempts to cast more than one ballot at a time. The ballot boxes provided with these tabulators were confirmed to have a lock and key protection for the ballot box and there was no other ballot entry path to the counted-ballots bin of the ballot box other than through the tabulator itself.

35. § 24.2-653. The voting system shall (for ballot containers paired with voting

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- ✓ Straight party voting can be disabled in the election configuration.
- ✓ When disabled, the voter is unable to cast a vote for more than one candidate at a time (with the exception of presidential electors).
- ✓ Tabulation logic records only one vote per voter mark

The Democracy Suite 4.14 has an option in the election setup to disable straight party voting. When disabled, straight party voting is not supported by any component of the voting system and the voting system complies with this requirement.

38. § 24.2-626. The voting system shall provide accessible voting capability if the voting system submitted is a Direct Recording Electronic (DRE). Otherwise, DREs are not permitted for use in Virginia.

Passed: Not Applicable **Anomalies Reported:** None

The Democracy Suite 4.14 system does not include a Direct Recording Electronic (DRE) device.

39. § 24.2-626.1. The voting system shall include provisions which allow individuals with disabilities at each polling place, including non-visual accessibility for the blind and visually impaired, to vote in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

Passed: Yes **Anomalies Reported:** None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Provides correct non-visual presentation of ballot to voter
- ✓ Provides mechanism for non-visual marking of the ballot
- ✓ Preserves the integrity of the ballot
- ✓ Correctly transcribes the voter's intent onto the ballot
- ✓ Ballots are correctly read by each precinct-count tabulator
- ✓ Various contrast ratios for visually impaired voters
- ✓ Various font sizes for visually impaired voters

Results reports provided by ballot tabulators and the Democracy Suite 4.14 EMS provide the tabulation results with the numbers of write-ins and votes recorded for each office and question on the ballot.

42. § 24.2-658. The voting system shall provide (from each device) two copies printed return sheet containing the results of the election.

Passed: Yes

Anomalies Reported: None

The Democracy Suite 4.14 met the following condition(s) of satisfactions:

- ✓ Each devices provides two copies of its tabulated results

Each Democracy Suite 4.14 system device demonstrated the capability to print at least two copies of the results report. Furthermore, each device demonstrated the capability to print long (all precincts) and short (totals only) results reports.

5.2 Democracy Suite 4.14 Anomaly Findings

Originally, Dominion Voting submitted an additional COTS central count scanner, Cannon DR-G1130. Some issues arose with a COTS driver and communicating the halt for write-in exception. Since this is a COTS driver issue Dominion Voting will have to work with the COTS manufacturer to get this issue corrected. Dominion withdrew the Cannon DR-G1130 for Certification for use in Virginia until a later date.

Dominion also submitted infrared security paper, but an issue arose with a sensor in the ICE unit. Dominion Voting has withdrawn this option from consideration at the time.

6 Notes for Operation

The Democracy Suite 4.14 is highly configurable. The default .mbs and .dcf files provided from the Federal test campaign cannot be used without alteration to meet the requirements of Virginia. Any EMS system used in Virginia will require the use of the configuration files used during the test engagement.

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Dominion Voting Democracy Suite 4.14

Version 1.0

7 Conclusions

The Democracy Suite 4.14, presented for examination, meets the requirements of Virginia Election Laws §24.2. As the evaluation agent, I recommend the Democracy Suite 4.14 be certified for use in the Commonwealth of Virginia.



United States Election Assistance Commission



Certificate of Conformance

**Dominion Voting Democracy
Suite 4.14**

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: Democracy Suite

Model or Version: 4.14

Name of VSTL: Wyle Laboratories

EAC Certification Number: DemSuite-4-14

Date Issued: July 18, 2013

*Chief Operating Officer & Acting Executive Director
U.S. Election Assistance Commission*

Scope of Certification Attached

Manufacturer: *Dominion Voting*
System Name: *Democracy Suite 4.14*
Certificate: *DemSuite-4-14*

Laboratory: *Wyle Laboratories*
Standard: *VVSG 1.0 (2005)*
Date: *July 16, 2013*



Scope of Certification

This document describes the scope of the validation and certification of the system defined above. Any use, configuration changes, revision changes, additions or subtractions from the described system are not included in this evaluation.

Significance of EAC Certification

An EAC certification is an official recognition that a voting system (in a specific configuration or configurations) has been tested to and has met an identified set of Federal voting system standards. An EAC certification is **not**:

- An endorsement of a Manufacturer, voting system, or any of the system's components.
- A Federal warranty of the voting system or any of its components.
- A determination that a voting system, when fielded, will be operated in a manner that meets all HAVA requirements.
- A substitute for State or local certification and testing.
- A determination that the system is ready for use in an election.
- A determination that any particular component of a certified system is itself certified for use outside the certified configuration.

Representation of EAC Certification

Manufacturers may not represent or imply that a voting system is certified unless it has received a Certificate of Conformance for that system. Statements regarding EAC certification in brochures, on Web sites, on displays, and in advertising/sales literature must be made solely in reference to specific systems. Any action by a Manufacturer to suggest EAC endorsement of its product or organization is strictly prohibited and may result in a Manufacturer's suspension or other action pursuant to Federal civil and criminal law.

System Overview:

The Dominion Democracy Suite 4.14 Voting System is a modification to the certified Democracy Suite 4.0 Voting System. The full Dominion Democracy Suite 4.0 Voting System description can be found in the EAC Certificate of Conformance, dated May 10, 2012. The Dominion Democracy Suite 4.14 Voting System includes modifications to all components listed below. The Dominion Voting Systems Democracy Suite Version 4.14 Voting System is a paper-ballot based, optical scan voting system. The Democracy Suite Version 4.14 Voting System hardware consists of four major components:

1. The Election Management System (EMS)
2. ImageCast Evolution (ICE) precinct scanner with optional ballot marking capabilities

3. ImageCast Precinct (ICP) precinct scanner
4. ImageCast Central (ICC) central count scanner

The Dominion Voting System Technical Data Package was the source for much of the summary information that follows in this section.

Election Management System

The Dominion Voting Systems Democracy Suite 4.14 EMS consists of eight components running as either a front-end/client application or as a back-end/server application. Below is a list and brief description of each.

- Democracy Suite 4.14 EMS Election Event Designer client application - integrates election definition functionality and represents a main pre-voting phase end-user application.
- Democracy Suite 4.14 EMS Results Tally and Reporting client application – integrates election results acquisition, validation, tabulation, reporting and publishing capabilities and represents a main post-voting phase end-user application.
- Democracy Suite 4.14 EMS Audio Studio client application - represents an end-user helper application used to record audio files for a given election project. As such, it is utilized during the pre-voting phase of the election cycle.
- Democracy Suite 4.14 EMS Data Center Manager client application - represents a system level configuration application used in EMS back-end data center configuration.
- Democracy Suite 4.14 EMS Application Server application - represents a server side application responsible for executing long running processes, such as rendering ballots, generating audio files and election files.
- Democracy Suite 4.14 EMS Network Attached Storage (NAS) Server application – represents a server side file repository for election project file based artifacts, such as ballots, audio files, reports, log files, and election files.
- Democracy Suite 4.14 EMS Database Server application - represents a server side RDBMS repository of the election project database which holds all the election project data, such as districts, precincts, candidates, contests, ballot layouts, tabulators, vote totals, and poll status.
- Democracy Suite 4.14 EMS Election Data Translator (EDT) – Exports and Imports data in a format suitable for rapid interaction with Election Event Designer (EED)

The EMS platform was tested in two deployable physical hardware configurations:

EMS Express hardware configuration - all EMS software components were installed on a single physical PC or laptop. This is a stand-alone configuration.

EMS Standard hardware configuration - the EMS server components were installed on a single physical server, in addition to the Local Area Network (LAN) switch devices, while the EMS client components were installed on one or more physical PCs or laptops.

All system components were interconnected in a client-server local LAN environment.

- ImageCast Evolution (ICE) precinct scanner with optional ballot marking capabilities. The Dominion Democracy Suite ImageCast Evolution system employs a precinct-level optical

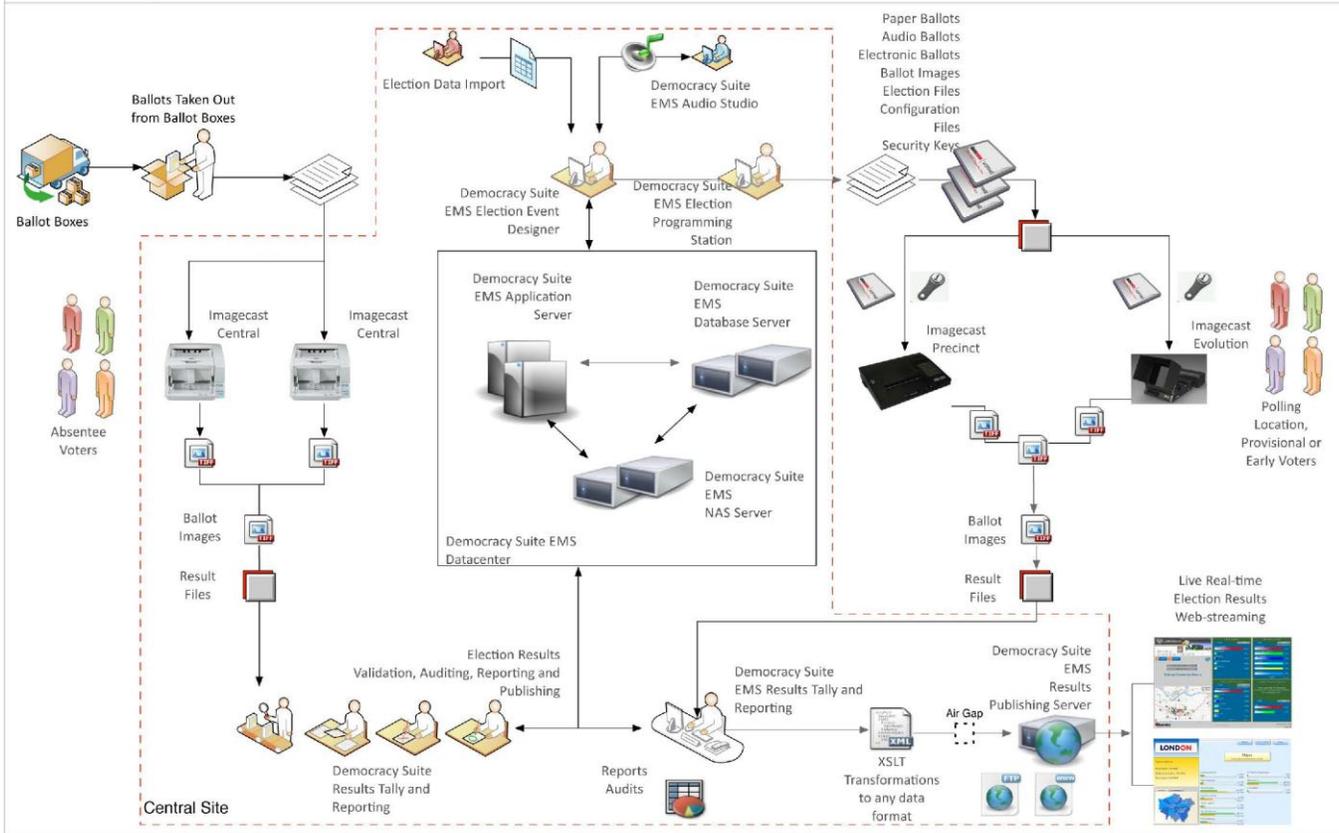
scan ballot counter (tabulator) in conjunction with an external ballot box. This tabulator is designed to mark and/or scan paper ballots, interpret voting marks, communicate these interpretations back to the voter (either visually through the integrated LCD display or audibly via integrated headphones), and upon the voter's acceptance, deposit the ballots into the secure ballot box. The unit also features an Audio Tactile Interface (ATI) which permits voters who cannot negotiate a paper ballot to generate a synchronously human and machine-readable ballot from elector-input vote selections. The ATI can also accept input from sip and puff and other personal assistive technologies. In this sense, the ImageCast Evolution acts as a ballot marking device.

- ImageCast Precinct (ICP) precinct scanner. The ImageCast Precinct Ballot Counter is a precinct-based optical scan ballot tabulator that is used in conjunction with ImageCast compatible external ballot boxes. The system is designed to scan marked paper ballots, interpret voter marks on the paper ballot and safely store and tabulate each vote from each paper ballot. In addition, the ImageCast Precinct supports enhanced accessibility voting which may be accomplished via an Audio Tactile Interface (ATI) connected to the ImageCast unit. The ATI can also accept input from sip and puff and other personal assistive technologies.
- ImageCast Central (ICC) central count scanner. The Dominion Democracy Suite ICC Ballot Counter system is a high-speed, central ballot scan tabulator based on Commercial off the Shelf (COTS) hardware, coupled with the custom-made ballot processing application software. It is used for high speed scanning and counting of paper ballots. Central scanning system hardware consists of a combination of two COTS devices used together to provide the required ballot scanning processing functionality:
 - Canon DR-X10C Scanner: used to provide ballot scanning and image transfers to the local ImageCast Central Workstation.
 - ImageCast Central Workstation: a COTS computer used for ballot image and election rules processing and results transfer to the EMS Datacenter. The ImageCast Central Workstation is COTS hardware which executes software for both image processing and election rules application.

Mark definition: 50% or more of the target area marked consistently provides mark recognition. The manufacturer recommends black ink for marking ballot selections.

Tested Marking Devices: Sharpie brand markers, black ink

Language capability: This voting system supports: Alaska Native, Aleut, Athabascan, Chinese, English, Eskimo, Filipino, French, Japanese, Korean, Spanish, and Vietnamese. Additionally, the following Native American languages are supported: Apache, Jicarilla, Keres, Navajo, Seminole, Towa, Ute, and Yuman.



Components Included:

This section provides information describing the components and revision level of the primary components included in this Certification.

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
ImageCast Precinct	4.14.5	320A	uClinux	
ImageCast Precinct	4.14.5	320C	uClinux	
ImageCast Evolution	4.14.10	410A	Ubuntu linux	
ImageCast Central	4.14.4	Canon DR-X10C	COTS	Windows 7
Democracy Suite election management system	4.14.23	N/A (application software)	Windows Server 2008 R2	

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Server Hardware		Dell PowerEdge R610 or T610	Windows Server 2008 R2	Processor: Intel Xeon E5-2620 2.4 GHz, Memory: 8x 4GB 1333MHz DDR3, Hard Drive Capacity: 2x 500GB
Server Hardware		Dell PowerEdge R620 or T620	Windows Server 2008 R2	Processor: Intel Xeon E5-2620 2.0 GHz, Memory: 2x 4GB 1333MHz DDR3, Hard Drive Capacity: 2x 500GB
Server Hardware		Dell PowerEdge R720 or T720	Windows Server 2008 R2	Processor: Intel Xeon E5-2620 2.0 GHz, Memory: 2x 4GB 1333MHz DDR3, Hard Drive Capacity: 2x 500GB
Client Hardware		Dell Precision T1500	Windows 7 Professional	Processor: Intel Core i7-860 2.8 GHz, Memory: 4x 1GB 1333MHz DDR3, Hard Drive Capacity: 500 GB
Client Hardware		DELL Inspiron 2305	Windows 7 Professional x64	Processor: AMD Athlon II X2 240e 2.8 GHz, Memory: 8GB Dual Channel 1333MHz DDR3, Hard Drive Capacity: 1 TB
Client Hardware		DELL Latitude e6530	Windows 7 Professional x64	Processor: Intel Core i5-3210M 2.5 GHz, Memory: 8GB 16000MHz DDR3, Hard Drive Capacity: 500GB
ICC Workstation Hardware		DELL Optiplex 9010 All in One	Windows 7 Professional x64	Processor: Intel Core i7-3770 3.9 GHz, Memory: 8GB 16000MHz DDR3, Hard Drive Capacity: 500GB
ICC Workstation Hardware		DELL Optiplex 9010 All in One	Windows 7 Professional x64	Processor: Intel Core i7-3220 3.39 GHz, Memory: 4x 1GB 1333MHz DDR3, Hard Drive Capacity: 500GB
NAS disk array		Rocstor Guardian 4RM	COTS	4TB or 8TB size
Additional data storage		Rocstor Commander 2UE	COTS	500GB or 1TB

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
		or Hawker HX		
iButton (SHA-1) with USB Reader/Writer		USB R/W: DS9490R# with DS1402-RP8+ iButton: DS1963S	COTS	MAXIM/Dallas Semiconductor
LCD monitor		DELL 1909W or DELL N445N or DELL 2007PF or DELL E1713S	COTS	
Audio Adapter		Soundwave 7.1 USB Audio Adapter	COTS	
PCI Software	Soundwave 7.1		COTS	
USB software	Soundwave 7.1 USB		COTS	For audio adapter
Network switch		5-Port Switch: D-Link DES-1105 or D-Link DGS-105 8-Port Switch: D-Link DGS-2208 or D-Link DGS-108	COTS	Also can use DGS-108 if 8-port needed
Mouse		Dell or Microsoft	COTS	With rollerball
Keyboard		Kensington, Microsoft, or IBM	COTS	USB enabled
Compact Flash Reader/Writer		SanDisk or GGI Gear	COTS	
Accessible Tactile Interface (ATI)		1.1.0		
Headphones		Sony, Cyber Acoustics, or Radio Shack	COTS	Sony MDR-G45LP; Cyber Acoustics ACM-70; Radio Shack 33-276-01
eSATA PCI card		SIIG, Inc	COTS	eSATA II PCIe Pro Card
Sip and Puff		Origin Instruments or Enabling Devices	COTS	Origin Instruments AirVoter or Enabling Devices #972
Disposable Sip and Puff Mouthpieces		Origin Instruments or Enabling Devices	COTS	Origin Instruments AC-310 or Enabling Devices #970K
Footswitch Pair		Enabling Devices	COTS	#971
Compact Flash cards		SanDisk	COTS	SanDisk SDCFAA or SDCFAB
Machine Tape rolls			COTS	Available from Dominion Voting
Tamper Evident Seals			COTS	Available from Dominion Voting
Ballot Privacy Sleeves		Various lengths to fit the ballot		Available from Dominion Voting
Machine cleaning kit		For ImageCast Precinct, Evolution, and Central		Available from Dominion Voting

System Limitations

This table depicts the limits the system has been tested and certified to meet.

Characteristic	Limiting Component	Limit	Comment
Ballot positions	The ballot	462	Standard Configuration
Precincts in an election	EMS	1000	Standard Configuration
Contests in an election	EMS	4000	Standard Configuration
Candidates/Counters in an election	EMS	40000	Standard Configuration
Candidates/Counters in a precinct	Tabulator	462	Standard Configuration
Candidates/Counters in a tabulator	Tabulator	10000	Standard Configuration
Ballot Styles in an election	Tabulator	4000	Standard Configuration
Contests in a ballot style	Tabulator	156	Standard Configuration
Candidates in a contest	EMS	462	Standard Configuration
Ballot styles in a precinct	Tabulator	5	Standard Configuration
Number of political parties	Tabulator	30	Standard Configuration
“vote for” in a contest	Tabulator	30	Standard Configuration
Supported languages in an election	Tabulator	5	Standard Configuration
Number of write-ins	The ballot	462	Standard Configuration
Ballot positions	The ballot	462	Express Configuration
Precincts in an election	EMS	250	Express Configuration
Contests in an election	EMS	250	Express Configuration
Candidates/Counters in an election	EMS	2500	Express Configuration
Candidates/Counters in a precinct	Tabulator	462	Express Configuration
Candidates/Counters in a tabulator	EMS	2500	Express Configuration
Ballot Styles in an election	EMS	750	Express Configuration
Contests in a ballot style	Tabulator	156	Express Configuration
Candidates in a contest	EMS	231	Express Configuration
Ballot styles in a precinct	Tabulator	5	Express Configuration
Number of political parties	Tabulator	30	Express Configuration
“vote for” in a contest	Tabulator	30	Express Configuration
Supported languages in an election	Tabulator	5	Express Configuration
Number of write-ins	The ballot	462	Express Configuration

Functionality

2005 VVSG Supported Functionality Declaration

Feature/Characteristic	Yes/No	Comment
Voter Verified Paper Audit Trails		
VVPAT	N/A	
Accessibility		
Forward Approach	YES	
Parallel (Side) Approach	YES	
Closed Primary		
Primary: Closed	YES	
Open Primary		
Primary: Open Standard (provide definition of how supported)	NO	

Feature/Characteristic	Yes/No	Comment
Primary: Open Blanket (provide definition of how supported)	NO	
Partisan & Non-Partisan:		
Partisan & Non-Partisan: Vote for 1 of N race	YES	
Partisan & Non-Partisan: Multi-member (“vote for N of M”) board races	YES	
Partisan & Non-Partisan: “vote for 1” race with a single candidate and write-in voting	YES	
Partisan & Non-Partisan “vote for 1” race with no declared candidates and write-in voting	YES	
Write-In Voting:		
Write-in Voting: System default is a voting position identified for write-ins.	YES	
Write-in Voting: Without selecting a write in position.	NO	
Write-in: With No Declared Candidates	YES	
Write-in: Identification of write-ins for resolution at central count	YES	
Primary Presidential Delegation Nominations & Slates:		
Primary Presidential Delegation Nominations: Displayed delegate slates for each presidential party	YES	
Slate & Group Voting: one selection votes the slate.	YES	
Ballot Rotation:		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and vote tabulation/reporting	YES	Equal time rotation only in this version
Straight Party Voting:		
Straight Party: A single selection for partisan races in a general election	YES	
Straight Party: Vote for each candidate individually	YES	
Straight Party: Modify straight party selections with crossover votes	YES	
Straight Party: A race without a candidate for one party	YES	
Straight Party: “N of M race (where “N”>1)	YES	
Straight Party: Excludes a partisan contest from the straight party selection	YES	
Cross-Party Endorsement:		
Cross party endorsements, multiple parties endorse one candidate.	YES	
Split Precincts:		
Split Precincts: Multiple ballot styles	YES	
Split Precincts: P & M system support splits with correct contests and ballot identification of each split	YES	
Split Precincts: DRE matches voter to all applicable races.	N/A	
Split Precincts: Reporting of voter counts (# of voters) to the precinct split level; Reporting of vote totals is to the precinct level	YES	
Vote N of M:		
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	YES	
Vote for N of M: Invalidates all candidates in an overvote (paper)	YES	
Recall Issues, with options:		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	YES	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	NO	

Feature/Characteristic	Yes/No	Comment
Recall Issues with Options: Two contests with access to a second contest conditional upon a specific vote in contest one. (Must vote Yes to vote in 2 nd contest.)	NO	
Recall Issues with Options: Two contests with access to a second contest conditional upon any vote in contest one. (Must vote Yes to vote in 2 nd contest.)	NO	
Cumulative Voting		
Cumulative Voting: Voters are permitted to cast, as many votes as there are seats to be filled for one or more candidates. Voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidate.	NO	
Ranked Order Voting		
Ranked Order Voting: Voters can write in a ranked vote.	NO	
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	NO	
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	NO	
Ranked Order Voting: Voters rank candidates in a contest in order of choice. A candidate receiving a majority of the first choice votes wins. If no candidate receives a majority of first choice votes, the last place candidate is deleted, each ballot cast for the deleted candidate counts for the second choice candidate listed on the ballot. The process of eliminating the last place candidate and recounting the ballots continues until one candidate receives a majority of the vote	NO	
Ranked Order Voting: A ballot with two choices ranked the same, stops being counted at the point of two similarly ranked choices.	NO	
Ranked Order Voting: The total number of votes for two or more candidates with the least votes is less than the votes of the candidate with the next highest number of votes, the candidates with the least votes are eliminated simultaneously and their votes transferred to the next-ranked continuing candidate.	NO	
Provisional or Challenged Ballots		
Provisional/Challenged Ballots: A voted provisional ballots is identified but not included in the tabulation, but can be added in the central count.	YES	
Provisional/Challenged Ballots: A voted provisional ballots is included in the tabulation, but is identified and can be subtracted in the central count	NO	
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	YES	
Overvotes (must support for specific type of voting system)		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	YES	Overvotes cause a warning to the voter and can be configured to allow voter to override.
Overvotes: DRE: Prevented from or requires correction of overvoting.	N/A	

Feature/Characteristic	Yes/No	Comment
Overvotes: If a system does not prevent overvotes, it must count them. Define how overvotes are counted.	YES	If allowed via voter override, overvotes are tallied separately.
Overvotes: DRE systems that provide a method to data enter absentee votes must account for overvotes.	N/A	
Undervotes		
Undervotes: System counts undervotes cast for accounting purposes	YES	
Blank Ballots		
Totally Blank Ballots: Any blank ballot alert is tested.	YES	Precinct voters receive a warning; both precinct and central scanners will warn on blank ballots.
Totally Blank Ballots: If blank ballots are not immediately processed, there must be a provision to recognize and accept them	YES	Blank ballots are flagged. These ballots can be manually examined and then be scanned and accepted as blank; or precinct voter can override and accept.
Totally Blank Ballots: If operators can access a blank ballot, there must be a provision for resolution.	YES	Operators can examine a blank ballot, re-mark if needed and allowed, and then re-scan it.
Networking		
Wide Area Network – Use of Modems	NO	
Wide Area Network – Use of Wireless	NO	
Local Area Network – Use of TCP/IP	YES	Client/server only
Local Area Network – Use of Infrared	NO	
Local Area Network – Use of Wireless	NO	
FIPS 140-2 validated cryptographic module	YES	
Used as (if applicable):		
Precinct counting device	YES	ImageCast Precinct and Evolution
Central counting device	YES	ImageCast Central



CAROLINE COUNTY
ELECTORAL BOARD AND REGISTRAR'S OFFICE
212 North Main Street
Bowling Green, VA. 22427
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P.O. Box 304
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FAX: 804-633-0362

Gary Fox
STATE BOARD OF ELECTIONS
1100 Bank
Richmond, VA 23219

06/20/13

Dear Gary,

June 11, 2013 Caroline County participated in the election portion of the certification of the Dominion Voting ICP optical scan machines. Two voting precincts were a part of the certification process, Chilesburg and Lake Precincts. Paul from Dominion Voting conducted the training for the Officers of Election on Saturday, June 8, 2013. Questions were asked and a time of hands on practice took place. The Officers of Election were comfortable with the machine and looked forward to Election Day.

Paul and Christine from Dominion Voting supervised the use of the ICP on Election Day. The Officers of Election thought the set up and take down of the system was easy. The ICP ADA portion of the machine was used and no problems were encountered. Voters were asked and commented on the ease of using the paper ballot.

We appreciate all the time and patience Christine and Paul gave to our Officers of Election. Caroline County has used touch screen voting machines previously. This was our first election using the optical scan in a voting location other than the Central Absentee Precinct (CAP).

Sincerely,

Kathi Self
Caroline County Electoral Board
Chairman

From: Lisa Betterton [lisa.betterton@isleofwightus.net]
Sent: Wednesday, July 10, 2013 9:34 AM
To: Fox, Gary (SBE)
Subject: Voting machine certification

Hi Gary,

This e-mail is to verify that Isle of Wight county certified two Dominion Voting machines at the June 11, 2013 Democratic Primary.

The following machines were certified:

ICE - votes cast **28**

ICP - votes cast **56**

The machines worked very well and there were no issues.

--

Lisa E. Betterton, General Registrar

Voter Registration & Elections Management

17106 Monument Circle or P.O. Box 77

Isle of Wight County, VA 23397

lbetterton@isleofwightus.net

Office: 757-365-6230

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When a Ballot is Cast Regulation

BOARD WORKING PAPERS
Presented by Myron McClees
SBE Policy Analyst



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STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Myron McClees, SBE Policy Analyst
Date: August 13, 2013
Subject: Proposed changes to regulation determining when a ballot is cast

Suggested Motion for a Board Member to Make:

I move that the Board adopt the proposed amendments to regulation 1VAC 20-60-40, When Ballot Cast, to implement recently enacted legislation, SB1027.

Applicable Code and Regulation Sections:

Va. Code Ann. § 24.2-663; 1VAC20-60-40

Background:

Senate Bill 1027 was passed by the General Assembly and subsequently signed into law by the Governor. It includes a provision that allows an officer of election to cause a machine to accept an optical scan ballot that was rejected due to an undervote or overvote. The action allowed within this legislation is directly counter to a regulation currently enforced within the Commonwealth, 1VAC20-60-40.

The regulation currently states that a ballot is cast when a voter has preserved a permanent record of their selections by inserting an optical scan ballot into an electronic counter. When an optical scanner rejects a ballot due to an undervote or overvote, no permanent record of that voter's selections is created and thus the ballot was not "cast." Therefore, if a voter inserts a ballot into an optical scanner and leaves, if the machine returns the ballot due to an undervote or overvote it cannot be reinserted by an officer of election unless the voter specifically directs such action. However, because the newly-created statute specifically anticipates this occurrence and contains a provision allowing the officer of election to cast the ballot for the voter, the regulation needs an exception to be in full conformance with the Code of Virginia.

This draft regulation was brought to the Board in the previous meeting and the Board declined to act on adopting the regulation due to questions whether its applicability to only include overvotes was too limited. SBE staff reviewed the Code section (§ 24.2-663) amended by the recent legislation and determined that the regulation should also be amended to include undervotes.

During the previous Board meeting additional scenarios were mentioned for why a ballot may be rejected by the optical scanner and the suggestion was to consider including those in the amended regulation. However, the Code language does not appear to permit the officer of election to cast the ballot for the voter in other scenarios than the overvote and undervote except for an antiquated provision related to the title of the offices being erased from the ballot. SBE staff is told that is not a realistic possibility with modern voting equipment and ballot production and therefore SBE staff does not recommend including language in the regulation addressing that issue.

In sum, the changes being currently brought before the board provide an exception to the general rule that a ballot may only be cast by a voter or an officer of election who has been specifically directed to do so by the voter.

1VAC20-60-40. When ballot cast.

A. A voter, voting in person on election day or voting absentee in-person, has not voted until a permanent record of the voter's intent is preserved.

B. A permanent record is preserved by a voter pressing the vote or cast button on a direct recording electronic machine, inserting an optical scan ballot into an electronic counter, or placing a paper ballot in an official ballot container.

C. A vote has not been cast by the voter unless and until the voter or an officer of election or assistant at the direction of and on behalf of the voter pursuant to § [24.2-649](#) of the Code of Virginia completes these actions to preserve a permanent record of the vote.

D. If any voter's ballot was not so cast by or at the direction of the voter, then the ballot cannot be cast by any officer of election or other person present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an undervote or overvote, the officer of election may cast the ballot for the absent voter.

E. An absentee voter who votes other than in person shall be deemed to have cast his ballot at the moment he personally delivers the ballot to the general registrar or electoral board or relinquishes control over the ballot to the United States Postal Service or other authorized carrier for returning the ballot as required by law.

Statutory Authority

§§ [24.2-103](#) and [24.2-663](#) of the Code of Virginia.

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 469

An Act to amend and reenact § 24.2-663 of the Code of Virginia, relating to when ballot void; handling overvoted ballots.

[S 1027]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-663 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-663. When ballot void.

If a *paper ballot or a ballot that is inserted into an electronic counting device* is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further, *and the ballot shall be counted for the other offices on the ballot. In the case of an electronic counting device, an election official is authorized to cause the counting device to receive the ballot and count it in accordance with this section.* No ballot shall be void for having been voted for fewer names than authorized.

If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such ballot has already been cast, any additional ballots received from such person shall be void and not counted.

Comments on Amended Regulation of When a Ballot is Cast (received by 6/19/2013)

Commenter	Comments	Recommended Changes
<p>Jenny Lee Sanders, Pittsylvania County Registrar</p>	<p>part D of regulation last sentence</p> <p>when we have trained Officers of Election that they can not complete ballot for voter who has left DRE machine and then when using Optical Scan they can cast if ballot rejected because of overvote does not make any sense. I will be using Optical Scan machines in November and have used in Primary for 6/11 I am very concerned about this type of statement. Why not have voter cast ballot and if rejected because of overvote give the voter the opportunity to have that ballot voided and then THEY not OE cast it?.</p>	<p>No changes recommended based on this comment. The commenter takes issue with the legislatively-approved statute necessitating the regulation change.</p>
<p>William R. Jenkins GR of Sussex County</p>	<p>1 VAC 20 - 60 part D regulation on when a ballot is cast</p> <p>D. If any voter's ballot was not so cast by or at the direction of the voter, then the ballot cannot be cast by any officer of election or other person present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an overvote, the officer of election may cast the ballot for the absent voter.</p> <p>therefore---</p> <p>If a voter walks away (without casting the vote) on a DRE machine the ballot is not cast. (because you can not prove the "officer" did not change the vote)</p> <p>What keeps an officer from making another mark on the paper ballot?</p> <p>In other words it can't be proven the vote was not changed.</p> <p>It does look like the 2 vote problems (DRE vs Optical Scan) are treated differently.</p> <p>Both deal with a ballot cast without knowledge of said voter.</p> <p>Has the procedure for the " DRE voter who walks away without casting a vote"</p> <p>changed ??</p>	<p>No changes recommended based on the comment. The commenter takes issue with the legislatively-approved statute necessitating the regulation change.</p>

<p>Dr. Keith Damon, Republican Party of Virginia State Central Committee</p>	<p>Section E - when an AB is cast if voting not in-person</p> <p>Section E is critically needed to clarify when an AB is considered to have been cast if the AB vote is not made in-person. Section E as written states that the AB is cast once the voter relinquishes control over the ballot. To further clarify its impact, I would suggest that the following sentence be added at the end of Section E: "Since the ballot has been deemed to have been cast as specified, the voter has exercised his right to vote. Any subsequent decision to accept or reject the ballot made by the Election Officers at the Central Absentee Precinct is therefore irrelevant to the voter's right to vote."</p> <p>This will prevent a situation that has occurred in Fairfax County where an AB is rejected during the CAP processing and the voter, having been notified by a partisan observer at the CAP of this rejection, attempts to vote (either a regular or provisional ballot) at his polling place during Election Day. Under this proposed regulation, such an attempt would be considered as attempting to vote twice and therefore cannot be allowed.</p>	<p>No changes recommended based on the comment. Wording appearing on absentee envelopes already warns voters that they may not cast another ballot in-person, and that doing so may subject them to criminal penalties. The Statement of Voter on these envelopes reads in part "that I have not voted and will not vote in this election at any other time or place."</p>
<p>Al Ablowich, Virginia Beach Electoral Board</p>	<p>Overvote Ballot</p> <p>Approval of this change would appear to enable a voter to vote for two candidates for the same office. In one scenario suggested, the voter votes for two candidates, inserts the ballot into the optical scanner (OS), and then leaves. The OS then rejects the ballot because of the overvote. An officer of election then notices the rejected ballot. He MAY override the overvote and have the ballot cast counted for both candidates.</p> <p>My preference would be for the officer of election not cast the overvote ballot, but to place it aside, and return it on Election Night to the General Registrar. The Electoral Board would then deal with the overvote ballot during the canvass process as prescribed in the Code 24.2-663.</p>	<p>No changes recommended based on the comment. The wording of the statute necessitating this regulation specifically disallows any votes for the overvoted office to be counted. All other races may be counted. In addition, optical scanners cannot accept more votes for one office on a ballot than that for which they are specifically programmed.</p>
<p>Penny Limburg, Bristol City General Registrar</p>	<p>1VAC20-60 Part D When a vote is cast.</p>	<p>No recommendation based on the fact the comment seems to be incomplete.</p>
<p>W.T. Latham</p>	<p>Issues regarding 1 VAC 20-50-20</p> <p>[1] There is a section on material omissions on petitions (20-50-20(A)) and a</p>	

	<p>section on material omissions on petition signatures (20-50-20(C)). However, paragraph (D) combines nonmaterial omissions on petitions <i>and</i> petition signatures. Should these be in separate paragraphs to mirror paragraphs (A) and (C)? As it is written now, the nonmaterial omissions for petitions and petition signatures are grouped together.</p> <p>[2] What if ditto marks, e.g., " ", are used instead of writing out the information? In particular, this occurs frequently in the address block, so what effect would ditto marks have on paragraph (C)(4)?</p> <p>[3] Re: paragraph (D)(6) (and possibly other parts of the proposed rule), what if the person placing his/her name on the petition only writes his/her name in what would appear to be print, and not cursive? And what if it's on only one of the lines (especially the printed name line)? If it is an issue for the State Board of Elections, I am concerned about how to implement that because a "signature" is in the eye of the beholder, or signer, and one person's printing is someone else's cursive. The importance of resolving this issue is especially demonstrated by the fact that a party complaint in last year's election discussed whether petition signatures were truly "signatures," and I believe case law from other states was cited that a signature had to be in cursive. What is the standard in Virginia? This may need to be established.</p> <p>[4] I suggest rewording the requirements in paragraph (E) as material omissions and placing them in paragraph (C). This would make the material omissions more straightforward and gather them together in one section.</p> <p>[5] I am profoundly and deeply concerned about requiring voters to put their street type (as required in paragraph (E)(3) on the petition. This is unnecessary if we have the voter's name, house number, and street name. The street type is not necessary to qualify a voter as having properly signed the petition. Having this requirement is an overly burdensome and unnecessary requirement, and it will lead to disputes that needn't exist in the first place.</p>	
	<p>Issues regarding 1 VAC 20-60-20</p> <p>Concerns with 1 VAC 20-60-20, as amended, are as follows:</p> <p>[1] In paragraph (B)(4), have the courts resolved the issue of being a legal resident of Virginia in order to circulate petitions? I thought that they had decided that is not a constitutional requirement. Perhaps this is still up for appellate review.</p> <p>[2] I have the same concerns about the voter printing his/her name as I discussed in the comments for proposed 1 VAC 20-50-20. I renew those same concerns</p>	

	<p>with regard to 20-60-20, in particular, but not limited to, proposed paragraph (D)(4).</p> <p>[3] With regard to paragraph (E), I have the same concern as I raised for proposed 20-50-20(E), namely that it should be reworked and placed with the other material omissions.</p>	
<p>Therese Martin, League of Women Voters</p>	<p>I know that it should be understood and that the SBE will issue a policy with regard to implementing this procedure, but I do not feel very comfortable about the open-endedness of the statement. Won't somebody ask something like: "how does the election officer decide who the voter really wants to vote for?"</p> <p>It seems to me that the sentence should continue on to say something like: ", after first adjusting the scanner to accept the votes for all candidates or questions, including those for which there are undervotes, while excluding those for which there are overvotes." Wordy, but you get the picture.</p> <p>Also obviously, this will have to be taken into account when selecting new optical scan systems.</p>	



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Other Business & Public Comment

BOARD WORKING PAPERS



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Executive Session

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Good of the Order

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Adjournment

BOARD WORKING PAPERS