



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Monday, December 2, 2013
General Assembly Building
Room C
10:00 AM

BOARD WORKING PAPERS



**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: December 2, 2013
LOCATION: General Assembly Building, Room C
TIME: 10:00 a.m.*

- I. CALL TO ORDER** *Charles E. Judd
Chair*
- II. APPROVAL OF MINUTES** *SBE Board Members*
November 5, 2013 & November 13, 2013
- III. SECRETARY'S REPORT** *Donald Palmer
Secretary*
- IV. REPORT FROM LEGAL COUNSEL** *Joshua Lief
SBE Legal Counsel*
- V. NEW BUSINESS**
- A. Periodic Review of Regulations (Request for Final Approval)**
1. Public Participation Guidelines – Chapter 10 *Justin Riemer
Deputy Secretary*
2. Candidate Qualification – Chapter 50 *Myron McClees
SBE Policy Analyst*
- B. Periodic Review of Regulations (Request to post for Public Comment)**
1. Election Administration – Chapter 60 *Myron McClees*
2. Absentee Voting – Chapter 70 *Martha Brissette
SBE Policy Analyst*
3. Voter Registration – Chapter 40 *Martha Brissette*
4. Absent Military & Overseas Voters – Chapter 40.1 *Martha Brissette*
- C. Voter ID Implementation Plan - Discussion** *Susan Lee
Election Uniformity Manager
& Nikki Sheridan
Policy Advisor*
- VI. OTHER BUSINESS & PUBLIC COMMENT**
- VII. GOOD OF THE ORDER**
- ADJOURNMENT**



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Call to Order

BOARD WORKING PAPERS



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STATE BOARD *of* ELECTIONS

Approval of Minutes November 5, 2013 & November 13, 2013

BOARD WORKING PAPERS



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STATE BOARD *of* ELECTIONS

Approval of Minutes November 5, 2013

BOARD WORKING PAPERS

MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, November 5,
4 2013. The meeting was held in the Washington Building, Room B27, 1100 Bank Street,
5 Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Joshua
7 Lief, Senior Assistant Attorney General and SBE Counsel; Justin Riemer, Deputy
8 Secretary; and Nikki Sheridan, Special Advisor for Policy. Chairman Judd called the
9 meeting to order at 9:00a.m.

10 Chairman Judd stated that the purpose of this meeting was to fulfill the State
11 Board of Elections Board members' responsibility of fulfilling administrative duties
12 related to the general elections occurring on that day. Chairman Judd asked Joshua Lief,
13 Senior Assistant Attorney General and SBE Counsel for an update.

14 Mr. Lief reported that litigation from the *Democratic Party of Virginia v. Virginia*
15 *State Board of Elections* was voluntarily dismissed by the plaintiffs. Mr. Lief stated that
16 there is a possible pending FIOA case against SBE. Mr. Lief offered to expand upon the
17 details of this pending litigation in executive session. Mr. Lief stated that SBE has
18 received an amended complaint in the *Fairfax County Democratic Committee v. State*
19 *Board of Elections*.

20 The next order of business was the Secretary's Report delivered by Secretary
21 Palmer. Secretary Palmer informed the Board that there was an article on the Drudge
22 Report that was linked to Loudoun County about their electronic pollbooks. Secretary
23 Palmer explained that Loudoun County experienced a hardware failure with their
24 electronic pollbooks which means that 25 polling locations opened with one pollbook
25 verses the desired three pollbooks. Secretary Palmer stated that this issue did not generate
26 long lines in Loudoun County and stated that he expected this issue to be resolved
27 expediently. Secretary Palmer stated that he polls opened successfully with relatively few
28 equipment start-up issues. Chairman Judd asked if the equipment issues were associated
29 with DRE's or Optical Scan equipment. Secretary Palmer stated that both types of
30 equipment experience issues due to varying reasons. Secretary Palmer noted that voters
31 were not impacted by equipment startup issues. Chairman Judd asked about the in-person

32 absentee ballot count report prior to today’s election of 19,000 voters, particularly this
33 past Saturday: “Was this count comparable to previous years?” Secretary Palmer stated
34 that this number is comparable to the election in 2009 if not probably higher. Chairman
35 Judd stated that he prefers a high turnout as this is the purpose of the Board and civic
36 duty. Chairman Judd inquired if there were any additional questions and there were none.

37 Chairman Judd moved *that the Board go into recess*. Vice Chair Bowers
38 seconded the motion and the Board unanimously approved the motion. The Board went
39 into recess at 9:15a.m.

40 The Board reconvened at 8:00 p.m. Chairman Judd inquired if there were any
41 comments by members of the Board or Counsel and there was none. Chairman Judd
42 moved *that the Board adjourn*. Vice Chair Bowers seconded the motion and the Board
43 unanimously approved the motion.

44 The Board shall reconvene on November 25, 2013 at 9:00a.m. Chairman Judd
45 asked for any public comments. There being none, the meeting adjourned at
46 approximately 8:10p.m.

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Chair

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Vice-Chair

Secretary



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STATE BOARD *of* ELECTIONS

Approval of Minutes November 13, 2013

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Secretary's Report

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Presented by Donald Palmer



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Report from Legal Counsel

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Presented by Josh Lief



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New Business

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Periodic Review of Regulations (Request for Final Approval)

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STATE BOARD *of* ELECTIONS

Public Participation Guidelines Chapter 10

BOARD WORKING PAPERS
Presented by Justin Riemer
Deputy Secretary



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STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Justin Riemer, Deputy Secretary
Date: December 2, 2013
Subject: Periodic Review Chapter 10 Public Participation Guidelines:
1VAC 20-10-10 through 20-10-130

Suggested motion for a Board member to make: I move that the Board approve the changes to Chapter 10, Public Participation Guidelines, to implement recommendations received during the periodic review process.

Affected Regulations: 1 VAC §§ 20-10-10 through 20-10-130.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103

Board Materials:

- Public Participation Guidelines with proposed changes from periodic review
- Comments received

Background:

On May 15, 2013, the Board announced a periodic review of all of its regulations pursuant to Regulation 20-10-120, calling for a review of all regulations after each presidential election. These public participation guidelines were adopted in 2010. Thus, 2012 is the first presidential election under this regime. The objectives of this periodic review are similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The comment period for Chapter 10 closed on June 24, 2013, and no comments were received in the Town Hall online forum. At the Board meeting on June 25, 2013, members of the Board commented that staff needed to find a more efficient way to propose regulations without the delay required to receive comments and publish the regulations through Town Hall. Staff was instructed to determine if the agency website could be configured to receive public comments.

The Board's concern for efficiency is appropriate for consideration in the context of the periodic review of Chapter 10. Staff has prepared a proposed regulation to allow greater

flexibility in seeking public comment through the agency website as well as Town Hall, at the discretion of the Board. Agency staff believes Town Hall offers significant advantages in the case of controversial measures to efficiently store and present extensive public comments. For example, Town Hall was advantageous when over 500 comments were received on the absentee material omissions regulation in 2011. However, there are also significant disadvantages to utilizing Town Hall, including the difficulty in navigating the site both for the public and for the agency users, and the publication deadlines which cause unnecessary delays in enacting regulations. Staff will propose, for Board determination, the method and time period to receive public comments on each proposed regulation. Regulation 20-10-40(C) establishes the minimum requirements for comment periods for exempt regulations. Regulation 20-10-40(D) allows the Board to extend or reduce the comment period for exempt regulations as it deems necessary.

For this proposed regulation, staff proposes continuing in the Town Hall the process initiated with the periodic review in May. A comment period for 14 days opened on September 23, 2013 with publication in the Virginia Register of Regulations, and closed on Monday October 7, 2013, noticing consideration of a final regulation at the November 25, 2013 Board meeting. One comment was received via Town Hall and one comment was received via staff e-mail. The comment received via Town Hall opposed the amendments to the regulation. Specifically, the commenter opposed making public comment discretionary, reducing the time period for public comment, and changing the language to reflect the changes in preclearance requirements. The comment received via e-mail questioned why SBE was proposing these changes to the regulation. Comments received, along with staff recommendations are presented to the Board in the document titled Chapter 10 - Summary of Proposed Comments and Staff Recommendation. Staff recommends that the Board approve the changes to Chapter 10, Public Participation Guidelines as presented.

Summary of Proposed Comments and Staff Recommendation

Public Participation Guidelines: 1VAC 20-10			
Commenter	Hope R. Amezcuita, ACLU of Virginia		
Proposed Amendment	Comment	Staff Recommendation	Action Needed
	<p><u>Make public comment discretionary:</u> The ACLU of Virginia opposes the proposed changes to 1VAC20-10-40, the public participation guidelines that would permit the State Board of Elections to make the opportunity for public comment discretionary instead of mandatory.</p>	<p>Staff recommendation is to ensure that all proposed regulations are open up for public comment before final Board approval.</p>	<p>Tweak to language to clarify that public comment is required.</p>
	<p><u>Reduce the time period for public comment:</u> If the board, in its discretion, permits public comment, the amount of time for citizen input would be significantly reduced. Lessening the time period for public comment takes away the opportunity for many citizens, often those without internet access, to write and submit their public comments in a timely fashion.</p>	<p>Current law allows the agency (Board) to extend or reduce comment periods if necessary 1VAC20-10-40(D). This change clarifies current law.</p> <p>Current law exempts SBE from notice and comment requirements in recognition of the demands and time constraints the election scheduling. The electorate cannot wait indefinitely to implement necessary and often mandated changes to election procedures to keep pace with changing technology and funding requirements. The proposed time frame allows the maximum public input feasible considering SBE's implementation deadlines, normally July 1, and other demands.</p>	<p>Some tweak to deadlines made to provide additional minimum period of public comment.</p>

Proposed Amendment	Comment	Staff Recommendation	Action Needed
<p>1VAC20-10-100. Effective date and posting to agency website.</p> <p>Regulations adopted by the board shall be effective as of the date stated in the regulation, which may provide conditions, including preclearance required under the federal Voting Rights Act, and in no event before they are published in the Register of Regulations. All adopted regulations shall be posted to the agency website <u>the Internet</u> within three business days after they become effective</p>	<p><u>Preclearance Requirements:</u> Finally, the proposed change that strikes “including preclearance as required under the federal Voting Rights Act” is unnecessary and does not remove the applicability of the law to Virginia. The U.S. Supreme Court held in <i>Shelby County v. Holder</i> that the formula used to determine which jurisdictions are required to submit to the preclearance process was unconstitutional. The Court, however, did not strike down the preclearance requirement. If the U.S. Congress creates a new formula, then Virginia may again be subject to preclearance.</p>	<p>In the event of federal legislation authorizing preclearance submissions, appropriate language would be included in each proposed regulation presented for Board consideration with counsel from the Office of Attorney General. SBE is one of many state agencies that must promulgate regulations subject to supreme federal law.</p> <p>No change to the proposed amendment to the regulation.</p>	<p>None</p>

Commenter	David Bjerke, General Registrar, Falls Church City		
Proposed Amendment	Comment	Staff Recommendation	Action Needed
<p>1VAC20-10-40. Public comment</p> <p>B. In considering any nonemergency, exempt regulatory action, the board shall, in its <u>discretion, will</u> afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency.</p>	<p>Why is SBE proposing cutting back public comment on regulations and leaving it at the discretion of the board whether to take public comment at all?</p>	<p>Staff recommendation is to ensure that all proposed regulations are open up for public comment before final Board approval.</p>	<p>Tweak to language to clarify that public comment is required.</p>

Draft Changes to 1 VAC 20 Chapter 10 Public Participation Guidelines 11.25.2013

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14 **1VAC20-10-10. Definitions.**

15 The following words and terms when used in this chapter shall have the following meanings
16 unless the context clearly indicates otherwise:

17 "Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of
18 Virginia.

19 "Agency" means the State Board of Elections.

20 "Approving authority" means the State Board of Elections established pursuant to § 24.2-103 of
21 the Code of Virginia as the legal authority to adopt regulations.

22 "Board" means the State Board of Elections, which is the unit of state government empowered
23 by Title 24.2 of the Code of Virginia to make rules and regulations for registration of voters and
24 elections. Actions specified in this chapter may be fulfilled by state employees as delegated by
25 the agency.

26 "Commonwealth Calendar" means the electronic calendar for official government meetings open
27 to the public as required by § 2.2-3707 C of the Freedom of Information Act.

28 "Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties
29 established by an agency to consider issues that are controversial with the assistance of a
30 facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed
31 regulatory action.

Draft Changes to 1 VAC 20 Chapter 10 Public Participation Guidelines 11.25.2013

32 "Notification list" means a list used to notify persons pursuant to this chapter. Such a list may
33 include an electronic list maintained through the Virginia Regulatory Town Hall or other list
34 maintained by the agency.

35 "Open meeting" means any scheduled gathering of a unit of state government empowered by an
36 agency's basic law to make regulations or decide cases, which is related to promulgating,
37 amending or repealing a regulation.

38 "Person" means any individual, corporation, partnership, association, cooperative, limited
39 liability company, trust, joint venture, government, political subdivision, or any other legal or
40 commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

41 "Public hearing" means a scheduled time at which members of the board will meet for the
42 purpose of receiving public comment on a regulatory action.

43 "Regulation" means any statement of general application having the force of law, affecting the
44 rights or conduct of any person, adopted by the agency in accordance with the authority
45 conferred on it by applicable laws.

46 "Regulatory action" means the promulgation, amendment, or repeal of a regulation by the
47 agency.

48 "Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested
49 parties established by the agency for the purpose of assisting in regulatory actions.

50 "State Board of Elections website" means the website operated by the Virginia State Board of
51 Elections at www.sbe.virginia.gov, which may provide online public comment forums and
52 public information about regulatory actions under consideration by the Virginia State Board of
53 Elections.

54 "Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia
55 Department of Planning and Budget at www.townhall.virginia.gov, which has online public
56 comment forums and displays information about regulatory meetings and regulatory actions
57 under consideration in Virginia and sends this information to registered public users.

58 "Virginia Register" means the Virginia Register of Regulations, the publication that provides
59 official legal notice of new, amended, and repealed regulations of state agencies, which is
60 published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process
61 Act.

62 **1VAC20-10-20. Notification list.**

63 A. The agency shall maintain a list of persons who have requested to be notified of regulatory
64 actions being pursued by the agency.

65 B. Any person may request to be placed on a notification list by registering as a public user on
66 the Town Hall or by making a request to the agency. Any person who requests to be placed on a
67 notification list shall elect to be notified either by electronic means or through a postal carrier.

68 C. The agency may maintain additional lists for persons who have requested to be informed of
69 specific regulatory issues, proposals, or actions.

70 D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours
71 apart, that person may be deleted from the list. A single undeliverable message is insufficient
72 cause to delete the person from the list.

73 E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions,
74 that person may be deleted from the list.

75 F. The agency may periodically request those persons on the notification list to indicate their
76 desire to either continue to be notified electronically, receive documents through a postal carrier,
77 or be deleted from the list.

78 **1VAC20-10-30. Information to be sent to persons on the notification list.**

79 A. To persons electing to receive electronic notification or notification through a postal carrier as
80 described in 1VAC20-10-20, the agency shall send the following information:

81 1. A notice of proposed exempt regulatory action with the comment period for a proposed, a
82 repropoed, or an emergency regulation; and

83 2. If available, hyperlinks to, or instructions on how to obtain, a copy of the proposed action and
84 any supporting documents.

85 B. The failure of any person to receive any notice or copies of any documents shall not affect the
86 validity of any regulation or regulatory action.

87 **1VAC20-10-40. Public comment.**

88 A. Whenever directed by statute or upon its own initiative, the agency may commence the
89 regulation adoption process and proceed to draft a proposal according to these procedures.

90 B. In considering any nonemergency, exempt regulatory action, the board shall afford interested
91 persons an opportunity to submit data, views, and arguments, either orally or in writing, to the
92 agency. Such opportunity to comment shall include an online public comment forum on the
93 Town Hall or through the State Board of Elections website.

Draft Changes to 1 VAC 20 Chapter 10 Public Participation Guidelines 11.25.2013

94 1. To any requesting person, the agency shall provide copies of the statement of basis, purpose,
95 substance, and issues; any economic impact analysis of the proposed regulatory action; and the
96 agency's response to public comments received.

97 2. The agency may begin crafting a regulatory action prior to or during any opportunities it
98 provides to the public to submit comments.

99 C. The agency shall accept public comments in writing after the publication of a regulatory
100 action either on its website or on the Town Hall and the Virginia Register as follows:

101 1. For a minimum of ~~30~~ 21 calendar days following the publication of the notice of proposed
102 exempt regulatory action.

103 2. For a minimum of ~~30~~ 21 calendar days following the publication of a repropoed regulation.

104 3. To the extent reasonably possible following the publication of a proposed emergency
105 regulation.

106 4. For a minimum of 21 calendar days following the publication of a notice of periodic review.

107 5. Not later than 21 calendar days following the publication of a petition for rulemaking.

108 D. The agency may determine if any of the comment periods listed in subsection C of this
109 section shall be extended or reduced if necessary.

110 E. If the board finds that one or more changes with substantial impact have been made to a
111 proposed regulation, the board, in its discretion, ~~it~~ may allow an additional ~~30 calendar days~~
112 period of time to solicit additional public comment on the changes.

113 ~~F. If practicable, the board shall send a draft of the board's summary description of public~~
114 ~~comment to all public commenters on the proposed regulation at least five days before final~~
115 ~~adoption of the regulation.~~

116 **1VAC20-10-50. Petition for rulemaking.**

117 A. Any person may petition the board to consider a regulatory action.

118 B. A petition shall include sufficient information to understand and evaluate the proposed action
119 and contact the person responsible for presenting it. The following is a noninclusive list of
120 information typically needed to the extent available:

121 1. The petitioner's name, mailing address, email address, and telephone number;

122 2. The petitioner's interest in the proposed action;

123 3. The substance and purpose of the rulemaking that is requested, including reference to any
124 applicable Virginia Administrative Code sections;

125 4. Reference to the legal authority of the agency to take the action requested;

126 5. Statement of the need and justification for the proposed action;

127 6. Statement of the impact on the petitioner and other affected persons; and

128 7. Supporting documents, if applicable.

129 C. The agency shall receive, consider, and respond to a petition and shall have the sole authority
130 to dispose of the petition. The board may require a petitioner to reimburse copying costs
131 associated with a petition.

132 D. The petition shall be posted on the State Board of Elections website or Town Hall and
133 published in the Virginia Register.

134 E. Nothing in this chapter shall prohibit the agency from receiving information or from
135 proceeding on its own motion for rulemaking.

136 **1VAC20-10-60. Appointment of regulatory advisory panel.**

137 A. The agency may appoint a regulatory advisory panel (RAP) to provide professional
138 specialization or technical assistance when the agency determines that such expertise is
139 necessary to address a specific regulatory issue or action or when individuals indicate an interest
140 in working with the agency on a specific regulatory issue or action.

141 B. Any person may request the appointment of a RAP and request to participate in its activities.
142 The agency shall determine when a RAP shall be appointed and the composition of the RAP.

143 C. A RAP may be dissolved by the agency if the proposed text of the regulation is posted on the
144 State Board of Elections website or on Town Hall, published in the Virginia Register, or such
145 other time as the agency determines is appropriate.

146 **1VAC20-10-70. Appointment of negotiated rulemaking panel.**

147 A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is
148 expected to be controversial.

149 B. An NRP that has been appointed by the agency may be dissolved by the agency when:

150 1. There is no longer controversy associated with the development of the regulation; or

151 2. The agency determines that resolution of a controversy is unlikely.

152 **1VAC20-10-80. Meetings.**

153 Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the
154 Virginia State Board of Elections website or the Virginia Regulatory Town Hall and
155 Commonwealth Calendar at least seven working days prior to the date of the meeting. The
156 exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code
157 of Virginia allowing for contemporaneous notice to be provided to participants and the public.

158 **1VAC20-10-90. Public hearings on regulations.**

159 A. The board shall indicate in its notice of intended regulatory action whether it plans to hold a
160 public hearing following the publication of the proposed stage of the regulatory action.

161 B. The board may conduct one or more public hearings during the comment period following the
162 publication of a proposed regulatory action.

163 C. An agency is required to hold a public hearing following the publication of the proposed
164 regulatory action when:

165 1. The Governor requests the board to hold a public hearing; or

166 2. The board receives requests for a public hearing from at least 25 persons during the public
167 comment period following the publication of the notice of proposed regulatory action.

168 D. Notice of any public hearing shall be posted on the Virginia State Board of Elections website
169 or Town Hall and Commonwealth Calendar at least seven working days prior to the date of the
170 hearing. The board shall also notify those persons who requested a hearing under subdivision C 2
171 of this section.

172 **VAC20-10-100. Effective date and posting to the internet. agency**
173 **website.**

174 Regulations adopted by the board shall be effective ~~as of the date stated in the regulation, which~~
175 ~~may provide upon approval by the board and compliance with all applicable legal requirements,~~
176 ~~conditions, including filing with preclearance required under the federal Voting Rights Act, and~~
177 ~~in no event before they are published in the Register of Regulations and any further conditions~~
178 the board may specify. All adopted regulations shall be posted to the ~~agency website~~ Internet
179 within three business days after they become effective.

180 **1VAC20-10-110. Appeal of board decisions.**

181 Any person aggrieved by an action of the board under this chapter may appeal to the House or
182 Senate Privileges and Elections Committee or to the Joint Commission on Administrative Rules
183 to make an objection as provided in § 2.2-4014 of the Code of Virginia.

184 **1VAC20-10-120. Periodic review of regulations.**

185 A. Following each presidential election, the board shall conduct a periodic review of its
186 regulations consistent with an executive order issued by the Governor to receive comment on all
187 existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of
188 compliance.

189 B. A periodic review may be conducted separately or in conjunction with other regulatory
190 actions.

191 C. Notice of a periodic review shall be posted on the State Board of Elections website or Virginia
192 Regulatory Town Hall and published in the Virginia Register.

193 **1VAC20-10-130. Transition.**

194 All regulatory actions shall be processed in accordance with this chapter. Policies of the board
195 adopted or approved before July 19, 2010, shall be processed as regulations for publication in the
196 Virginia Administrative Code.

Commenter: Hope R. Amezquita, ACLU of Virginia *

Opposition to Proposed Regulatory Changes to Public Participation Guidelines

The ACLU of Virginia opposes the proposed changes to 1VAC20-10-40, the public participation guidelines that would permit the State Board of Elections to make the opportunity for public comment discretionary instead of mandatory. Additionally, we oppose the proposed changes that would reduce the number of days that public comment may be submitted to the board. Finally, we oppose the proposed change that strikes “including preclearance as required under the federal Voting Rights Act” in 1VAC20-10-100.

The opportunity for citizens to engage in the affairs of government, including the State Board of Elections, should be encouraged. Such engagement is essential to a functioning democracy and is critical to ensuring government accountability. The proposed changes would grant the board the authority to determine whether to allow citizen participation in its affairs. This discretion would permit the board, on a whim, to ignore the voice of its citizens. We urge the board to reject this proposal, as it runs counter to basic government transparency and accountability.

Further, as the proposed regulations state, if the board, in its discretion, permits public comment, the amount of time for citizen input would be significantly reduced. Lessening the time period for public comment takes away the opportunity for many citizens, often those without internet access, to write and submit their public comments in a timely fashion. We urge the board to reject this proposal and instead look for ways to expand the ability for citizens to participate in its processes.

Finally, the proposed change that strikes “including preclearance as required under the federal Voting Rights Act” is unnecessary and does not remove the applicability of the law to Virginia. The U.S. Supreme Court held in *Shelby County v. Holder* that the formula used to determine which jurisdictions are required to submit to the preclearance process was unconstitutional. The Court, however, did not strike down the preclearance requirement. If the U.S. Congress creates a new formula, then Virginia may again be subject to preclearance. Such action would supersede any changes made by the board, thus the board should refrain from imposing guidelines that are subject to federal law.

We urge the board to oppose the proposed regulatory changes. Government, including the State Board of Elections, works best when it is transparent and accountable to its citizens.

Rierner, Justin (SBE)

From: David Bjerke [dbjerke@fallschurchva.gov]
Sent: Monday, September 30, 2013 5:03 PM
To: Rierner, Justin (SBE); Piper, Chris (SBE); Abell, Matt (SBE)
Cc: Brissette, Martha (SBE); Lee, Susan (SBE)
Subject: RE: legislative question

Chris, Justin,

Thank you for your responses. You all do great work which is why this surprises me.

Reading comprehension allows us to understand the difference between “shall” and “in its discretion, will”

B. In considering any nonemergency, exempt regulatory action, the board ~~shall~~, in its discretion, will afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency.

I can understand that preclearance is allowing SBE to cleanup and make some language more efficient, but this language no longer insists that interested persons have an opportunity and I can conceive of a board someday making use of such a change to the detriment of election policy.

You may not have the intent, but this language gives the authority.

Dave Bjerke
Registrar, City of Falls Church

From: Rierner, Justin (SBE) [mailto:Justin.Rierner@sbe.virginia.gov]
Sent: Monday, September 30, 2013 4:57 PM
To: Piper, Chris (SBE); David Bjerke; Abell, Matt (SBE)
Cc: Brissette, Martha (SBE); Lee, Susan (SBE)
Subject: RE: legislative question

Yes, there is no intent to eliminate public comment. Any tweaks that make it seem like that were done accidentally. The changes are being made to give us more flexibility about where (i.e. the forum like Town Hall or SBE’s website) the public comment will take place. If we need to make some tweaks to the reg to make that clear then we will recommend those to the Board.

Thanks,
Justin

Justin Rierner
Deputy Secretary
Virginia State Board of Elections
Office Phone: (804) 864-8904
Mobile: (804) 366-5330
SBE Website: <http://www.sbe.virginia.gov>

From: Piper, Chris (SBE)
Sent: Monday, September 30, 2013 4:53 PM
To: David Bjerke; Abell, Matt (SBE)
Cc: Rierner, Justin (SBE)
Subject: RE: legislative question

David,

I'm not sure how you're reading that into the proposed changes to the regulation. The changes simply allow us to more efficiently work through the regulatory process by allowing for us to post the regulations, etc. onto our website. We ran into a lot of problems this past year because laws are not voted into place until the GA accepts the Governor's amendments in mid-April. Now we don't have to worry about preclearance any longer, but the period to have regulations drafted, approved by the Board, sent out for public comment, revised and finally approved by the Board (final version) is simply cutting us too close to properly implement laws on July 1. The new procedure will be much more efficient.

I'm copying Justin in case he has anything to add.

Regards,

Christopher Piper
Manager, Election Services
Virginia State Board of Elections
chris.piper@sbe.virginia.gov
Office: (804) 864-8907
Cell: (703) 853-7462

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From: David Bjerke [<mailto:dbjerke@fallschurchva.gov>]
Sent: Monday, September 30, 2013 2:26 PM
To: Abell, Matt (SBE); Piper, Chris (SBE)
Subject: legislative question

Chris, Matt,

Why is SBE proposing cutting back public comment on regulations and leaving it at the discretion of the board whether to take public comment at all?

<http://www.townhall.virginia.gov/l/ViewXML.cfm?textid=8098>

David B. Bjerke, MPP, CERA, VREO
General Registrar of Voters, City of Falls Church
Office of Voter Registration & Elections
300 Park Ave., Room 101E
Falls Church, VA 22046
703-248-5085 - Office
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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Candidate Qualifications

Chapter 50

BOARD WORKING PAPERS
Presented by Myron McClees
SBE Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Myron McClees, SBE Policy Analyst
Date: December 2, 2013
Subject: Periodic Review Chapter 50 Candidate Qualification:
1VAC 20-50-10 through 20-50-30

Suggested motion for a Board member to make: I move that the Board approve the staff recommendation to retain the regulations in Chapter 50 without change.

Affected Regulations: 1VAC 20-50-10 through 20-50-30.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103.

Board Materials:

- Candidate Qualification Regulations.
- Comments received.

Background:

On May 15, 2013, the Board announced a periodic review of all of its regulations pursuant to Regulation 20-10-120 calling for a review of all regulations after each presidential election. The objectives of this periodic review are similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The comment period for Chapter 50 opened June 3, 2013, and closed June 24, 2013. Your Board materials include comments received in the Town Hall online forum and staff responses. Staff does not recommend any changes, as the recommendations received were already addressed in the Board's amendments to the regulation passed during its June 25, 2013 meeting.

All regulations within Chapter 50 are provided for the Board's perusal within the document containing current text.

Commenter	Regulation	Comment	Staff Recommendation	Action Needed
<ul style="list-style-type: none"> The below regulation is not specifically addressing a Chapter 50 regulation, but it does make reference to regulation 20-50-20. 				
W.T. Latham	20-60-20	<p>1 VAC 20-60-20</p> <p>I suggest reviewing 1 VAC 20-60-20 to ensure that the material and nonmaterial omissions rules are comparable to those for candidate petitions. In particular, 20-60-20(E)(2) may need to be changed so that the procedures in 20-60-20 are similar to those governing candidate petitions.</p>	<p>These two regulations were made synonymous with the most recent changes approved on 6/25/13.</p>	

Virginia Administrative Code

CHAPTER 50

CANDIDATE QUALIFICATION

Contents

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1VAC20-50-30. Appeals of petition signature insufficiency. 3

1VAC20-50-10. (Reserved.)

1VAC20-50-20. Material omissions from candidate petitions and petition signature qualifications.

A. Pursuant to the requirements of §§ [24.2-506](#), [24.2-521](#), and [24.2-543](#) of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is a minor or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;

11. The notary has not included his registration number and commission expiration date;
or

12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;

2. The signer is also the circulator of the petition;

3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;

4. The signer did not sign the petition; or

5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);

2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;

3. The name of the candidate and office sought are omitted from the back of the petition;

4. The circulator has not provided the last four digits of his social security number in the affidavit;

5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;

6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");

7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or

8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;
2. The signer provides his name; and
3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

1VAC20-50-30. Appeals of petition signature insufficiency.

A. Pursuant to the requirements of §§ [24.2-506](#) and [24.2-543](#) of the Code of Virginia, a candidate for office, other than a party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.

B. Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by the deadlines established within this section.

C. A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.

D. A candidate for an office other than President of the United States must file his appeal within five calendar days of the issuance of the notice of disqualification.

E. A candidate for President of the United States must file his appeal within seven calendar days of the issuance of the notice of disqualification.

F. The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate; otherwise, notice shall be sent by first-class mail.

G. The candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.

1. The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two business days prior to the date on which the appeal will be heard. If the candidate submits no list, or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.

2. The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.
3. The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.
4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. If possible, the affidavits should state the person's name, residence address, and a reasonable description of the location where approached by the circulator to sign the petition.
5. The candidate may not submit documents establishing that a petition signer became registered or updated his voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought.

H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.

I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Periodic Review of Regulations (Request to Post for Public Comment)

BOARD WORKING PAPERS



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Election Administration

Chapter 60

BOARD WORKING PAPERS
Presented by Myron McClees
SBE Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Myron McClees, SBE Policy Analyst
Date: December 2, 2013
Subject: Periodic Review Chapter 60 Election Administration:
1VAC 20-60-10 through 20-60-60

Suggested motion for a Board member to make: I move that the Board seek public comment, for a period of 10 calendar days, on the proposed amendments to its regulations in Chapter 60, Election Administration, to implement recommendations received during the periodic review process.

Affected Regulations: 1VAC 20-60-10 through 20-60-60.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103.

Board Materials:

- Election Administration Regulations with proposed changes from periodic review.
- Comments received.

Background:

On May 15, 2013, the Board announced a periodic review of all of its regulations pursuant to Regulation 20-10-120 calling for a review of all regulations after each presidential election. The objectives of this periodic review are similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The comment period for Chapter 60 opened June 3, 2013, and closed June 24, 2013. Your Board materials include comments received in the Town Hall online forum and staff responses. Staff recommends amendments to the regulation addressing use of electronic devices in the polling place. The changes are necessary to allow possession of phones containing a camera function so long as no photography takes place within the polling place. In addition, usage of the word “precinct” is abandoned for the more appropriate term “polling place.” The regulation defining when a ballot is cast should include parameters on when a provisional ballot is considered to have been cast. Lastly, the regulation guiding election officials on the process of emptying an overfull ballot container should be edited to provide proper steps in single-party primaries.

Although staff only recommends alterations to regulations 1VAC20-60-30, 1VAC20-60-40, and 1VAC20-60-50, all regulations within Chapter 60 are provided for the Board’s perusal within the document containing proposed changes.

For the proposed regulation the Board selects to move forward, staff proposes a Town Hall comment period for 10 days opening with the December 16, 2013, publication in the Virginia Register of Regulations, and closing December 26, 2013, allowing consideration of a final regulation at a next Board meeting in December.

Commenter	Regulation	Comment	Staff Recommendation	Action Needed
W.T. Latham	20-60-20	<p>1 VAC 20-60-20</p> <p>I suggest reviewing 1 VAC 20-60-20 to ensure that the material and nonmaterial omissions rules are comparable to those for candidate petitions. In particular, 20-60-20(E)(2) may need to be changed so that the procedures in 20-60-20 are similar to those governing candidate petitions.</p> <p>Also, there should be a section in 20-60-20 that clearly states that the provisions of 20-60-20 are subordinate to more particular provisions in city, town, and county charters that pertain to referendum petitions.</p>	<p>These two regulations were made synonymous with the most recent changes approved on 6/25/13.</p> <p>This is a general principle of law (that more specific provisions are given sway over general wording so long as the two are not counter to each other). General principles of statutory construction are not normally added to our regulations, but wording can be added if the board so desires.</p>	
W.T. Latham	20-60-30	<p>Questions about 1 VAC 20-60-30</p> <p>Issues in 1 VAC 20-60-30:</p> <ul style="list-style-type: none"> Paragraph (A) forbids the use of cell phones or other electronic devices "provided that the device contains no camera or video recording capacity." This seems to go further than the wording of Va. Code 24.2-604(C) as well as the "Dos and Don'ts," adopted in August 2012. See IV, 9 of the August 2012 "Dos and Don'ts." Admittedly, 24.2-604(C) is ambiguous, 	<p>All the recommendations should be adopted</p>	

		<p>though a textual reading of 604(C) seems to forbid--- not the presence of phones with camera or video recording capacity---but the use of that capacity to photograph or record things in the polling place.</p> <ul style="list-style-type: none"> • Paragraph (A): delete the word "precinct" at the end and replace it with the word "place." • Paragraph (D): in the phrase "make or receive calls outside the precinct," change the word "precinct" to "polling place." "Precinct" is a legal term defined in 24.2-101, and it refers to the territory served by a polling place. 		
W.T. Latham	20-60-40	<p>Amending 1 VAC 20-60-40</p> <p>A couple of issues with 1 VAC 20-60-40:</p> <ul style="list-style-type: none"> • I suggest inserting language in 20-40-60 clarifying when a provisional ballot is "cast." At this time, it does not appear to be clearly covered by any of the scenarios listed in 20-40-60. • Also, the language pertaining to the casting of a paper ballot indicates that a ballot is cast by a voter ". . . placing a paper ballot in an official ballot container." Because Va. Code 24.2-646 requires that a paper ballot be handed to the appropriate officer of election, and it is the officer of election who places the paper ballot into the ballot container, I suggest amending the wording of 20-60-40 to make the paper ballot references in this part of the Administrative Code conform to the 	<p>Wording on when a provisional vote is cast has been added</p> <p>A change for allowing an officer of election to cast the ballot is unnecessary based on Section C, which states that the action can indeed be carried out by an officer of election at the voter's behest.</p>	

		requirements of 24.2-646.		
W.T. Latham	20-60-50	<p>Amending 1 VAC 20-60-50</p> <p>I suggest the following amendments (changes are <i>bolded and italicized</i>):</p> <ol style="list-style-type: none"> 1. The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into <i>a box or envelope provided for the purpose of packaging used ballots after the close of the polls, both the ballot container and the box, or envelope,</i> shall remain in plain sight in the polling place. 2. [delete] 3. <i>2. In a general, special, or dual-party primary election, a minimum of two officers of election, representing both political parties, shall execute such a transfer of ballots. In a single-party primary election, the transfer shall be conducted by a minimum of two officers of election.</i> <p>The reason for the amendment in paragraph 1 and the deletion of old paragraph 2 is that most, if not all, localities do not have extra ballot boxes---as that term is defined in Va. Code 24.2-623--to use merely for storage at the polling places.</p>	<p>The recommended change within section 1 should not be adopted on account of voting security.</p> <p>Section 2 may be deleted if the Board so desires.</p> <p>The recommendation for section 3 should be adopted as written.</p>	

Virginia Administrative Code
CHAPTER 60
ELECTION ADMINISTRATION

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1VAC20-60-10. Definitions.

(Reserved.)

1VAC20-60-20. Material omissions on referendum petitions and petition signature qualifications.

- A. Pursuant to the requirements of § [24.2-684.1](#) of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.
- B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:
 1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
 2. The "question" or "referendum issue" is not stated in a manner set forth by law on the front of the petition;
 3. The circulator has not signed the petition affidavit and provided his current address;
 4. The circulator is a minor or a felon whose voting rights have not been restored;
 5. The circulator has not signed the affidavit for the petition he circulated in the presence of a notary;
 6. The circulator has not had a notary sign the affidavit for each petition submitted;

- 33 7. A person other than the circulator signed the petition affidavit;
- 34 8. The notary has not affixed a photographically reproducible seal;
- 35 9. The notary has not included his registration number and commission expiration date; or
- 36 10. Any combination of the aforementioned scenarios exists.
- 37 C. The following omissions related to individual petition signatures are always material and any
38 petition signature containing such omission shall be rendered invalid if:
- 39 1. The signer is not qualified to cast a ballot for the referendum for which the petition was
40 circulated;
- 41 2. The signer is also the circulator of the petition;
- 42 3. The signer provided an accompanying date that is subsequent to the date upon which the
43 notary signed the petition;
- 44 4. The signer did not sign the petition; or
- 45 5. The signer provided an address that does not match the petition signer's address in the Virginia
46 voter registration system, unless the signer provided an address that is within the same precinct
47 where a voter is currently registered in the Virginia voter registration system, and the signer can
48 be reasonably identified as the same registered voter.
- 49 D. The following omissions shall be treated as nonmaterial provided the general registrar can
50 independently and reasonably verify the validity of the petition or signature:
- 51 1. An older version of the petition is used (provided that the information presented complies with
52 current laws, regulations, and guidelines);
- 53 2. The "election information" including: (i) county, city, or town in which the election will be
54 held; (ii) election type; and (iii) date of election are omitted;
- 55 3. The circulator has not provided the last four digits of his social security number in the
56 affidavit;
- 57 4. The signer omits his first name, provided he provides a combination of his first or middle
58 initials or a middle name and last name and address that matches a qualified voter within the
59 Virginia voter registration system;
- 60 5. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob"
61 instead of "Robert");
- 62 6. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or
- 63 7. The signer fails to provide the date but a period of time that qualifies can affirmatively be
64 established with previous and subsequent dates provided by other signers upon the petition page.

65 E. A signature upon a petition shall be included in the count toward meeting the petition
66 signature requirements only if:

67 1. The petition signer is a qualified voter who is maintained on the Virginia voter registration
68 system either (i) with active status or (ii) with inactive status and qualified to vote for the office
69 for which the petition was circulated;

70 2. The signer provides his name; and

71 3. The signer provides an address that matches the petition signer's address in] the Virginia voter
72 registration system , or the signer provided an address that is within the same precinct where a
73 voter is currently registered in the Virginia voter registration system, and the signer can be
74 reasonably identified as the same registered voter.

75

76 **1VAC20-60-30. Electronic devices in polling place.**

77 A. Representatives of candidates and political parties authorized to observe the election may use
78 cell phones or other electronic devices provided that ~~the device contains no camera or video~~
79 recording capacity camera function is not used within the polling place. The officers of election
80 are responsible to monitor the use of electronic devices for observation of the election and may
81 regulate or prohibit any use the officers determine will hinder or delay a voter or officer of
82 election or otherwise impede the orderly conduct of the election.

83 Whether a particular call or calls by any authorized representative is deemed to interfere or
84 disrupt the voting process is within the discretion of the officers of election at each ~~precinct~~
85 polling place as a majority. Any authorized representative may be required to cease the call,
86 make or receive any such calls outside the ~~precinct~~ polling place, or be removed from the polling
87 precinct place.

88 B. Use of cell phones and other electronic devices by other persons at polling places shall be
89 monitored by the officers of election who may regulate or prohibit any use the officer determines
90 will hinder or delay a voter or officer of election or otherwise impede the orderly conduct of the
91 election. Use of electronic devices may not interfere nor disrupt the voting process, nor attempt
92 to solicit or attempt to influence any person in casting his vote. At no time may any person use a
93 camera or the camera function on an electronic device to film or take pictures within the polling
94 place unless such person is an authorized member of the media filming in accordance with §
95 24.2-604(J) of the Code of Virginia. Once a voter enters the prohibited area at the polls as
96 designated in § 24.2-604 of the Code of Virginia, the use of a cell phone or other electronic
97 communication device may be prohibited if deemed a violation of § 24.2-1006 of the Code of
98 Virginia, or if otherwise deemed disruptive to the voting process.

99 C. Grounds for regulating or prohibiting use of electronic devices include but are not limited to
100 (i) the making or receiving of calls that interfere with or become disruptive to the voting process;

101 (ii) the making or receiving of calls in an attempt to solicit or influence any person in casting his
102 vote ~~or~~ (iii) the usage of the camera function to film within the polling place or beyond the 40
103 foot prohibited area; or (iv) the person using the device is conducting himself in a noisy or
104 riotous manner at or about the polls so as to disturb the election.

105 D. An officer of election may require any individual using an electronic device subject to
106 regulation under subsection C of this section to cease such use, make or receive calls outside the
107 ~~precinct~~ polling place, or remove the use of the device from the polling place.

108 E. Any action taken pursuant to this section is within the judgment of the officers of election as a
109 majority.

110 F. The determination of the officers of election of any dispute concerning the use of electronic
111 devices shall be subject to immediate appeal to the local electoral board.

112

113 **1VAC20-60-40. When ballot cast.**

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

116 B. A permanent record is preserved by a voter pressing the vote or cast button on a direct
117 recording electronic machine, inserting an optical scan ballot into an electronic counter, or
118 placing a paper ballot in an official ballot container, or relinquishing possession of a completed
119 provisional ballot envelope containing the ballot to the possession of an officer of election.

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

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

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

132

133

134 **1VAC20-60-50. Overfull optical scan ballot container.**

135 If an optical scan reader in use in a registrar's office or a polling place malfunctions because the
136 connected ballot container includes too many ballots, election officials may open the ballot
137 container and empty the ballots with the following safeguards:

138 1. The optical scan ballot container shall be opened in plain sight of any authorized party
139 representatives or other observers and, once the ballots have been deposited into an auxiliary
140 ballot container, both ballot containers shall remain in plain sight in the polling place.

141 2. Any such auxiliary ballot container used shall meet the requirements of § [24.2-623](#) of the
142 Code of Virginia.

143 3. In a general, special, or dual-party primary election, a ~~A~~ minimum of two officers of election,
144 representing both political parties, shall execute such a transfer of ballots. In a single-party
145 primary election, the transfer shall be conducted by a minimum of two officers of election who
146 may be members of the same party.

147

148 **1VAC20-60-60. Provisional votes.**

149 The electoral board or general registrar may attempt to contact an individual who has voted a
150 provisional ballot when required by § [24.2-643](#) of the Code of Virginia and remind the individual
151 that he is permitted to provide a copy of a form of identification as specified in subsection B of
152 § [24.2-643](#) of the Code of Virginia to arrive no later than noon on the Friday after election day.
153 However, there shall be no requirement that the electoral board or general registrar contact such
154 individual.

155



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Absentee Voting Chapter 70

BOARD WORKING PAPERS
Presented by Martha Brissette
SBE Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette, SBE Policy Analyst
Date: December 2, 2013
Subject: Periodic Review Chapter 70 Absentee Voting:
1VAC 20-70-10 through 20-70-50

Suggested motion for a Board member to make: I move that the Board seek public comment, for a period of 14 calendar days, on the proposed amendments to its regulations in Chapter 70, Absentee Voting, to implement recommendations received during the periodic review process.

Affected Regulations: 1VAC 20-70-10 through 20-70-50.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103.

Board Materials:

- Absentee Voting Regulations with proposed changes from periodic review.
- Comments received.

Background:

The State Board of Elections adopted and precleared regulations addressing absentee voting in 2012. To a large extent, these regulations restated historic Board policies and informal staff guidance. One absentee regulation 1 VAC20-70-20 defining material omissions from Envelope B drew particular scrutiny and extensive public comments. Over 500 were received in the Town Hall alone. Many commenters opposed strict interpretations of Code requirements to disqualify ballots whose authenticity can be ascertained from the outer mailing return envelope; these commenters urged the Board to adopt a regulation that would allow officer of elections to be forgiving of human mistakes and infirmities causing imperfections in completion of Envelope B. The Board sympathetic to these concerns adopted a regulation that maintains the statutory safeguards while allowing officers some discretion to resolve by majority issues not specifically addressed. This regulation represents a careful compromise. Another less controversial regulation in this Chapter 1 VAC 20-70-40 dealing with early processing has already been updated by the Board for 2013 legislation.

On May 15, 2013, the Board announced a periodic review of all of its regulations pursuant to Regulation 20-10-120 calling for a review of all regulations after each presidential election. These absentee voting regulations became effective in 2012 so this is their first periodic review. The objectives of this periodic review are similar to those set forth in Executive

Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The comment period for Chapter 70 opened June 3, 2013, and closed June 24, 2013. Your Board materials include comments received in the Town Hall online forum and staff responses.

Staff recommends no amendments to the regulation 20-70-20 defining material omissions from Envelope B at this time.

Staff recommends moving regulations for military and overseas voters to a separate chapter following the Code structure adopted in 2012.

For the proposed regulation the Board selects to move forward, staff proposes a Town Hall comment period for 14 days opening with the December 30, 2013, publication in the Virginia Register of Regulations, and closing Monday January 13, 2013, allowing consideration of a final regulation at a future Board meeting.

Absentee Voting: 1VAC 20-70				
Commenter	Regulation	Comment	Staff Recommendation	Action Needed
Diana Dutton, Prince William County Voter Registration and Elections	20-70-20	<p>Substantial Compliance for Absentee Ballot Envelope B</p> <p>B7 Material omission on Envelope B is the date of the voter's signature</p> <p>C8 The ballot should not be rendered invalid if the voter omitted the year in date of the signature</p> <p>C9 The ballot should not be rendered invalid if the voter provides the incorrect date on Envelope B. What is an incorrect date? Unless the date is way off, how can one determine if it is incorrect? Not a measurable value.</p> <p>Is the date a material omission that would affect the determination of how the voter wished to cast his vote?</p> <p>Since the absentee ballot from a domestic voter is returned in Envelope B in an envelope with a return address label attached showing the voter's return address, why should he have to repeat this information? UOCAVA voters do not have to provide the same information. These two classes of voters are being treated differently.</p> <p>B9 By striking this language, is it meant that there would be no Envelope B required? Or is it meant that the ballot is contained in an Envelope B but the envelope is not sealed?</p> <p>The problems created by the information required on Envelope B cause many AB ballots from senior citizens to be rejected</p>	<p>This issue also arose when this regulation was initially developed. The adopted regulation follows the requirements of 24.2-706. It is a legislative issue whether to relax those requirements for domestic absentee voters to be more similar to the requirements for UOCAVA voters. SBE does not have discretion to lessen the statutory requirements even though they do appear more prescriptive for domestic voters. SBE improved the envelope design to help as much as possible.</p>	<p>Legislation would be needed to make envelope B requirements more uniform across absentee voters.</p>
W.T. Latham	20-70-20	<p>Comments on 1 VAC 20-70-20</p> <p>My suggested amendments for 1 VAC 20-70-20 are as follows:</p> <ol style="list-style-type: none"> Delete the requirement in (B)(7) that the voter "provide the date on which he signed Envelope B." This is unnecessary and does not appear to be required by Va. Code 24.2-707. While the statement in 24.2-706 indicates that there is to be a line for the date in the Statement of Voter, 24.2-707 does not require that the date be included by the voter, while it does require that the voter and the witness sign the Statement of Voter on Envelope B. The absence in 24.2-707 is telling. This part of the regulation has real-life consequences: in the June 2013 primary, one voter's ballot was rejected solely because she had not dated the 	<p>Same as above.</p>	

		Envelope B. The ballot was otherwise fine. Deleting paragraph (B)(9) and adding proposed (C)(10) are good changes! The issue with sealing the ballot is especially problematic for UOCAVA voters who received their ballots by email. It can also be an issue for non-UOCAVA voters, as we have no way of determining if the voter sealed Envelope B and, because of faulty glue, it subsequently became unsealed. The proposed changes are good because they comply with the election laws of Virginia, and they err on the side of the voter.		
J. Kirk Showalter, General Registrar City of Richmond	20-70-40	Please accept the following comments on the proposed regulation 1 VAC20-70 regarding absentee ballot pre-processing: Item 1: This statement requires the general registrar's staff to "follow all previously prescribed instructions for processing and verifying absentee ballots." This requirement is broad and vague. As written, this would require us to follow any related procedure adopted at any time during the past, even those since superceded in law. Item 2: The "principles of dual control and chain of custody" should be detailed so that all understand what is expected. Item 3: §24.2-709.1 of the Code of Virginia only require that officers of election be present if the sealed absentee ballot envelope is opened. Partial pre-processing (24.20709.1 (i)) does not require opening of the sealed ballot (vs. outer) envelope. The way that this section is written, however, election officers would have to be present for ALL steps of pre-processing. As such, it is suggested that this provision be re-written to clarify that it only applies if the pre-processing involves opening the sealed ballot envelope. Item 4: See comment under Item 3 regarding partial pre-processing. If only step (i) of pre-processing is done, is there a requirement that authorized representatives be allowed to view this step?	This regulation recently was amended for 2013 legislative changes assigning the general registrar responsibility for alternative processing procedures. SBE in GREB 16, Addendum 4 provides guidance on early processing. SBE may provide additional guidance addressing some issues in more detail. For example, SBE addressed the requirement for officers representing both parties. The regulation references compliance with the statute and does not add to or increase the representative requirement. Staff recommends against adding too much detailed guidance in regulations which take time to change and may not be appropriate for statewide application.	No.
W.T. Latham	20-70-30	Amending 1 VAC 20-70-30 In 1 VAC 20-70-30(B), delete the last sentence. This sentence does not conform to Va. Code 24.2-702.1(B). Other requirements in the Code of Virginia are not listed in 20-70-30. It would be helpful if all of the requirements for processing FWABs, whether in the Code of Virginia or in the	The commenter disputes the applicability of absentee application deadline to FWAB voters. However, the issue appears more one of enforceability. All voters are	Restructure regulation as suggested to pull in all statutory requisites including materiality issues for registration now dealt with in Chapter 4. Propose

		<p>Administrative Code of Virginia, were listed in one place. The requirements from the Code that are not listed in 20-70-30 are as follows:</p> <ul style="list-style-type: none"> • 702.1(B)(ii): Voter must provide his/her printed name. If it is the determination of the State Board of Elections that the absence of the printed name is not a material omission (and such a determination would make sense, as long as we could determine the name of the voter), this should be stated clearly in the Administrative Code. • 702.1(B)(iii): Voter must provide the county or city in which he or she is registered and offers to vote. This is explained as a nonmaterial omission later in 20-70-30---if it is left out and as long as the residence address provides information about the county/city---but the requirements of 702.1 should be listed in paragraph (C) so that the section serves as a comprehensive guide to FWAB processing. The nonmateriality of omissions can then be explained in paragraph (D) of 20-70-30. • 702.1(B)(iv): Voter must provide the residence address at which he/she is, or desires to be, registered to vote. <p>Finally, is the full name of the FWAB registration/absentee applicant required for voter registration?</p>	<p>subject to the deadline but states cannot refuse to count a FWAB for lack of a timely FPCA. Moreover, FWAB voters must certify on their application timely submission of a state absentee ballot request. SBE staff have concerns about recommending voters need not be concerned with the state absentee application deadline—they should be encouraged to the extent humanly possible to submit a FPCA on time.</p> <p>Required by Constitution (Art. II, § 3) and Code § 24.2-418. Regulation 20-40-70(C) addresses material omissions on a FWAB, detailing what is not material.</p>	<p>a new Chapter 40.1 collecting UOCAVA specific provisions there.</p>
<p>Diana Dutton, staff Prince William General Registrar</p>	<p>20-70-30</p>	<p>Material Omissions from Federal Write-In Absentee Ballots</p> <p>I submitted these comments last night; why are they not here?</p> <p>B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. However, Section 24.2-419 of the Code of Virginia extends the mail registration deadline to Election Day for a member of a uniformed service on active duty who is normally absent from the county or city of his residence and the spouse or dependent living with that person, so long as they are eligible to be registered.</p> <p>In the list of material omissions, add the voter's printed name (24.2-702.1 B ii)</p>	<p>Please see above response to these similar comments.</p>	

		<p>the voter's residence address at which he is registered to vote (24.2-702.1 B iv)</p> <p>C4 is not specific enough; it does not list the requirements in 24.2-702.1 B</p>		
W. T. Latham	20-70-30	<p>Amending 1 VAC 20-70-30</p> <p>The last sentence of paragraph (B) should be deleted, as it does not comply with Va. Code 24.2-702.1(B).</p>	As stated above this issue seems more one of emphasis and SBE staff believe encouraging timely FPCAs is important.	

Virginia Administrative Code

CHAPTER 70
ABSENTEE VOTING

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1VAC20-70-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701), and a Virginia Annual Absentee Ballot Application (SBE-703.1), and a Federal Post Card Application (SF-76A). A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.

~~"Federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia. The date the applicant has provided next to his affirmation will serve as his last date of residence.~~

Statutory Authority

§ 24.2-103 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012; amended, Virginia Register Volume 29, Issue 1, eff. August 24, 2012.

1VAC20-70-20. Material omissions from absentee ballots.

A. Pursuant to the requirements of § 24.2-706 of the Code of Virginia, a timely received absentee ballot contained in an Envelope B shall not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any Envelope B containing such omissions shall be rendered invalid if any of the following exists:

1. Except as provided in subdivisions C 2 and 3 of this section, the voter did not include his full first name;
2. The voter did not provide his last name;
3. If the voter has a legal middle name, the voter did not provide at least a middle initial;
4. The voter did not provide his house number and street name or his rural route address;
5. The voter did not provide either his city or zip code;
6. The voter did not sign Envelope B;
7. The voter did not provide the date on which he signed Envelope B; or
8. The voter's witness did not sign Envelope B.

C. The ballot shall not be rendered invalid if on the Envelope B:

1. The voter included his full name in an order other than "last, first, middle";
2. The voter used his first initial instead of his first full name, so long as the voter provided his full middle name;
3. The voter provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
4. The voter did not provide his generational suffix;
5. The voter did not provide his residential street identifier (Street, Drive, etc.);
6. The voter did not provide a zip code, so long as the voter provided his city;
7. The voter did not provide his city, so long as the voter provided his zip code;
8. The voter omitted the year in the date on which he signed Envelope B;

9. The voter provided the incorrect date on which he signed Envelope B; or

10. The ballot is imperfectly sealed within Envelope B, provided that the ballot is contained within Envelope B, there is evidence that a good faith effort was made to seal the envelope, the outer envelope with Envelope B and the ballot arrived sealed, and the circumstances create no reason to suspect fraud.

D. For the purposes of this regulation, "city" may include the voter's locality, town, or any acceptable mailing name for the five-digit zip code of the voter's residence.

E. The illegibility of a voter's or witness' signature on an Envelope B shall not be considered an omission or error.

F. Whether an error or omission on an Envelope B not specifically addressed by this regulation is material and shall render the absentee ballot invalid shall be determined by a majority of the officers of the election present.

Statutory Authority

§ ~~24.2-103~~ of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 28, Issue 17, eff. April 3, 2012; amended, Virginia Register Volume 29, Issue 23, eff. June 26, 2013.

~~1VAC20-70-30. Material omissions from Federal Write-In Absentee Ballots.~~

~~A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.~~

~~B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.~~

~~C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:~~

~~1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;~~

~~2. The applicant has omitted the signature of the witness;~~

~~3. The applicant did not include the declaration/affirmation page; or~~

~~4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but not limited to, current military or overseas address.~~

~~D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:~~

- ~~1. The applicant has not listed the names specifically in the order of last, first, and middle name;~~
- ~~2. The applicant has listed a middle initial or maiden name, instead of the full middle name;~~
- ~~3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;~~
- ~~4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;~~
- ~~5. The applicant has omitted the zip code;~~
- ~~6. The applicant has omitted the date of the signature of the voter;~~
- ~~7. The applicant has omitted the address of the witness;~~
- ~~8. The applicant has omitted the date of signature of the witness;~~
- ~~9. The applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or~~
- ~~10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.~~

~~Statutory Authority~~

~~§ 24.2-103 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from Virginia Register Volume 27, Issue 16, eff. March 28, 2011; amended, Virginia Register Volume 29, Issue 23, eff. June 26, 2013.~~

1VAC20-70-4030. Alternative processing procedures for absentee ballots returned before election day.

Each general registrar in taking the measures as needed to expedite counting absentee ballots under § 24.2-709.1 of the Code of Virginia shall ensure that:

1. The general registrar staff assigned follow all previously prescribed instructions for processing and verifying absentee ballots.

2. All absentee ballots are secured at the end of each day following principles of dual control and chain of custody.

3. The general registrar staff assigned follow carefully all the requirements of § 24.2-709.1 of the Code of Virginia, including the requirement that at least two officers of election, one representing each party, be present during all hours that the expedited procedures are used.

4. Notice is given to the local political party chairs of the times and places for processing absentee ballots in sufficient time to allow for the authorized party representatives to be present.

Statutory Authority

§ 24.2-103 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012; amended, Virginia Register Volume 29, Issue 23, eff. July 1, 2013.

1VAC20-70-5040. Version; applicable law.

An application on any version of an approved absentee ballot application form shall be accepted based on the laws in effect at the time of the election for which the voter is applying.

Statutory Authority

§ 24.2-103 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012.

FORMS (1VAC20-70)

Absentee Ballot Application Form, SBE-701 (rev. 7/4013).

Annual Absentee Ballot Application, SBE-703.1 (rev. 4/407/13).

~~Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).~~

~~Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).~~

~~Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1(b) (rev. 5/04).~~

Envelope B for Statement of Absentee Voter, SBE 706-2 (rev. 7/12).



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Voter Registration

Chapter 40

BOARD WORKING PAPERS
Presented by Martha Brissette
SBE Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette, SBE Policy Analyst
Date: December 2, 2013
Subject: Periodic Review Chapter 40 Voter Registration:
1VAC 20-40-10 through 20-40-80

Suggested motion for a Board member to make: I move that the Board seek public comment, for a period of 14 calendar days, on the proposed amendments to its regulations in Chapter 40, Voter Registration, to implement recommendations received during the periodic review process.

Affected Regulations: 1VAC 20-40-10 through 20-40-80.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103, 24.2-404(D).

Board Materials:

- Voter Registration Regulations with proposed changes from periodic review.
- Comments received
- Current Registration Regulations

Background:

Background:

Legislation enacted in 2009 mandated that the State Board of Elections adopt regulations to assure uniformity in determining residency. The Board appointed a committee to develop regulations and after public hearings regulations were adopted and precleared by the U.S. Department of Justice. The precleared regulations were in the form of a Board policy and were restated as regulations published in the Virginia Administrative Code, and precleared again effective in 2011. The Virginia Register Act requires that regulations must be published in the Virginia Administrative Code to be effective. Va. Code § 2.2-4103.

On May 15, 2013, the Board announced a periodic review of all of its regulations pursuant to Regulation 20-10-120 calling for a review of all regulations after each presidential election. These voter registration regulations were adopted before 2012 so this is their first periodic review. The objectives of this periodic review are similar to those set forth in Executive

Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The comment period for Chapter 40 opened June 3, 2013, and closed June 24, 2013. Your Board materials include comments received in the Town Hall online forum and staff responses. Staff recommends amendments to streamline the language and move regulations for military and overseas voters to a separate chapter following the Code structure adopted in 2012.

For this proposed regulation, staff proposes a Town Hall comment period for 14 days opening with the December 30, 2013, publication in the Virginia Register of Regulations, and closing Monday January 13, 2014, allowing consideration of a final regulation at a future Board meeting.

Voter Registration: 1VAC 20-40				
Commenter	Regulation	Comment	Staff Recommendation	Action Needed
Project Vote	20-40-20	<p>Comment to 1 VAC 20-40-20.Required intent for voter registration.</p> <p><i>Comment to Subsection B.4:</i></p> <ul style="list-style-type: none"> In this section, in order to add clarity, we would recommend adding “solely by fact of their registration” to the end of paragraph four as follows: <p><i>4. A person who applies to register to vote in a precinct for the primary purpose of registering to vote or voting in that precinct has not established the intent to establish domicile there solely by fact of their registration.</i></p>	The reasoning behind the comment seems circular: registration should not be granted when registering to vote is the primary purpose of applying to register to vote in a precinct.	No.
W.T. Latham	20-40-40	<p>Amending 1 VAC 20-40-40</p> <p>In 1 VAC 20-40-40(C), there is lack of clarity. One part of the paragraph says that the "general registrar shall request the information in writing on a form prescribed by the board and the applicant shall respond in writing." Later in the same paragraph, if the applicant does not provide the information by the last day to register, "and the general registrar is unable to determine the applicant's residency through any other means," then the registrar is to deny the application.</p> <p>There are at least a couple of issues created by the wording of paragraph (C):</p> <ul style="list-style-type: none"> What does "any other means" mean, and how does this mesh with the requirement that the applicant must respond in writing? What happens when the application is received so near the close of books that it is impossible, or at best impractical, for the registrar to mail a form to the applicant requesting information that would allow the application to be accepted? 	<p>The reference to “any other means” does not stand alone: the word “and” precedes that phrase. The general registrar is not required and may not supplement material omissions from a voter registration application; the applicant’s signed writing is required.</p> <p>The regulation directs that the application be denied when the applicant fails to provide requested information by the applicable registration deadline. Denying the applying enables the applicant to appeal under 24.2-422 and should not be delayed.</p>	No.
Project	20-40-40	Comment to 1 VAC 20-40-40. Review of application.	A new application is not	No.

Vote		<p>The process and timeline for applicants to supplement voter registration applications should be revised to be more voter-friendly and to prevent penalizing applicants who file timely applications.</p> <p>First, there is no justification for applicants to be required to file a completely new application solely because of inadvertent missing information or potential discrepancies that could be clarified. In the event of missing information, applicants should be able to easily supplement their original applications, provide any such missing information, and correct any errors.</p> <p>Second, after submitting an initial form before the deadline, applicants should be able to provide missing information, clarify any discrepancies, and correct any errors after the deadline has passed up through Election Day, including at the polls. Instead of denying applications that require supplemental information, those applications should be held open pending receipt of the information. This would allow an applicant who submitted an application by the deadline to register to correct any perceived problems with the application including at the polls. These voters could be flagged at the polls and offered the opportunity to provide the information, and, if appropriate, complete the supplemental questionnaire. If applicants do so, they should be allowed to vote. Applications that have not been supplemented or corrected by the end of the next general election could then be denied.</p> <p>If for any reason a voter's eligibility cannot be confirmed immediately at the polls, for example, through showing the identification required by HAVA, at minimum voters should be able to cast a provisional ballot and those ballots should be counted as long as the initial voter registration application was submitted before the registration deadline.</p>	<p>required; a signed writing suffices to add or change material information. Extending the registration deadline to allow correction or supplementation is a legislative issue. 2010SB302(Martin) as amended would have allowed correcting or supplementing after the registration deadline. The bill passed the Senate but failed in the House PE committee.</p>	
W.T. Latham	20-40-50	<p>Amending 1 VAC 20-40-50</p> <p>I recommend adding, after the question "Do you have a specific plan to move away from this county or city at a fixed date in the future?" the following question: "If so, when?"</p>	Existing language appears sufficient.	No.

		<p>The purpose in adding this question would be to allow the voter to explain whether the departure is based on a future contingency (which would allow the application to be accepted). See 1 VAC 20-40-20(B)(2). The voter's additional information would allow the registrar to make a better-informed judgment about the applicant's "specific plan" to move away from the county or city.</p> <p>If this section of the Administrative Code is amended, then the letter would also need to be amended.</p>		
W.T. Latham	20-40-60 and 20-40-40	<p>Harmonizing 1 VAC 20-40-60 and 1 VAC 20-40-40</p> <p>1 VAC 20-40-60(D) requires that the applicant's answers to the supplemental questions "must be in writing and must be returned before the last day to register as established in 24.2-416 of the Code of Virginia." 1 VAC 20-40-40(C) allows the registrar to use "any other means" to establish the applicant's residency.</p> <p>Accordingly, a couple of issues are presented:</p> <ul style="list-style-type: none"> • 20-40-60(D) and 20-40-40(C) appear to be contradictory. • The requirement that the form should be returned before the last day to register should probably be worded such that the form should be returned before the close of books. I think that latter is what was intended, but that's not exactly what the words say. 	As noted above in 20-40-40, the reference to "other means" does not stand independently; the word "and" means that the general registrar must deny the application if the applicant fails to provide omitted material No. information by the applicable deadline. Denial triggers the applicant's appeal right.	No change appears necessary.
Project Vote	20-40-60	<p>Comment to 1 VAC 20-40-60. Review of supplemental questions.</p> <p><i>Comment to Subsection D:</i></p> <ul style="list-style-type: none"> • Registrars should not deny applications due to missing information or information requiring clarification until the election has been completed. As recommended in our comments to 1 VAC 20-40-40 above, applicants should be able to provide the supplemental questionnaire after the deadline including at the polls and then vote, as long as the initial voter registration application was submitted by 	This is a legislative issue. See comment on 20-40-20 above.	

		the registration deadline.		
W.T. Latham	20-40-70	<p>Amending 1 VAC 20-40-70</p> <p>1 VAC 20-40-70(A)(2) states that "[a]pplications for voter registration must be signed by the applicant or the name and address of the assistant entered on the signature line for an applicant with physical disability."</p> <p>On the application, however, the instructions are as follows: "If applicant is unable to sign due to a physical disability, write the name/address of person who assisted. (Required)." The line referred to in these instructions is not the signature line.</p> <p>I suggest changing the wording of 20-40-70(A)(2) to reflect that the instructions on the form must be followed. At this time, the person assisting the disabled voter is not being instructed to put anything on the signature line.</p>	The current registration application provides a shared signature line.	Revise regulation to clarify.
W.T. Latham	20-40-70	<p>Amending 1 VAC 20-40-70 (Part 2)</p> <p>Additional recommended changes to 1 VAC 20-40-70:</p> <ul style="list-style-type: none"> • Indent 20-40-70(D)(2) and 20-40-70(D)(3) and make them "a" and "b," respectively, under 1 VAC 20-40-70(D)(1). • In 20-40-70(E), registrars are required, "if practicable," to attempt to contact the applicant and obtain the missing information requested on an application for voter registration that is not material to determining eligibility to vote." First, this is not practicable. Second, the pieces of information listed in 20-40-70(B) as being nonmaterial are not necessarily beneficial to processing an application, and the Administrative Code should not place such an unnecessary burden on scarce registration and election resources 	Agree appropriate to strike subsection E and redesignate subparagraphs as suggested.	Propose amendment to regulation.
W.T. Latham	20-40-70	<p>Amending 1 VAC 20-40-70 (Part 3)</p> <p>I inadvertently left off my final recommendation for 1 VAC 20-40-70 in my previous post. Here it is:</p> <p>Delete the word "signed" in 20-40-70(F). This would</p>	The Virginia Constitution and Code require a signature for voter registration unless the applicant has a physical	No.

		allow the voter to update the information by email.	disability. Va. Const. Art. II, § 2; Va. Code § 24.2-418. Changes to name and address similarly require signature which may be electronic using the online portal SBE has authorized under § 24.2-416.7.	
Project Vote	20-40-70	<p>Comment to 1 VAC 20-40-70. Applications for voter registration; affirmation of United States citizenship</p> <p><i>Comment to Subsection D:</i></p> <ul style="list-style-type: none"> • Applicants should be able to verbally authorize the registrar to add their middle name to an application. <p><i>Comment to Subsection G:</i></p> <ul style="list-style-type: none"> • Any systematic programs designed to remove noncitizens from the voter rolls could result in wrongful cancellation of the registrations of eligible voters: such systematic programs cannot be conducted within 90 days of a federal election. See 42 U.S.C. 1973gg-6(c)(2)(A). Further, any systematic program to remove the names of ineligible voters (including non-citizens) from the official lists of eligible voters must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), as amended, see 42 U.S.C. 1973gg-6(b). • Any “matching” programs done for the purpose of maintaining accurate and complete voter registration programs should match a sufficient number and selection of fields to maximize the accuracy of those programs. This is particularly important because a large number of individuals share a last name, first name, and birth date. See, e.g, Minutes of Virginia State Board of Elections Meeting, April 3, 2013, lines 118-132 (additional criteria of last four digits of Social Security number cut numbers of potential duplicate registrations nearly in half); see also Probability and the Birthday Paradox, <i>Scientific American</i> (March 29, 2012), http://www.scientificamerican.com/article.cfm?id=bring 	<p>This regulation explains that middle name may be material to determining eligibility. When material, a writing signed by the applicant would be needed to add a middle name to the application.</p> <p>This regulation calls for VERIS automation of the requirement to give the voter an opportunity to affirm U.S. citizenship. No change appears necessary.</p>	No.

		<p>-sciencehome-probability-birthday-paradox (last visited June 23, 2013) (there is a 50-50 chance that 2 people will share the same birthday in a group of only 23 people). Inaccurate match programs endanger the votes of eligible citizens.</p>		
W.T. Latham	20-40-80	<p>Amending 1 VAC 20-40-80</p> <p>I suggest making 20-40-80 apply to the Federal Write-in Absentee Ballot (FWAB) as well as the Federal Post Card Application (FPCA). Such a change would make it clear that, while the ballot portion of an emailed or faxed FWAB could not be counted (because ballots cannot be emailed or faxed back to electoral boards), the registration portion of the FWAB could be accepted and processed as a voter registration.</p>	<p>Staff is concerned that the proposed regulation change could have the unintended consequence of encouraging electronic submission of FWABs that cannot be counted as voted ballots. SBE staff continue to work with FVAP to present clearly that FWABs must be returned by mail for the voted ballot to be counted in Virginia.</p>	<p>Include instruction in GREB11, 11.5.3.6 at p. 22, e.g., FWABs may not be returned electronically as a voted ballot or absentee application. Any applicant sending a FWAB electronically should be notified immediately that this method of return is not authorized for any voted ballot and a FPCA is required to request ballots sent. §§24.2-702.1, 24.2-707. See also Virginia Voting Assistance Guide. <u>Although the voted ballot portion cannot be counted, the registration application should be processed according to the applicable registration deadline.</u> Va. Code § 24.2-457(B).</p>

Virginia Administrative Code

CHAPTER 40
VOTER REGISTRATION

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1VAC20-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abode" or "place of abode" means a physical place where a person dwells. One may have multiple places of abode, such as a second home.

"Address" or "residence address" for purposes of voter registration and address confirmation means the address of residence in the precinct required for voter registration. An alternative mailing address may be included on a voter registration application when: (i) the residence address of the applicant cannot receive mail; or (ii) the voter is otherwise eligible by law to provide an alternative mailing address. Alternative mailing addresses must be sufficient to enable the delivery of mail by the United States Postal Service. The post office box for published lists may be provided either by the United States Postal Service or a commercial mail receiving agency (CMRA) described in the United States Postal Service Domestic Mail Manual.

"Domicile" means a person's primary home, the place where a person dwells and which he considers to be the center of his domestic, social, and civil life. Domicile is primarily a matter of intention, supported by an individual's factual circumstances. Once a person has established domicile, establishing a new domicile requires that he intentionally abandon his old domicile. For any applicant, the registrar shall presume that domicile is at the address of residence given

33 by the person on the application. The registrar shall not solicit evidence to rebut this presumption
34 if the application appears to be legitimate, except as provided in 1VAC20-40-40 B and C.

35 "Residence," "residency," or "resident" for all purposes of qualification to register and vote
36 means and requires both domicile and a place of abode.

37 Statutory Authority

38 § 24.2-103 of the Code of Virginia.

39 Historical Notes

40 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

41 **1VAC20-40-20. Required intent for voter registration.**

42 A. Nothing in this article shall be construed to confer upon any person any privileges or benefits
43 other than the right to register to vote and to be qualified to vote in an election.

44 B. Pursuant to the requirements of § 24.2-404 D of the Code of Virginia, the following shall
45 apply only in determining a person's residence under Article II, Sec. 1 of the Constitution of
46 Virginia and Title 24.2 of the Code of Virginia.

47 1. A person who intends to remain in a location for an unlimited time has established the intent
48 required to establish domicile.

49 2. A person who intends to remain in his current location for an unlimited time has established
50 the intent required to establish domicile even if he may leave upon the happening of a future
51 contingency. Examples of such future contingencies include, but are not limited to, a change in
52 job status or location, graduation from school, military transfer deployments or other relocations,
53 and medical emergencies.

54 3. A person who presently intends to leave his current location at a fixed and certain date may
55 not have established the intent required to establish domicile depending on the facts and
56 circumstances of each case, as determined by the registrar, with all due consideration given to
57 persons in the circumstances contained in 1VAC20-40-30 B.

58 4. A person who applies to register to vote in a precinct for the primary purpose of registering to
59 vote or voting in that precinct has not established the intent to establish domicile there.

60 Statutory Authority

61 § 24.2-103 of the Code of Virginia.

62 Historical Notes

63 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

64

65 **1VAC20-40-30. Presumptions.**

66 A. Residency shall be broadly construed to provide the greatest opportunity to register and to
67 vote. A residence can be established in a commercial, industrial, or other building that is not
68 normally used for residential purposes if the building serves as the applicant's primary nighttime
69 residence. A homeless person will be considered resident in the location where the homeless
70 person usually sleeps at night. In cases involving nontraditional habitations, the location of the
71 person's usual sleeping area shall be controlling as to the residency of that person.

72 B. No presumption in favor of or against residence may arise merely on the basis of a person's
73 presence or absence in the following circumstances:

74 1. While employed in the service of the Commonwealth or United States, whether military or
75 civilian;

76 2. While engaged in the navigation of the waters of the United States or of the high seas;

77 3. While employed by or enrolled as a student in any educational institution, or residing in any
78 housing commonly occupied by students or faculty;

79 4. While confined in any jail or other correctional facility as a nonfelon;

80 5. While receiving treatment or being confined for any reason in a nursing home, hospital,
81 rehabilitation or short term care facility, retirement or veterans' home, or like institution or
82 private facility;

83 6. While remaining in a location only during the workweek in order to conduct business; or

84 7. While residing in an area within the boundaries of Virginia that has been ceded to or acquired
85 by the federal government.

86 C. If a person resides in an area lacking a specific mailing address, the general registrar shall ask
87 him to provide a mailing address along with a description indicating where the person resides.
88 However, no person shall be denied registration for failure to submit a mailing address. The
89 description must identify the location with sufficient specificity to allow the general registrar to
90 place the location in a defined precinct. The general registrar shall assign the person to the
91 precinct containing the location where he resides.

92 D. A person whose home is destroyed or rendered uninhabitable does not lose residence at that
93 home if he intends to return to the home when it is reconstructed or made habitable, unless he
94 has either established a new domicile or has changed his voter registration.

95 E. A person whose residence is divided by a jurisdictional boundary line or election district
96 boundary line shall be deemed to reside in the location of his bedroom or usual sleeping area.

97 F. The general registrar shall not automatically presume the residence of one spouse to be that of
98 the other spouse, but shall determine the other spouse's residence in accordance with the
99 applicable statutes and regulations.

100 G. A person loses voting residence in any county or city in Virginia by registering to vote or
101 voting in any other county, city, or state. An otherwise qualified voter shall not lose their
102 residence at an address until they have established their residence at another address.

103 Statutory Authority

104 § 24.2-103 of the Code of Virginia.

105 Historical Notes

106 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

107 **1VAC20-40-40. Review of application.**

108 A. Except as provided in § 24.2-411.1 of the Code of Virginia, if (i) an application to register to
109 vote is not signed or is missing information required by law, or (ii) the general registrar cannot
110 determine from the information provided on the application the location at which the applicant
111 intended to register, the general registrar shall deny the application and process it in accordance
112 with § 24.2-422 of the Code of Virginia.

113 B. If an application to register to vote contains all information required by law but contains other
114 apparent discrepancies, the general registrar may promptly resolve the discrepancies through
115 informal means. Informal means include ascertainment of information through the statewide,
116 voter registration system, the Division of Motor Vehicles, and any form of communication with
117 the applicant.

118 C. If an application to register to vote contains all information required by law, and if any of the
119 situations in the subdivisions of this subsection apply, the general registrar shall not deny the
120 application, but shall ask the applicant to provide additional information in support of the
121 application. The general registrar shall request the information in writing on a form prescribed by
122 the board and the applicant shall respond in writing. The application shall not be accepted or
123 denied while the registrar is awaiting the applicant's response. The general registrar shall act
124 promptly to resolve the question of residency as soon as possible. In the event the applicant does
125 not provide the requested information by the last day to register as established in § 24.2-416 of
126 the Code of Virginia and the general registrar is unable to determine the applicant's residency
127 through any other means, the general registrar shall deny the application in accordance with §
128 24.2-422 B of the Code of Virginia.

129 1. The applicant provides a mailing address in a different county, city, or state from his
130 residential address. In this situation, the general registrar shall reconfirm the residential address
131 and mailing address by asking the supplemental questions provided in 1VAC20-40-50 and
132 mailing the questions to both the residential and mailing addresses;

133 2. The applicant provides a residential address that cannot receive mail, or from which mail sent
134 by the registrar's office is returned. In this situation, the general registrar shall ask for an alternate
135 mailing address;

136 3. The applicant provides an address that is temporary in nature. Temporary addresses shall
137 include, but not be limited to, hotels, motels, motor homes, hospitals and other short term
138 medical care facilities, houseboats, campgrounds or other facilities that have durational
139 restrictions, such as a 30-day limitation, or any other transient address that would not be
140 considered as a typical permanent residence address. Temporary addresses shall not include
141 apartments or other facilities, such as dormitories, that provide for leases or other rental
142 agreements of at least six months duration. The general registrar shall treat these addresses as
143 permanent ones. In the event the applicant provides an address that is temporary in nature, the
144 general registrar shall ask the supplemental questions provided in 1VAC20-40-50;

145 4. The applicant provides a residential address that is a commercial, industrial, or other building
146 that is not normally used for residential purposes, or other nontraditional residential address; or

147 5. The application causes a conflict with another existing voter in the statewide, voter registration
148 system, such as a duplication of the social security number with an existing voter.

149 Statutory Authority

150 § 24.2-103 of the Code of Virginia.

151 Historical Notes

152 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

153 **1VAC20-40-50. Supplemental questions.**

154 When warranted by the situations described in 1VAC20-40-40 C and where any other
155 information on the voter registration application is unclear, the general registrar shall ask the
156 following questions on a form prescribed by the board after notifying the applicant that any
157 response he makes is subject to the same oath he took to sign the application:

158 1. Are you currently registered to vote at another address? The general registrar shall not ask this
159 question unless the applicant failed to provide the information on the voter registration
160 application.

161 a. If yes to subdivision 1 of this section, what is that address, and in what county, city, or state is
162 that address located?

163 b. If yes to subdivision 1 of this section or as indicated on the voter registration application, do
164 you wish to cancel your registration in that county, city, or state and register and establish
165 residence in this county or city in Virginia?

166 2. Do you have a specific plan to move away from this county or city at a fixed date in the
167 future? If so, when?

168 Statutory Authority
169 § 24.2-103 of the Code of Virginia.
170 Historical Notes
171 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

172 **1VAC20-40-60. Review of supplemental questions.**

173 A. If the applicant answers the questions asked pursuant to 1VAC20-40-50 with information
174 sufficient to assign him a polling place within the precinct and to cancel his current registration
175 elsewhere, if any, the applicant shall be registered and added to the voting rolls of the locality
176 and the jurisdiction where the voter was previously registered shall be notified to remove the
177 registrant from their rolls.

178 B. If the applicant does not provide information sufficient to assign him a polling place within
179 the precinct, the application shall be denied.

180 C. If the applicant indicates that the application was in error or filed incorrectly the registrar shall
181 provide him voting information that could allow the applicant to register or vote absentee in the
182 Commonwealth.

183 D. No new or changed voter registration application is effective until an applicant provides
184 answers to the supplemental questions. Any such answers must be in writing and must be
185 returned before the last day to register as established in § 24.2-416 of the Code of Virginia. Any
186 supplemental information based upon an application made prior to the close of books shall be
187 accepted and the applicant registered if the response is received before the last day to register as
188 established in § 24.2-416 of the Code of Virginia.

189 Statutory Authority
190 § 24.2-103 of the Code of Virginia.
191 Historical Notes
192 Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

193 **1VAC20-40-70. Applications for voter registration; affirmation of United**
194 **States citizenship.**

195 A. Form and signature.

196 1. Applications for voter registration shall be on a form approved by the State Board of Elections
197 or appropriate federal agency.

198 2. Applications for voter registration must be signed by the applicant ~~or the name and address of~~
199 ~~the assistant entered on the signature line for an applicant with-~~ If the applicant is unable to sign
200 due to a physical disability, the name and address of the person assisting the voter shall be
201 entered on the application according to the form instructions.

202 B. Material omissions on applications for voter registration in general. The following omissions
203 are not material if any of the following, or combination thereof, exists:

- 204 1. Daytime telephone number;
- 205 2. Description of a rural address;
- 206 3. Mailing address different from residence address;
- 207 4. Date of the application;
- 208 5. Whether the applicant is interested in working as an election official;
- 209 6. Whether the applicant requests to have his residence address excluded from published lists;
- 210 7. Whether the applicant has a disability that requires accommodation in order to vote; or
- 211 8. Gender.

212 ~~C. Material omissions from applications for voter registration on a Federal Post Card Application~~
213 ~~or Federal Write-in Absentee Ballot. The following omissions are not material:~~

- 214 ~~1. Service identification number, rank, grade, or rate on an application that declares active duty~~
215 ~~military status.~~
- 216 ~~2. Employer name and address on an application that declares temporary overseas residence with~~
217 ~~no date of last residence.~~
- 218 ~~3. Employer name and address on an application that declares temporary overseas residence with~~
219 ~~a date of last residence. If practicable, the general registrar should inform the applicant that~~
220 ~~eligibility for full ballots requires providing the name and address of an employer outside the~~
221 ~~United States.~~
- 222 ~~4. Date of last residence on an application that declares indefinite overseas residence. The date of~~
223 ~~last residence for an application declaring indefinite overseas residence without indicating a date~~
224 ~~of last residence in the United States shall be the date the application is signed.~~

225 DC. Middle name may be material to determining eligibility to vote. If the applicant does not
226 include a middle name the registrar shall:

227 1. As far as practical, attempt to contact the applicant and obtain his middle name or lack thereof
228 to determine if the application is complete.

229 2a. If the applicant indicates that he has no middle name, the registrar shall process the
230 application.

231 ~~3b.~~ If the applicant indicates that he has a middle name, the registrar shall inform the applicant
232 that the middle name is required, deny the application, and send the applicant a new application.

233 4. If the registrar is unable to contact the applicant and therefore unable to determine if the
234 application is incomplete, he shall give the benefit of doubt to the applicant and process the
235 application.

236 ~~E. Except for gender, the general registrar, if practicable, shall attempt to contact the applicant
237 and obtain the missing information requested on an application for voter registration that is not
238 material to determining eligibility to vote. If the general registrar obtains any missing
239 information, he shall write the information, his name, and the date on the reverse side of the
240 application for voter registration to indicate that the alteration was made by the general registrar.~~

241 ~~FD.~~ A general registrar shall not change information provided by an applicant on an application
242 for voter registration without written authorization signed by the applicant.

243 ~~GE.~~ Persons identified as noncitizens in reports from the Department of Motor Vehicles shall
244 have the opportunity to affirm United States citizenship status using any approved voter
245 registration application or other form containing the required affirmation. The State Board of
246 Elections shall automate the process for requesting affirmation of United States citizenship prior
247 to cancellation.

248 ~~HF.~~ For cases not covered by this section, the general registrar in consultation with the electoral
249 board and State Board of Elections staff shall determine materiality on a case-by-case basis that
250 may result in further amendment of this regulation.

251 Statutory Authority:

252 § ~~24.2-103~~ of the Code of Virginia.

253 Historical Notes

254 Derived from Virginia Register Volume 28, Issue 6, eff. November 1, 2011.

255 ~~1VAC20-40-80. Application for registration on Federal Post Card~~

256 ~~Application (FPCA).~~

257 ~~An applicant eligible for registration who applies for registration simultaneously with a request
258 for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by § ~~24.2-703~~ of
259 the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile
260 transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient
261 to apply for registration and request an absentee ballot if signed and otherwise complete.~~

262 Statutory Authority

263 § ~~24.2-103~~ of the Code of Virginia.

264 Historical Notes

265 Derived from Virginia Register Volume 28, Issue 4, eff. September 30, 2011.

266 **FORMS (1VAC20-40)**

267 Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 02/10).

268 National Voter Registration Application Form, Register to Vote in Your State by Using this
269 Postcard Form and Guide (rev. 3/06).

270 ~~Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request,~~
271 ~~Standard Form 76 (rev. 08/11).~~

272 ~~Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186~~
273 ~~(rev. 08/11).~~

274

DRAFT CHANGES

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CHAPTER 40
VOTER REGISTRATION

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FORMS FORMS (1VAC20-40).....9

1VAC20-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abode" or "place of abode" means a physical place where a person dwells. One may have multiple places of abode, such as a second home.

"Address" or "residence address" for purposes of voter registration and address confirmation means the address of residence in the precinct required for voter registration. An alternative mailing address may be included on a voter registration application when: (i) the residence address of the applicant cannot receive mail; or (ii) the voter is otherwise eligible by law to provide an alternative mailing address. Alternative mailing addresses must be sufficient to enable the delivery of mail by the United States Postal Service. The post office box for published lists may be provided either by the United States Postal Service or a commercial mail receiving agency (CMRA) described in the United States Postal Service Domestic Mail Manual.

"Domicile" means a person's primary home, the place where a person dwells and which he considers to be the center of his domestic, social, and civil life. Domicile is primarily a matter of intention, supported by an individual's factual circumstances. Once a person has established domicile, establishing a new domicile requires that he intentionally abandon his old domicile. For any applicant, the registrar shall presume that domicile is at the address of residence given by the person on the application. The registrar shall not solicit evidence to rebut this presumption if the application appears to be legitimate, except as provided in [1VAC20-40-40](#) B and C.

"Residence," "residency," or "resident" for all purposes of qualification to register and vote means and requires both domicile and a place of abode.

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-20. Required intent for voter registration.

A. Nothing in this article shall be construed to confer upon any person any privileges or benefits other than the right to register to vote and to be qualified to vote in an election.

B. Pursuant to the requirements of § [24.2-404](#) D of the Code of Virginia, the following shall apply only in determining a person's residence under Article II, Sec. 1 of the Constitution of Virginia and Title 24.2 of the Code of Virginia.

1. A person who intends to remain in a location for an unlimited time has established the intent required to establish domicile.
2. A person who intends to remain in his current location for an unlimited time has established the intent required to establish domicile even if he may leave upon the happening of a future contingency. Examples of such future contingencies include, but are not limited to, a change in job status or location, graduation from school, military transfer deployments or other relocations, and medical emergencies.
3. A person who presently intends to leave his current location at a fixed and certain date may not have established the intent required to establish domicile depending on the facts and circumstances of each case, as determined by the registrar, with all due consideration given to persons in the circumstances contained in [1VAC20-40-30](#) B.
4. A person who applies to register to vote in a precinct for the primary purpose of registering to vote or voting in that precinct has not established the intent to establish domicile there.

Statutory Authority

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

1VAC20-40-30. Presumptions.

A. Residency shall be broadly construed to provide the greatest opportunity to register and to vote. A residence can be established in a commercial, industrial, or other building that is not normally used for residential purposes if the building serves as the applicant's primary nighttime residence. A homeless person will be considered resident in the location where the homeless person usually sleeps at night. In cases involving nontraditional habitations, the location of the person's usual sleeping area shall be controlling as to the residency of that person.

B. No presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:

1. While employed in the service of the Commonwealth or United States, whether military or civilian;
2. While engaged in the navigation of the waters of the United States or of the high seas;
3. While employed by or enrolled as a student in any educational institution, or residing in any housing commonly occupied by students or faculty;
4. While confined in any jail or other correctional facility as a nonfelon;
5. While receiving treatment or being confined for any reason in a nursing home, hospital, rehabilitation or short term care facility, retirement or veterans' home, or like institution or private facility;
6. While remaining in a location only during the workweek in order to conduct business; or
7. While residing in an area within the boundaries of Virginia that has been ceded to or acquired by the federal government.

C. If a person resides in an area lacking a specific mailing address, the general registrar shall ask him to provide a mailing address along with a description indicating where the person resides. However, no person shall be denied registration for failure to submit a mailing address. The description must identify the location with sufficient specificity to allow the general registrar to place the location in a defined precinct. The general registrar shall assign the person to the precinct containing the location where he resides.

D. A person whose home is destroyed or rendered uninhabitable does not lose residence at that home if he intends to return to the home when it is reconstructed or made habitable, unless he has either established a new domicile or has changed his voter registration.

E. A person whose residence is divided by a jurisdictional boundary line or election district boundary line shall be deemed to reside in the location of his bedroom or usual sleeping area.

F. The general registrar shall not automatically presume the residence of one spouse to be that of the other spouse, but shall determine the other spouse's residence in accordance with the applicable statutes and regulations.

G. A person loses voting residence in any county or city in Virginia by registering to vote or voting in any other county, city, or state. An otherwise qualified voter shall not lose their residence at an address until they have established their residence at another address.

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-40. Review of application.

A. Except as provided in § [24.2-411.1](#) of the Code of Virginia, if (i) an application to register to vote is not signed or is missing information required by law, or (ii) the general registrar cannot determine from the information provided on the application the location at which the applicant intended to register, the general registrar shall deny the application and process it in accordance with § [24.2-422](#) of the Code of Virginia.

B. If an application to register to vote contains all information required by law but contains other apparent discrepancies, the general registrar may promptly resolve the discrepancies through informal means. Informal means include ascertainment of information through the statewide, voter registration system, the Division of Motor Vehicles, and any form of communication with the applicant.

C. If an application to register to vote contains all information required by law, and if any of the situations in the subdivisions of this subsection apply, the general registrar shall not deny the application, but shall ask the applicant to provide additional information in support of the application. The general registrar shall request the information in writing on a form prescribed by the board and the applicant shall respond in writing. The application shall not be accepted or denied while the registrar is awaiting the applicant's response. The general registrar shall act promptly to resolve the question of residency as soon as possible. In the event the applicant does not provide the requested information by the last day to register as established in § [24.2-416](#) of the Code of Virginia and the general registrar is unable to determine the applicant's residency through any other means, the general registrar shall deny the application in accordance with § [24.2-422](#) B of the Code of Virginia.

1. The applicant provides a mailing address in a different county, city, or state from his residential address. In this situation, the general registrar shall reconfirm the residential address

and mailing address by asking the supplemental questions provided in [1VAC20-40-50](#) and mailing the questions to both the residential and mailing addresses;

2. The applicant provides a residential address that cannot receive mail, or from which mail sent by the registrar's office is returned. In this situation, the general registrar shall ask for an alternate mailing address;

3. The applicant provides an address that is temporary in nature. Temporary addresses shall include, but not be limited to, hotels, motels, motor homes, hospitals and other short term medical care facilities, houseboats, campgrounds or other facilities that have durational restrictions, such as a 30-day limitation, or any other transient address that would not be considered as a typical permanent residence address. Temporary addresses shall not include apartments or other facilities, such as dormitories, that provide for leases or other rental agreements of at least six months duration. The general registrar shall treat these addresses as permanent ones. In the event the applicant provides an address that is temporary in nature, the general registrar shall ask the supplemental questions provided in [1VAC20-40-50](#);

4. The applicant provides a residential address that is a commercial, industrial, or other building that is not normally used for residential purposes, or other nontraditional residential address; or

5. The application causes a conflict with another existing voter in the statewide, voter registration system, such as a duplication of the social security number with an existing voter.

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-50. Supplemental questions.

When warranted by the situations described in [1VAC20-40-40](#) C and where any other information on the voter registration application is unclear, the general registrar shall ask the following questions on a form prescribed by the board after notifying the applicant that any response he makes is subject to the same oath he took to sign the application:

1. Are you currently registered to vote at another address? The general registrar shall not ask this question unless the applicant failed to provide the information on the voter registration application.

a. If yes to subdivision 1 of this section, what is that address, and in what county, city, or state is that address located?

b. If yes to subdivision 1 of this section or as indicated on the voter registration application, do you wish to cancel your registration in that county, city, or state and register and establish residence in this county or city in Virginia?

2. Do you have a specific plan to move away from this county or city at a fixed date in the future?

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-60. Review of supplemental questions.

A. If the applicant answers the questions asked pursuant to [1VAC20-40-50](#) with information sufficient to assign him a polling place within the precinct and to cancel his current registration elsewhere, if any, the applicant shall be registered and added to the voting rolls of the locality and the jurisdiction where the voter was previously registered shall be notified to remove the registrant from their rolls.

B. If the applicant does not provide information sufficient to assign him a polling place within the precinct, the application shall be denied.

C. If the applicant indicates that the application was in error or filed incorrectly the registrar shall provide him voting information that could allow the applicant to register or vote absentee in the Commonwealth.

D. No new or changed voter registration application is effective until an applicant provides answers to the supplemental questions. Any such answers must be in writing and must be returned before the last day to register as established in § [24.2-416](#) of the Code of Virginia. Any supplemental information based upon an application made prior to the close of books shall be accepted and the applicant registered if the response is received before the last day to register as established in § [24.2-416](#) of the Code of Virginia.

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-70. Applications for voter registration; affirmation of United States citizenship.

A. Form and signature.

1. Applications for voter registration shall be on a form approved by the State Board of Elections or appropriate federal agency.
2. Applications for voter registration must be signed by the applicant or the name and address of the assistant entered on the signature line for an applicant with a physical disability.

B. Material omissions on applications for voter registration in general. The following omissions are not material if any of the following, or combination thereof, exists:

1. Daytime telephone number;
2. Description of a rural address;
3. Mailing address different from residence address;
4. Date of the application;
5. Whether the applicant is interested in working as an election official;
6. Whether the applicant requests to have his residence address excluded from published lists;
7. Whether the applicant has a disability that requires accommodation in order to vote; or
8. Gender.

C. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:

1. Service identification number, rank, grade, or rate on an application that declares active duty military status.
2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.
3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.
4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.

D. Middle name may be material to determining eligibility to vote. If the applicant does not include a middle name the registrar shall:

1. As far as practical, attempt to contact the applicant and obtain his middle name or lack thereof to determine if the application is complete.
2. If the applicant indicates that he has no middle name, the registrar shall process the application.
3. If the applicant indicates that he has a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.
4. If the registrar is unable to contact the applicant and therefore unable to determine if the application is incomplete, he shall give the benefit of doubt to the applicant and process the application.

E. Except for gender, the general registrar, if practicable, shall attempt to contact the applicant and obtain the missing information requested on an application for voter registration that is not material to determining eligibility to vote. If the general registrar obtains any missing information, he shall write the information, his name, and the date on the reverse side of the application for voter registration to indicate that the alteration was made by the general registrar.

F. A general registrar shall not change information provided by an applicant on an application for voter registration without written authorization signed by the applicant.

G. Persons identified as noncitizens in reports from the Department of Motor Vehicles shall have the opportunity to affirm United States citizenship status using any approved voter registration application or other form containing the required affirmation. The State Board of Elections shall automate the process for requesting affirmation of United States citizenship prior to cancellation.

H. For cases not covered by this section, the general registrar in consultation with the electoral board and State Board of Elections staff shall determine materiality on a case-by-case basis that may result in further amendment of this regulation.

Statutory Authority:

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 6, eff. November 1, 2011.

1VAC20-40-80. Application for registration on Federal Post Card Application (FPCA).

An applicant eligible for registration who applies for registration simultaneously with a request for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by § [24.2-703](#) of the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile

transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise complete.

Statutory Authority

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

Historical Notes

Derived from Virginia Register Volume 28, Issue 4, eff. September 30, 2011.

FORMS (1VAC20-40)

Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 02/10).

National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide (rev. 3/06).

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).

Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Absent Military & Overseas Voters Chapter 40.1

BOARD WORKING PAPERS
Presented by Martha Brissette
SBE Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette, SBE Policy Analyst
Date: December 2, 2013
Subject: Proposed New Chapter 40.1 Military and Overseas Voters:
1VAC 20-40.1-10 through 20-40.1-30

Suggested motion for a Board member to make: I move that the Board seek public comment, for a period of 14 calendar days, on proposed new Chapter 40.1, Military and Overseas Voters, to implement recommendations received during the periodic review process for existing Chapters 40 and 70 consistent with the Code structure created in 2012.

Affected Regulations: 1 VAC §§ 20-40.1-10 through 20-40.1-40 (proposed); 1 VAC §§ 20-40-30(B)(1)-(2), 20-40-70(C), 20-40-80, 20-70-10, 20-70-30.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103

Board Materials:

- Proposed new Chapter 40.1 Military and Overseas Voters
- 1 VAC §§20-40-30(B)(1)-(2), 20-40-70(C), 20-40-80, 20-70-10, 20-70-30.

Background:

In 2012, Virginia enacted the Uniform Military and Overseas Voters Act (UMOVA) as a new Chapter 4.1 in Title 24.2 of the Code of Virginia. Before that legislation, the State Board of Elections adopted regulations affecting voters covered by UMOVA in Chapters 40 and 70 dealing with voter registration and absentee voting generally. Consistent with the Code structure created in 2012, SBE staff is recommending a new regulations Chapter 40.1 dedicated to UMOVA voters to effect comments received in the periodic reviews of Chapters 40 and 70.

The comment period for Chapters 40 and 70 closed on June 24, 2013, and some of the comments relate to regulations affecting voters covered by UMOVA. Staff has prepared a proposed separate new chapter collecting the regulations for UMOVA voters to follow the Code structure enacted in 2012; this structure makes it easier to find and apply the regulations affecting UMOVA voters.

For this proposed regulation, staff proposes a Town Hall comment period for 14 days opening with the December 30, 2013, publication in the Virginia Register of Regulations, and closing Monday January 14, 2014, allowing consideration of a final regulation at a future Board meeting.

Virginia Administrative Code

CHAPTER 40.1

ABSENT MILITARY AND OVERSEAS VOTERS

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1VAC20-40.1-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means ~~an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701), a Virginia Annual Absentee Ballot Application (SBE-703.1), and a Federal Post Card Application (SF-76A).~~ A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

~~"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.~~

"Federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia nor employment information showing that he is employed overseas or is the spouse or dependent residing with a person employed overseas. The date the applicant has provided next to his affirmation will serve as his last date of residence.

1VAC20-40.1-20. Voter registration.

A. Presumptions. As provided in 1 VAC 20-40-30(B), no presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:

24 1. While employed in the service of the Commonwealth or United States, whether military or
25 civilian;

26 2. While engaged in the navigation of the waters of the United States or of the high seas;

27 B. Material omissions from applications for voter registration on a Federal Post Card
28 Application or Federal Write-in Absentee Ballot. The following omissions are not material:

29 1. Service identification number, rank, grade, or rate on an application that declares active duty
30 military status.

31 2. Employer name and address on an application that declares temporary overseas residence with
32 no date of last residence.

33 3. Employer name and address on an application that declares temporary overseas residence with
34 a date of last residence. If practicable, the general registrar should inform the applicant that
35 eligibility for full ballots requires providing the name and address of an employer outside the
36 United States.

37 4. Date of last residence on an application that declares indefinite overseas residence. The date of
38 last residence for an application declaring indefinite overseas residence without indicating a date
39 of last residence in the United States shall be the date the application is signed.

40 **1 VAC 20-40.1-30. ~~Application for registration on~~ Electronic submission**
41 **of Federal Post Card Application (FPCA)**

42 An applicant eligible for registration who applies for registration simultaneously with a request
43 for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by §§ 24.2-458
44 and 24.2-703 of the Code of Virginia may apply for registration as well as request an absentee
45 ballot by facsimile transmission or scanned email attachment. An electronically submitted FPCA
46 shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise
47 complete.

48 **1VAC20-40.1-40. Material omissions from Federal Write-In Absentee**
49 **Ballots.**

50 A. Pursuant to the requirements of §§ 24.2-467, 24.2-702.1 and 24.2-706 of the Code of
51 Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot
52 (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not
53 material to determining the eligibility of the applicant to vote in the election in which he offers to
54 vote.

55 B. If the applicant is not registered, the FWAB may not be accepted as timely for registration
56 unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of
57 Virginia extends the mail registration deadline for certain military applicants. All ~~applicants~~
58 applications requesting mailed ballots are subject to the mail absentee application deadline in §§
59 24.2-459 and 24.2-701 of the Code of Virginia.

60 C. The following omissions are always material and any FWAB containing such omissions
61 should be rendered invalid if on the declaration/affirmation any of the following, or combination
62 thereof, exists:

63 1. An applicant registering to vote has omitted his full printed name, including generational
64 suffix, from the application.

65 2. The applicant has omitted a residence address in Virginia.

66 3. The applicant has omitted a current military or overseas address.

67 4. The applicant has omitted the signature of the voter or the notation of an assistant in the voter
68 signature box that the voter is unable to sign;

69 5. The applicant has omitted the signature of the witness; or

70 6. The applicant did not include the declaration/affirmation page.

71 D. The ballot should not be rendered invalid if on the FWAB any of the following, or
72 combination thereof, exists:

73 1. The applicant has not listed the names specifically in the order of last, first, and middle name;

74 2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

75 3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling
76 in the legal residence;

77 4. The applicant has omitted the county or city of registration if the county or city is clearly
78 identifiable by the residence address information provided;

79 5. The applicant has omitted the zip code;

80 6. The applicant has omitted the date of the signature of the voter;

81 7. The applicant has omitted the address of the witness;

82 8. The applicant has omitted the date of signature of the witness;

83 9. The applicant did not seal the ballot within the security envelope, provided there is substantial
84 compliance with the requirement that the ballot be accompanied by the required voter statement;
85 or

86 10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

87 **1VAC20-40.1-50. RESERVED.**

88 **FORMS (1VAC20-40.1)**

89 Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request,
90 Standard Form 76 (rev. 08/11).

91 Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186
92 (rev. 08/11).

93 Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1(b) (rev. ~~5/04~~7/13).

94



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Voter ID Implementation Plan Discussion

BOARD WORKING PAPERS
Presented
by
Susan Lee, Election Uniformity Manager
&
Nikki Sheridan, SBE Policy Advisor



Voter Identification Requirements; Photo ID **Implementation of Senate Bill 1256**

I. Introduction

On March 25, 2013, Governor McDonnell signed Senate Bill 1256 (**Appendix A**), legislation aimed at continuing to increase the integrity and reliability of the voting process in Virginia. This bill eliminates documents that do not contain a photograph of the voter from being acceptable forms of identification when a person is attempting to vote in-person. The bill adds a valid United States Passport to the list of acceptable forms of identification (IDs) and requires that a student identification card issued by an institution of higher education in the Commonwealth contain a photograph if being used for voting purposes. The legislation also provides a uniform standard of acceptable IDs for all elections. Previously there existed different identification requirements for certain first-time voters in federal elections (HAVA voters). These differences that were often confusing to voters and election officials have been eliminated. This does not change the requirement for voters that do not provide an acceptable form of identification, as they will still have the option of voting a provisional ballot and still must provide a copy of their identification to the electoral board by noon on the Friday after the election if their vote is to be counted. The bill further provides that the State Board shall provide free voter registration cards that contain a voter's photograph and signature if the voter does not possess other satisfactory photo ID. The bill has a delayed effective date of July 1, 2014 for implementation.

In an accompanying Executive Order (see attached in **Appendix B**), Governor McDonnell directed the State Board of Elections (SBE) to take "all appropriate steps to implement this legislation without adding inconvenience, confusion, or hardship to the Commonwealth's voters."

II. Production of Voter Identification Cards

This plan outlines SBE's objectives, goals, and strategy for the production of voter identification cards. To assist with the implementation of this legislation, the project plan has been broken down into three segments:

1. Producing Photographic Voter Registration Identification Cards

The production of voter identification cards in an effective and timely manner is essential for a smooth implementation of SB1256 and the Governor's Executive Order No. 62.

2. Training Plan

Each phase of implementation of SB1256 will have a training element in which the Virginia State Board of Elections (SBE) and the selected vendor will work diligently with the

Commonwealth's 133 localities and staff to ensure that each locality is knowledgeable about not only the intricacies of SB1256, but also confident with the policies and procedures associated with aiding constituents in need of a voter identification card.

3. Policy and Guidance to Election Officials

SBE's policy team will work attentively throughout the implementation of SB1256 to develop proper agency and field-wide procedures and criteria to ensure that the implementation of SB1256 is uniform throughout the Commonwealth.

Timeline for Implementation:

Phase One: May to December 2013:

Producing Voter Registration Cards with Photo ID (Voter Identification Cards)

During this initial phase of the implementation of SB1256, the Virginia State Board of Elections (SBE) sought information from vendors regarding types of equipment and materials necessary for creation and distribution of voter identification cards. On April 30, 2013, SBE issued a Request for Information (RFI), soliciting information on possible solutions for producing voter identification cards. The responses to the RFI were due by June 3, 2013. The purpose of the RFI was to assist SBE by surveying the marketplace as it relates to the type(s) of services and suppliers currently available and capable to provide voter identification cards to voters in need effectively and efficiently. SBE thoroughly reviewed the information received from the April 30, 2013. Throughout the review process, SBE increased its awareness of necessary program or system development, production, training, distribution, and any other components, features, or activities integral to the administration of a statewide program or system for use in voter identification.

Furthermore, this information-gathering portion of implementation was not only critical for agency-wide education, but was integral to help SBE tailor its Request for Proposal (RFP) properly. After adequate review of the RFI, SBE sent out its RFP on September 11, 2013 for the equipment needed to capture the picture and signature of voters. The RFP sought vendor bids for the procurement of cameras, signature capture devices, necessary software needed, as well as proposals for the vendor printing and shipping the identification cards. The RFP requested that the camera equipment and signature capture devices be portable, for ease and flexibility of use in the field for outreach activities. Additionally, the RFP included the request for discount pricing on printers, depending on the volume capacity of each printer. Printers will be available in the case that the localities decide to print the identification cards in-office. The due date for responses is set for October 31, 2013. Following this date, SBE will review responses to the RFP and will continue to gather any information needed to enable the selection of a vendor solution used to create and distribute the voter identification cards.

Training Plan

The training plan during Phase One of implementing SB1256 will largely focus on training the 133 general registrars, electoral boards and their staff members on the pending changes relating to voter identification and how this will affect their offices and the conduct of elections. In order to do so, SBE will leverage regional meetings by both the Voter Registrars' Association of Virginia (VRAV) and the Virginia Electoral Board Association (VEBA), which are vital training opportunities for the elections community throughout the Commonwealth. Additionally, SBE will look into utilizing online training to educate the election community on these changes.

Policy and Guidance to Election Officials

Phase One is a vital opportunity for SBE to develop policy and training for general registrars and electoral boards regarding SB1256. This training will focus on the timeline of when the law will go into effect and reinforce that the current voter identification laws will last through the November 2013 election and any elections taking place before July 1, 2014.

In order to accomplish this, SBE has established a workgroup made up of SBE staff and dedicated members of the election community located throughout the Commonwealth. This workgroup will serve as a conduit to help draft needed guidance for election officials. SBE staff and the work group will review and revise forms and guidance documents impacted by SB1256, as well as identify criteria required to obtain a voter identification card. The work group has met twice and has had productive discussions on the implementation of SB1256. Additionally, the group discussions have facilitated the drafting of a "Frequently Asked Questions" document, that will cover some of basic scenarios the localities will likely face when producing the identification cards. Moreover, throughout this time period, SBE staff will analyze and respond to any questions on the new voter identification law received from the election community as a whole. Additionally, SBE will draft regulations and present these regulations to the Board, to insure uniform practices throughout the Commonwealth.

Phase Two: January to March 2014:

Producing Voter Identification Cards

During the secondary phase of implementation, pursuant to the Governor's Executive Order, SBE will procure the equipment utilizing the funds appropriated in the Fiscal Year 2014 budget. After a vendor is selected, SBE will begin distribution of the equipment to each general registrar and provide training, so the general registrars can be prepared for constituents who need to obtain a free voter ID. After this distribution process, voters who need a free voter identification card can obtain one at their convenience to ensure proper identification at the polling place.

Training

Between January and March of 2014, SBE and the selected vendor will focus its training largely on the utilization of the voter identification equipment. SBE will develop training for election officials, including step-by-step guides on the process and procedures for taking the voter

identification cards. The vendor selected is expected to provide hands on training to all of the general registrars on the use and operation of the photo equipment. In February of 2014, VEBA will host its annual conference where General Registrars and Electoral Board members can receive additional training on these procedures.

Policy and Guidance to Election Officials

During Phase Two, the policy department of SBE will continue to analyze how the pending legislation will affect voter identification. In this process, SBE will develop necessary criteria for who is eligible to receive a voter identification card. SBE will ensure that this information is distributed in a timely fashion to all of the general registrars and staff responsible for taking the voter identification card photographs. If needed, SBE will refine any regulations previously promulgated to insure continued uniform practices throughout Virginia.

Phase Three: April to July 2014:

Producing Voter Identification Cards

During this phase, SBE will actively ensure that all of the general registrars' offices are prepared and equipped with the infrastructure and guidance necessary to provide the voter identification cards to those voters that require them in a convenient, timely manner. This will ensure that the voters who need the cards can get one in ample time for election effected after July 1, 2014.

Training Plan

Phase Three's timeline is a key opportunity for SBE to work with the 133 localities to ensure a smooth transition from the current voter identification law to understanding the intricacies of SB1256 effective July 1. One way this transition will be accomplished during Phase Three is by disseminating sample voter outreach strategies and media materials to the localities. These strategies will help localities reach out to their voters on a more localized level regarding the implementation of SB1256. Media materials will ensure that media outlets receive comprehensive information from the localities on the new law, the processes for getting a voter identification card, and how it affects those at the local level. This training, with an emphasis on how the localities can engage their specific constituents in the community, will help to make the transition not only smooth but effective. SBE will also devote considerable time during its annual Election Uniformity Training to instruct localities on the changes.

Policy and Guidance to Election Officials

Between April and July of 2014, SBE will update its internal guidance documents on voter identification to guarantee that all SBE staff is aware and educated on the changes in the law to best serve constituents who have questions or concerns. Additionally, SBE will prepare Question and Answer documents to provide easy reference points for commonly asked questions or concerns that arise.

Phase Four: Post-July 1, 2014 through November of 2014:

Producing Voter Identification Cards

After July 1, 2014, SBE will begin its post-implementation evaluation of the of the voter identification card production component of the legislation. SBE will canvass the localities in order to evaluate the initial successes and shortcomings as the voter identification cards are produced to any voter that meets the criteria to receive one.

Training

As SBE canvasses the 133 localities to complete its post-implementation evaluation, SBE will use these results to develop a set of overall “best practices” to share with and disseminate to the field. These “best practice” standards will help tailor training after initial implementation to address any problems or concerns raised by the production of voter identification cards.

Policy and Guidance to Election Officials

As the initial implementation of SB1256 draws to a close, SBE will refine policies and procedures as needed in producing the voter identification cards based on questions and/or scenarios that arise in the field. SBE will also continue to educate the localities on the various policy issues that will be encountered during the in-person absentee voting period and on Election Day. These issues may include policy judgments on relatively obscure forms of identification that may be presented, provisional voting issues, and other questions that tend to surface immediately prior to an election.

III. Voter Outreach Plan

Review of House Bill 9 and Senate Bill1 enacted 7.1.2012

In the summer of 2012, as part of the implementation plan for House Bill 9 and Senate Bill 1, SBE planned and began execution of a major voter education and outreach plan with the theme: “Are you Election Ready?” This plan began with information included in voter registration card mailings to all of Virginia’s voters in 2011 and 2012 as part of the redistricting process and continued through November’s election.

As part of the effort to reach all 134 localities and five million registered voters, Virginia launched the “Are You Election Ready?” campaign by dividing the state into five regions where various forms of media were distributed including print, radio, billboards, bus shelters, bus ads and television through the Virginia Association of Broadcasters. The voter outreach campaign educated voters about the changes to Virginia’s voter identification requirements and other important changes to the law impacting elections in Virginia, including provisional ballot procedures for voters who do not show an acceptable form of identification on Election Day.

The campaign included partnerships with various community, civic, advocacy and church organizations across the Commonwealth to reach the public through grassroots initiatives,

participation in community events and festivals, sporting events, collegiate activities, professional and organizational meetings.

Social media was critical in reaching voters through Facebook and Twitter with over 100,000 weekly impressions. Message points included acceptable forms of identification, the voter registration deadline, absentee voting awareness and other election-related information. Public Service Announcements (PSAs) also appeared statewide via newspapers, radio, television and major sporting events including NASCAR races in Richmond and Martinsville which saw over 160,000 attendees. The campaign ads featured photos of everyday citizens of various backgrounds holding signs representing the type of voter identification they would take to the polls. An extended list of acceptable forms of identification, reminders of important deadlines, absentee voting information, and the SBE website and phone number were included in campaign advertisements.

In late September of 2012, SBE mailed new voter registration cards to all of Virginia's approximately 4.7 million active registered voters. SBE communicated important election-related information to voters in that mailing, including identification requirements and important election deadlines.

In September 2012, SBE launched a new website with numerous improvements specifically geared towards educating voters for the November General Election. The new website presented a vastly simplified user interface with easily accessible links to the information most important to Virginians including a tool to allow a voter to check his or her registration status, a polling place finder, information on the absentee voting process, detailed information on the new voter identification requirements, a link to the voter's sample ballot, and other information. The website also contained instructional videos on several topics including the new voter identification requirements, absentee voting, instructions for military personnel, voters with disabilities, and other topics.

SBE participated in two regional televised Phone-A-Thon events during which voters were encouraged to call into a toll-free number in order to check their registration status, polling place location, or to pose any questions related to the new voter identification requirements for the November General Election. General registrars from the participating regions staffed the phones during these events which were held in central and southwest Virginia.

SBE Secretary Don Palmer participated as a panelist at two voter education town hall events held at Norfolk State University and Virginia Union University. In addition, SBE staff members attended these events to distribute voter registration applications, absentee ballot applications, and updated information pertaining to Virginia's ID requirements for voting. SBE staff members and Board members presented at several additional public events informing the public on the voter identification changes.

SBE also took advantage of the considerable press interest received from the voter identification changes. SBE Board members and staff made appearances in print, radio and television.

Virginia also participated in National Military Voter Readiness Day on September 15, 2012 and was recognized as an All-Star state today by the Military Voter Protection (MVP) Project for taking significant efforts to promote and protect the voting rights of America's military service members and their families. SBE staff participated directly in voter education initiatives at Fort Lee, Joint Expeditionary Base Little Creek-Fort Story, and Naval Air Station Oceana.

It is the goal of SBE to continue this history of education and outreach success with the implementation of Senate Bill 1256. This plan outlines SBE's objectives, goals, and strategy at implementing Governor's Executive Order.

Voter Outreach Plan Objectives: To engage in a voter outreach campaign upon Board Approval of this plan through November 8, 2016 and to educate voters about the changes to Virginia's voter identification requirements and other important changes to the laws impacting elections in Virginia.

Voter Outreach Plan Goals: In implementing Senate Bill 1256 and Executive Order No. 62 (2013), the State Board of Elections' goals are the following:

1. To effectively communicate the specifics of the changes to Virginia's voter identification requirements in a straightforward and understandable manner to as many Virginians as possible. In particular, SBE shall focus on the four issues specifically identified by Governor McDonnell in his Executive Order.
2. To ensure a robust and uniform voter education campaign throughout the Commonwealth targeted at all of Virginia's 133 localities.
3. To effectively work with interested third-party groups, including the League of Woman Voters, the NAACP, the state's political parties, and other organizations to communicate the changes to Virginia's voter identification requirements and other important changes to the law impacting Virginia voters.
4. To ensure all Virginia voters without an acceptable form of photo identification are provided one free of charge.
5. To coordinate with and equip local general registrars and electoral board members with the necessary tools to conduct their own outreach efforts in their respective localities.
6. To reach voters through traditional media sources (newspapers, television and radio) by developing Public Service Announcements (PSAs), utilizing press releases and conducting interviews with members of the media.
7. To reach voters through new social media by utilizing Twitter, Facebook, SBE's website, and other means.
8. To utilize public notices, advertisements, and "ERIC" mailings to further educate voters on Virginia's voter identification requirements.
9. To communicate regularly with Governor McDonnell and his successor regarding the status of SBE's outreach efforts.

Emphasis and Contents of Communications: Pursuant to the Governor's Executive Order, the communications for SBE's voter outreach plan will focus on the following issues:

1. That photo identification is required at the polling place in elections after July 1, 2014, and that voters who do not bring identification to the polling place or who refuse to provide identification at the polling place will be required to vote a provisional ballot.
2. The list of photo identification documents that will be accepted at the polling place.
3. That a voter may obtain a free form of valid photo identification if the voter does not possess an acceptable form of identification.
4. Provide contact information of the State Board of Elections and local registrar offices for voters to receive answers to any additional questions.

Resources: SBE plans to allocate significant resources toward achieving these goals and objectives. SBE will devote staff, including the attorneys in the Election Uniformity Division, towards our voter outreach efforts. SBE estimates a fiscal impact of \$200,000 per year from FY 2015 to FY 2017 for the outreach costs. This will ensure that SBE can perform a long-term and sustained outreach campaign building up to the 2016 Presidential Election. Educating voters about the new identification requirements during each of the lower turnout elections in 2014 and 2015 will help ensure most voters are aware of the changes by the November 2016 General Election. SBE staff participating in the project will work closely with SBE Business Manager Sharon Woo to ensure economical use of SBE funds. SBE will also seek assistance from other state agencies per Governor McDonnell's directive in his Executive Order.

II. Coordination with Interested Third Party Groups

A. Private Groups

SBE's outreach and coordination with interested third parties is essential towards a successful voter outreach campaign. Governor McDonnell recognized this when directing SBE to "coordinate with ... interested third-party groups, including but not limited to, the League of Woman Voters, the NAACP, Virginia's political parties, and other organizations. . . ." SBE's specific plan to achieve this directive is the following:

1. Compile a list of interested third-party groups including the League of Woman Voters (LWV), the NAACP, the major and minor political parties of Virginia, other state and local government entities, non-profits, churches, local community organizations (e.g. Rotary), colleges and universities, major Virginia employers and others.
2. Reach out to organizations one-by-one to invite them to participate in our efforts, determine their interest in participating, and identify the appropriate point of contact at each organization.
3. Initiate conference calls with all interested third-party groups to explain SBE's efforts, solicit their input, and welcome them to join our outreach efforts.
4. Meet with different stakeholders and voter advocacy groups to receive input and comments on implementing the voter outreach plan. SBE has begun hosting these meetings: in October, SBE met with the League of Women Voters to discuss the voter implementation plan and receive feedback on how best to insure a smooth and productive implementation of SB 1256.
5. Provide regular updates, additional documentation, etc., via email list.
6. Offer SBE staff, local registrars, and others as speakers to address group membership upon request.

7. Ensuring local general registrars and electoral boards are involved with these efforts at the local level.

B. Other State Agencies

In his Executive Order, Governor McDonnell directed other state agencies to cooperate with SBE and the local general registrars in their outreach efforts. Governor McDonnell directed agencies including but not limited to the Department of Social Services, Department of Motor Vehicles, Department of Education and agencies within the Health and Human Resources Secretariat to cooperate with SBE. These and other state agencies have significant experience and expertise in communicating important issues of public concern to Virginia's citizens. SBE will coordinate with these other state agencies so they act as force multipliers in posting SBE's promotional materials in their service centers, websites, and other aspects of where they interact with the public.

III. Media Strategy, Including Social Media

SBE plans a comprehensive media strategy to communicate to voters the changes in voting identification requirements and other laws related to voting. In addition, SBE will communicate important deadlines through the media and debunk any rumors or misinformation that may surface in the weeks leading up to General Elections.

A. Building Comprehensive Media Contact List

During the 2012 election cycle, SBE conducted a major effort to expand its media contact list. In particular, SBE's efforts have been directed at gathering media contacts for all of Virginia's 133 localities to ensure that SBE is reaching both the remote and rural areas and the urban population centers. These efforts include gathering contact information for local newspapers, radio stations, and even online news services like Patch.com, an online based community-specific news service that provides local coverage for individual towns and communities. SBE's efforts also include gathering contact information from independent news sources that target groups including, but not limited to, the African-American, Hispanic, and Asian communities of Virginia.

Additionally, SBE will continue to work with general registrars who are knowledgeable of local media, to ensure the agency builds a comprehensive list of media contacts for paper, radio, television, and new media mediums.

B. Regular Voter Outreach Through Media Contact List

Initially, SBE will send regular press releases to the media contact list to provide important information regarding the voter identification legislation implementation, including Board actions related to implementing this legislation and updates regarding other important changes to the law. SBE will also utilize this list to send press releases setting the record straight on rumors

and misinformation related to Virginia's voter identification requirements, especially in the days and weeks immediately leading up to the general elections.

SBE's media outreach efforts related to the voter identification requirement changes will be accompanied by press releases relating to important registration and absentee ballot deadlines, scheduling of outreach events across the Commonwealth and other important information normally communicated to the press in advance of an election. SBE will provide sample press releases to local general registrars to exponentially increase the outreach across the Commonwealth.

C. SBE Board Member and Staff Press Availability

SBE will communicate to the press SBE staff availability to conduct interviews and provide sound bites when requested. If the State Board members desire, SBE can inform the press of Board member availability to conduct interviews or provide updates. SBE staff will ensure Board members are briefed regularly on the specifics relating to legislative changes and other important information.

SBE will utilize our media list to announce and invite media to attend any press briefings conducted via conference call or in-person. SBE will ensure that staff members are trained on the proper methods of communicating with the media.

SBE will host press conferences on the start of major initiatives on voter readiness.

D. Utilizing Print and Social Media, Including SBE's Website

SBE will budget appropriately to ensure that the agency is able to add important voter identification information to the required newspaper constitutional amendment advertising required due to any constitutional amendments on the ballot for General Elections through November 8, 2016. Such public notice is required in all newspapers with circulation of over 50,000. However, provided funds are available, SBE will publish the constitutional amendment advertising in additional newspapers, including periodicals serving minority populations.

SBE will utilize social media to increase public awareness about the changes in Virginia's voter identification laws and other important information, especially among young voters.

IV. Procurement of Outreach Services

Overview

The State Board of Elections will seek a contractor to serve as an integrated marketing and advertising vendor to work with SBE's executive staff to plan, execute and measure an effective and efficient public relations campaign that will reach statewide voters. The contractor shall develop communications concepts based on SBE's public relations initiatives and goals and produce advertisements and public service announcements for recommended media. The

contractor shall efficiently and effectively execute all appropriate elements of a public relations campaign and assist in the evaluation of its effectiveness, striving for the maximum return on investments

SBE will also utilize YouTube, Facebook, and its website to link video PSAs.

Phase One: November – January

1. Issue the RFP in conjunction with the Department of General Services. This RFP is scheduled to go out November 5, 2013. Responses are due back by December 12, 2013.
2. Receive and review responses.
3. Evaluate the proposals and award a contract.

Phase Two: January – May

1. Develop the scope of the campaign with the selected vendor.
2. Advisement of draft plan with the vested stakeholders.
3. Develop project milestones to analyze and track evaluation measures.

Phase Three: June – ongoing

1. Implementation of the plan.
2. Monitoring of milestones to ensure timely accomplishment of goals.
3. Monitoring of expenditures to ensure project remains within budget.

V. Partnership with General Registrars and Electoral Boards and “Phone-A-Thon”

In his Executive Order, Governor McDonnell encouraged the general registrars and electoral board members to conduct their own outreach efforts in coordination with the State Board of Elections. SBE is extremely fortunate to have a strong working relationship with Virginia’s general registrars and electoral boards as well as their professional associations, the Voter Registrars’ Association of Virginia (VRAV) and the Virginia Electoral Board Association (VEBA). In furtherance of the Governor’s message, SBE is committed to working with the registrars and electoral boards in ensuring the smooth implementation of the voter identification legislation at the local level. An effective partnership with the local registrars and electoral boards should act as a catalyst and will allow SBE’s message to be amplified at the local level.

SBE will work closely with the statewide leadership of VRAV and VEBA to ensure that both SBE and the localities’ speak with one voice on issues associated with the voter identification requirement changes. Working with VRAV and VEBA leadership in crafting a consistent and coherent communications message will be a main priority of the agency and coordination will take place regularly through SBE’s weekly conference call with the leadership. In addition, SBE will work directly with the regional leadership of VRAV and VEBA to ensure that outreach is being conducted in each region of the Commonwealth.

SBE will ensure that the general registrars are given a copy of all SBE press releases for further dissemination into their communities and so that the election community speaks with one voice on important issues leading up to the election.

SBE's plan of coordination will be a topic addressed and reinforced at the annual training conference of registrars and electoral board members attended by all localities in July 2014 in Midlothian, Virginia. SBE anticipates over 500 local election officials to attend the training. In addition, VRAV's and VEBA's annual meetings will be held in early 2014. Both of these forums of election officials will provide an ideal forum to assess ongoing coordination and outreach efforts.

Finally, SBE hopes to work with the local general registrars in planning a statewide "Phone-A-Thon" that will take place prior to the November 2016 presidential election. SBE anticipates dozens of registrars and volunteers to participate in this event that will allow voters to call in with questions regarding the voting process, including questions related to the new voter identification requirements. Voters will be informed of the event through a scrolling message broadcasted on the bottom of the television screen during normal programming. This event was held regionally in 2008 and 2012, and was a major success.

VI. Regular Communication with Governor McDonnell

In this Executive Order, Governor McDonnell directed the State Board of Elections to regularly report to him on the status of the outreach efforts described in the Executive Order.

SBE will ensure that the agency provides regular updates to Governor McDonnell, Secretary of Administration Lisa Hicks-Thomas and others on the status of the outreach efforts. SBE will provide updates in its weekly report to Secretary Hicks-Thomas as well as more thorough briefings when needed and/or upon request. SBE will brief the new Governor following the start of the new Governor's term in January or 2014.

IV. Conclusion

The State Board of Elections staff is committed to taking the actions described in this plan to ensure the legislation is implemented "without adding inconvenience, confusion, or hardship to the Commonwealth's voters." SBE staff will work diligently to implement the plans described in this initiative in a timely and effective manner to ensure successful implementation of SB1256.

Appendix A – SB 1256

CHAPTER 725

An Act to amend and reenact §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia, relating to voter identification requirements; photo ID.

[S 1256]

Approved March 25, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of State Board.

A. The State Board shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Board shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.
3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places *and voter registration cards containing the voter's photograph and signature for free for those voters who do not have one of the forms of identification specified in subsection B of § 24.2-643. The Board shall promulgate rules and regulations authorizing each general registrar to obtain a photograph and signature of a voter who does not have one of the forms of identification specified in subsection B of § 24.2-643 for the purpose of providing such voter a registration card containing the voter's photograph and signature. The Board shall provide each general registrar with the equipment necessary to obtain a voter's signature and photograph and no general registrar shall be required to purchase such equipment at his own expense. Photographs and signatures obtained by a general registrar shall be submitted to the Board. The Board may contract with an outside vendor for the production and distribution of voter registration cards containing the voter's photograph and signature.*

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Board. The Board shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.
5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.
6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.
7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.
8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.
9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The State Board may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.
10. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

§ 24.2-411.1. Offices of the Department of Motor Vehicles.

A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each person who comes to an office of the Department to:

1. Apply for, replace, or renew a driver's license;
2. Apply for, replace, or renew a special identification card; or
3. Change an address on an existing driver's license or special identification card.

B. The method used to receive an application for voter registration shall avoid duplication of the license portion of the license application and require only the minimum additional information necessary to enable registrars to determine the voter eligibility of the applicant and to administer voter registration and election laws. A person who does not sign the registration portion of the application shall be deemed to have declined to register at that time. The voter application shall include a statement that, if an applicant declines to register to vote, the fact the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

Each application form distributed under this section shall be accompanied by the following statement featured prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

Any completed application for voter registration submitted by a person who is already registered shall serve as a written request to update his registration record. Any change of address form submitted for purposes of a motor vehicle driver's license or special identification card shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes. If the information from the notification of change of address for voter registration indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a request for transfer from the registered

voter. The notification and the registered voter's registration record shall be transmitted as directed by the State Board of Elections to the appropriate general registrar who shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424. The Department and State Board shall cooperate in the prompt transmittal by electronic or other means of the notification to the appropriate general registrar.

C. The completed voter registration portion of the application shall be transmitted as directed by the State Board not later than five business days after the date of receipt. The Department and State Board shall cooperate in the prompt transmittal by electronic or other means of the voter registration portion of the application to the appropriate general registrar.

D. The State Board of Elections shall maintain statistical records on the number of applications to register to vote with information provided from the Department of Motor Vehicles.

E. A person who provides services at the Department of Motor Vehicles shall not disclose, except as authorized by law for official use, the social security number, or any part thereof, of any applicant for voter registration.

F. The Department of Motor Vehicles shall provide assistance as required in providing voter registration cards containing the voter's photograph and signature as provided in subdivision A 3 of § 24.2-404.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: ~~his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, his concealed handgun permit issued pursuant to § 18.2-308~~ *valid United States passport*, or any other *photo identification card* issued by a ~~government agency~~ of the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card *containing a photograph of the voter and* issued by any institution of higher education located in the Commonwealth of Virginia; *or* any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business; ~~or a copy of a current utility bill, bank statement, government check, or paycheck that shows the name and address of the voter.~~

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

~~E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

~~For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subdivision shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 42 U.S.C. § 1973ff(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;
2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;
3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service ID number; or
 5. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name and address of the school or institution of learning; or
 6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, the nature of the disability, illness, or pregnancy; or
 7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name and address of the institution of confinement; or
 8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or
 9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or
 10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability; or
 11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, his religion and the nature of the obligation; or
 12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer, address of his place of work, and hours he will be at the workplace and commuting on election day; or
 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or
 14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated and the name of the party chairman or candidate who designated him.
2. That the provisions of this act shall become effective on July 1, 2014.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

Appendix B: Executive Order No. 62 (2013)

Implementation of Senate Bill 1256 Relating to Identification Requirements for Voters at the Polling Place on Election Day

Importance of the Initiative

The Commonwealth of Virginia and its people have a strong interest in ensuring that their elections have integrity and reliability. For the citizens of Virginia to have faith in their government, they must have faith and confidence in the conduct and outcome of their elections. This means that government must provide open, honest, and secure elections. As such, Virginia has an abiding interest in deterring and detecting any potential voter fraud. Documented cases of voter fraud have occurred both in Virginia and in other parts of the United States. Virginia's history of some very close elections demonstrates that any voter fraud could negatively affect an election decided by a very small number of votes.

While conducting safe elections, we must absolutely ensure that our voting laws have no discriminatory effect and that eligible voters are able to vote without any unnecessary or burdensome hurdles. All eligible voters regardless of income, race, age, and other factors should be able to have equal access to the electoral process. The great principle of one man, one vote is essential to American democracy, and must be protected. Embracing a vibrant democracy through encouraging young and new voters to participate, and in restoring rights rapidly to qualifying felons has been an important part of this Administration. Now, all voters must be fully informed of any changes in the law that may impact their ability to vote.

Enactment of Senate Bill 1256

Virginia has long required voters to bring valid identification to the polling place on Election Day in order to cast a vote. Likewise, federal law has required identification for certain first-time voters in federal elections since the implementation of the Help America Vote Act (HAVA) almost a decade ago. These efforts have made our electoral system less subject to fraud, but we must continue to look for ways to further address any vulnerability in our system. Senate Bill 1256 continues that mission, providing a process for individuals to obtain free photo identification cards and requiring that acceptable identification with a photo of the voter be provided on Election Day in order to vote. We must maintain the provisional ballot safeguard for individuals who fail to present proper documentation at the polling place. Maintaining the provisional ballot provides an opportunity to present identification to local electoral boards by multiple means of transmission after the election. While this new act is not effective until election conducted after July 1, 2014, the time for preparation and education is now.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § § 2.2-103 and 2.2-104 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the State Board of Elections, and request that local election officials, take several steps described in this Executive Order.

Specifically, this Executive Order directs the State Board of Elections to take necessary steps to ensure that all eligible Virginia voters are made aware of the provisions of this new law and are given the necessary information in order to provide an appropriate form of identification when voting in the 2014 elections, and provide details on how to attain a free photo identification, if needed. This Executive Order requests that local election officials cooperate in these efforts. I also direct the State Board of Elections, using the funds appropriated in the Fiscal Year 2014 budget, to expeditiously acquire and distribute to local registrars the necessary equipment and materials to allow for creation and distribution of photo voter registration cards.

Voter Outreach Campaign

I direct the State Board of Elections to engage in a robust voter outreach campaign to educate voters about the changes to Virginia's voter identification requirements. This outreach campaign will educate the Commonwealth's voters on the following:

1. That photo identification is required at the polling place requiring in elections after July 1, 2014, and that voters who do not bring identification to the polling place or who refuse to provide identification at the polling place will be required to vote a provisional ballot;
2. The list of photo identification documents that will be accepted at the polling place;
3. That a voter may obtain a free form of valid photo identification if the voter does not have an acceptable form of identification; and
4. Provide contact information of the State Board of Elections and local registrar offices for voters to receive answers to any additional questions.

I direct the State Board of Elections to utilize newspaper advertisements, the internet, social media, television and radio (including Public Service Announcements), public town hall meetings, direct mail, public notices in state and local buildings, voter registration offices, and polling places and other means to communicate the information described above to Virginia voters, to the maximum extent that sufficient funds exist for such purposes.

I direct the State Board of Elections to coordinate with local election officials, interested third-party groups including, but not limited to, the League of Woman Voters, the NAACP, Virginia's political parties, media entities, and other organizations to help educate voters about Virginia's voter identification requirements.

I direct the State Board of Elections to ensure that its voter outreach efforts are directed at all regions of the Commonwealth and in all of its localities.

I encourage local general registrars and electoral board members to conduct their own outreach efforts in coordination with the State Board of Elections. General registrar and electoral board outreach at the local level should target local voters through local media, including radio and television, and print, making efforts to educate voters through outreach to various local community groups.

I direct other state agencies to assist and cooperate with the State Board of Elections and local general registrars in their outreach efforts, including the Department of Social Services, Department of Motor Vehicles, Department of Education, and agencies within the Health and Human Resources Secretariat.

I direct the State Board of Elections to adopt any rules, regulations or guidelines necessary to implement any particulars of this legislation, including the procedures for a voter to apply for and obtain a free photo identification card, or for the implementation of voter outreach efforts.

I direct the State Board of Elections to regularly report to me on the status of the outreach efforts from the date of implementation, July, 1, 2014, through the 2014 General Election.

Effective Date of this Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until December 1, 2014, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this the 26th day of March, 2013.

/s/ Robert F. McDonnell, Governor

Attest: /s/Janet V. Kelly, Secretary of the Commonwealth



Voter Identification Requirements; Photo ID **Implementation of Senate Bill 1256**

I. Introduction

On March 25, 2013, Governor McDonnell signed Senate Bill 1256 (**Appendix A**), legislation aimed at continuing to increase the integrity and reliability of the voting process in Virginia. This bill eliminates documents that do not contain a photograph of the voter from being acceptable forms of identification when a person is attempting to vote in-person. The bill adds a valid United States Passport to the list of acceptable forms of identification (IDs) and requires that a student identification card issued by an institution of higher education in the Commonwealth contain a photograph if being used for voting purposes. The legislation also provides a uniform standard of acceptable IDs for all elections. Previously there existed different identification requirements for certain first-time voters in federal elections (HAVA voters). These differences that were often confusing to voters and election officials have been eliminated. This does not change the requirement for voters that do not provide an acceptable form of identification, as they will still have the option of voting a provisional ballot and still must provide a copy of their identification to the electoral board by noon on the Friday after the election if their vote is to be counted. The bill further provides that the State Board shall provide free voter registration cards that contain a voter's photograph and signature if the voter does not possess other satisfactory photo ID. The bill has a delayed effective date of July 1, 2014 for implementation.

In an accompanying Executive Order (see attached in **Appendix B**), Governor McDonnell directed the State Board of Elections (SBE) to take "all appropriate steps to implement this legislation without adding inconvenience, confusion, or hardship to the Commonwealth's voters."

II. Production of Voter Identification Cards

This plan outlines SBE's objectives, goals, and strategy for the production of voter identification cards. To assist with the implementation of this legislation, the project plan has been broken down into three segments:

1. Producing Photographic Voter Registration Identification Cards

The production of voter identification cards in an effective and timely manner is essential for a smooth implementation of SB1256 and the Governor's Executive Order No. 62.

2. Training Plan

Each phase of implementation of SB1256 will have a training element in which the Virginia State Board of Elections (SBE) and the selected vendor will work diligently with the

Commonwealth's 133 localities and staff to ensure that each locality is knowledgeable about not only the intricacies of SB1256, but also confident with the policies and procedures associated with aiding constituents in need of a voter identification card.

3. Policy and Guidance to Election Officials

SBE's policy team will work attentively throughout the implementation of SB1256 to develop proper agency and field-wide procedures and criteria to ensure that the implementation of SB1256 is uniform throughout the Commonwealth.

Timeline for Implementation:

Phase One: May to December 2013:

Producing Voter Registration Cards with Photo ID (Voter Identification Cards)

During this initial phase of the implementation of SB1256, the Virginia State Board of Elections (SBE) sought information from vendors regarding types of equipment and materials necessary for creation and distribution of voter identification cards. On April 30, 2013, SBE issued a Request for Information (RFI), soliciting information on possible solutions for producing voter identification cards. The responses to the RFI were due by June 3, 2013. The purpose of the RFI was to assist SBE by surveying the marketplace as it relates to the type(s) of services and suppliers currently available and capable to provide voter identification cards to voters in need effectively and efficiently. SBE thoroughly reviewed the information received from the April 30, 2013. Throughout the review process, SBE increased its awareness of necessary program or system development, production, training, distribution, and any other components, features, or activities integral to the administration of a statewide program or system for use in voter identification.

Furthermore, this information-gathering portion of implementation was not only critical for agency-wide education, but was integral to help SBE tailor its Request for Proposal (RFP) properly. After adequate review of the RFI, SBE sent out its RFP on September 11, 2013 for the equipment needed to capture the picture and signature of voters. The RFP sought vendor bids for the procurement of cameras, signature capture devices, necessary software needed, as well as proposals for the vendor printing and shipping the identification cards. The RFP requested that the camera equipment and signature capture devices be portable, for ease and flexibility of use in the field for outreach activities. Additionally, the RFP included the request for discount pricing on printers, depending on the volume capacity of each printer. Printers will be available in the case that the localities decide to print the identification cards in-office. The due date for responses is set for October 31, 2013. Following this date, SBE will review responses to the RFP and will continue to gather any information needed to enable the selection of a vendor solution used to create and distribute the voter identification cards.

Training Plan

The training plan during Phase One of implementing SB1256 will largely focus on training the 133 general registrars, electoral boards and their staff members on the pending changes relating to voter identification and how this will affect their offices and the conduct of elections. In order to do so, SBE will leverage regional meetings by both the Voter Registrars' Association of Virginia (VRAV) and the Virginia Electoral Board Association (VEBA), which are vital training opportunities for the elections community throughout the Commonwealth. Additionally, SBE will look into utilizing online training to educate the election community on these changes.

Policy and Guidance to Election Officials

Phase One is a vital opportunity for SBE to develop policy and training for general registrars and electoral boards regarding SB1256. This training will focus on the timeline of when the law will go into effect and reinforce that the current voter identification laws will last through the November 2013 election and any elections taking place before July 1, 2014.

In order to accomplish this, SBE has established a workgroup made up of SBE staff and dedicated members of the election community located throughout the Commonwealth. This workgroup will serve as a conduit to help draft needed guidance for election officials. SBE staff and the work group will review and revise forms and guidance documents impacted by SB1256, as well as identify criteria required to obtain a voter identification card. The work group has met twice and has had productive discussions on the implementation of SB1256. Additionally, the group discussions have facilitated the drafting of a "Frequently Asked Questions" document, that will cover some of basic scenarios the localities will likely face when producing the identification cards. Moreover, throughout this time period, SBE staff will analyze and respond to any questions on the new voter identification law received from the election community as a whole. Additionally, SBE will draft regulations and present these regulations to the Board, to insure uniform practices throughout the Commonwealth.

Phase Two: January to March 2014:

Producing Voter Identification Cards

During the secondary phase of implementation, pursuant to the Governor's Executive Order, SBE will procure the equipment utilizing the funds appropriated in the Fiscal Year 2014 budget. After a vendor is selected, SBE will begin distribution of the equipment to each general registrar and provide training, so the general registrars can be prepared for constituents who need to obtain a free voter ID. After this distribution process, voters who need a free voter identification card can obtain one at their convenience to ensure proper identification at the polling place.

Training

Between January and March of 2014, SBE and the selected vendor will focus its training largely on the utilization of the voter identification equipment. SBE will develop training for election officials, including step-by-step guides on the process and procedures for taking the voter

identification cards. The vendor selected is expected to provide hands on training to all of the general registrars on the use and operation of the photo equipment. In February of 2014, VEBA will host its annual conference where General Registrars and Electoral Board members can receive additional training on these procedures.

Policy and Guidance to Election Officials

During Phase Two, the policy department of SBE will continue to analyze how the pending legislation will affect voter identification. In this process, SBE will develop necessary criteria for who is eligible to receive a voter identification card. SBE will ensure that this information is distributed in a timely fashion to all of the general registrars and staff responsible for taking the voter identification card photographs. If needed, SBE will refine any regulations previously promulgated to insure continued uniform practices throughout Virginia.

Phase Three: April to July 2014:

Producing Voter Identification Cards

During this phase, SBE will actively ensure that all of the general registrars' offices are prepared and equipped with the infrastructure and guidance necessary to provide the voter identification cards to those voters that require them in a convenient, timely manner. This will ensure that the voters who need the cards can get one in ample time for election effected after July 1, 2014.

Training Plan

Phase Three's timeline is a key opportunity for SBE to work with the 133 localities to ensure a smooth transition from the current voter identification law to understanding the intricacies of SB1256 effective July 1. One way this transition will be accomplished during Phase Three is by disseminating sample voter outreach strategies and media materials to the localities. These strategies will help localities reach out to their voters on a more localized level regarding the implementation of SB1256. Media materials will ensure that media outlets receive comprehensive information from the localities on the new law, the processes for getting a voter identification card, and how it affects those at the local level. This training, with an emphasis on how the localities can engage their specific constituents in the community, will help to make the transition not only smooth but effective. SBE will also devote considerable time during its annual Election Uniformity Training to instruct localities on the changes.

Policy and Guidance to Election Officials

Between April and July of 2014, SBE will update its internal guidance documents on voter identification to guarantee that all SBE staff is aware and educated on the changes in the law to best serve constituents who have questions or concerns. Additionally, SBE will prepare Question and Answer documents to provide easy reference points for commonly asked questions or concerns that arise.

Phase Four: Post-July 1, 2014 through November of 2014:

Producing Voter Identification Cards

After July 1, 2014, SBE will begin its post-implementation evaluation of the of the voter identification card production component of the legislation. SBE will canvass the localities in order to evaluate the initial successes and shortcomings as the voter identification cards are produced to any voter that meets the criteria to receive one.

Training

As SBE canvasses the 133 localities to complete its post-implementation evaluation, SBE will use these results to develop a set of overall “best practices” to share with and disseminate to the field. These “best practice” standards will help tailor training after initial implementation to address any problems or concerns raised by the production of voter identification cards.

Policy and Guidance to Election Officials

As the initial implementation of SB1256 draws to a close, SBE will refine policies and procedures as needed in producing the voter identification cards based on questions and/or scenarios that arise in the field. SBE will also continue to educate the localities on the various policy issues that will be encountered during the in-person absentee voting period and on Election Day. These issues may include policy judgments on relatively obscure forms of identification that may be presented, provisional voting issues, and other questions that tend to surface immediately prior to an election.

III. Voter Outreach Plan

Review of House Bill 9 and Senate Bill1 enacted 7.1.2012

In the summer of 2012, as part of the implementation plan for House Bill 9 and Senate Bill 1, SBE planned and began execution of a major voter education and outreach plan with the theme: “Are you Election Ready?” This plan began with information included in voter registration card mailings to all of Virginia’s voters in 2011 and 2012 as part of the redistricting process and continued through November’s election.

As part of the effort to reach all 134 localities and five million registered voters, Virginia launched the “Are You Election Ready?” campaign by dividing the state into five regions where various forms of media were distributed including print, radio, billboards, bus shelters, bus ads and television through the Virginia Association of Broadcasters. The voter outreach campaign educated voters about the changes to Virginia’s voter identification requirements and other important changes to the law impacting elections in Virginia, including provisional ballot procedures for voters who do not show an acceptable form of identification on Election Day.

The campaign included partnerships with various community, civic, advocacy and church organizations across the Commonwealth to reach the public through grassroots initiatives,

participation in community events and festivals, sporting events, collegiate activities, professional and organizational meetings.

Social media was critical in reaching voters through Facebook and Twitter with over 100,000 weekly impressions. Message points included acceptable forms of identification, the voter registration deadline, absentee voting awareness and other election-related information. Public Service Announcements (PSAs) also appeared statewide via newspapers, radio, television and major sporting events including NASCAR races in Richmond and Martinsville which saw over 160,000 attendees. The campaign ads featured photos of everyday citizens of various backgrounds holding signs representing the type of voter identification they would take to the polls. An extended list of acceptable forms of identification, reminders of important deadlines, absentee voting information, and the SBE website and phone number were included in campaign advertisements.

In late September of 2012, SBE mailed new voter registration cards to all of Virginia's approximately 4.7 million active registered voters. SBE communicated important election-related information to voters in that mailing, including identification requirements and important election deadlines.

In September 2012, SBE launched a new website with numerous improvements specifically geared towards educating voters for the November General Election. The new website presented a vastly simplified user interface with easily accessible links to the information most important to Virginians including a tool to allow a voter to check his or her registration status, a polling place finder, information on the absentee voting process, detailed information on the new voter identification requirements, a link to the voter's sample ballot, and other information. The website also contained instructional videos on several topics including the new voter identification requirements, absentee voting, instructions for military personnel, voters with disabilities, and other topics.

SBE participated in two regional televised Phone-A-Thon events during which voters were encouraged to call into a toll-free number in order to check their registration status, polling place location, or to pose any questions related to the new voter identification requirements for the November General Election. General registrars from the participating regions staffed the phones during these events which were held in central and southwest Virginia.

SBE Secretary Don Palmer participated as a panelist at two voter education town hall events held at Norfolk State University and Virginia Union University. In addition, SBE staff members attended these events to distribute voter registration applications, absentee ballot applications, and updated information pertaining to Virginia's ID requirements for voting. SBE staff members and Board members presented at several additional public events informing the public on the voter identification changes.

SBE also took advantage of the considerable press interest received from the voter identification changes. SBE Board members and staff made appearances in print, radio and television.

Virginia also participated in National Military Voter Readiness Day on September 15, 2012 and was recognized as an All-Star state ~~today~~ by the Military Voter Protection (MVP) Project for taking significant efforts to promote and protect the voting rights of America's military service members and their families. SBE staff participated directly in voter education initiatives at Fort Lee, Joint Expeditionary Base Little Creek-Fort Story, and Naval Air Station Oceana.

It is the goal of SBE to continue this history of education and outreach success with the implementation of Senate Bill 1256. This plan outlines SBE's objectives, goals, and strategy at implementing Governor's Executive Order.

Voter Outreach Plan Objectives: To engage in a voter outreach campaign upon Board Approval of this plan through November 8, 2016 and to educate voters about the changes to Virginia's voter identification requirements and other important changes to the laws impacting elections in Virginia.

Voter Outreach Plan Goals: In implementing Senate Bill 1256 and Executive Order No. 62 (2013), the State Board of Elections' goals are the following:

1. To effectively communicate the specifics of the changes to Virginia's voter identification requirements in a straightforward and understandable manner to as many Virginians as possible. In particular, SBE shall focus on the four issues specifically identified by Governor McDonnell in his Executive Order.
2. To ensure a robust and uniform voter education campaign throughout the Commonwealth targeted at all of Virginia's 133 localities.
3. To effectively work with interested third-party groups, including the League of Woman Voters, the NAACP, the state's political parties, and other organizations to communicate the changes to Virginia's voter identification requirements and other important changes to the law impacting Virginia voters.
4. To ensure all Virginia voters without an acceptable form of photo identification are provided one free of charge.
5. To coordinate with and equip local general registrars and electoral board members with the necessary tools to conduct their own outreach efforts in their respective localities.
6. To reach voters through traditional media sources (newspapers, television and radio) by developing Public Service Announcements (PSAs), utilizing press releases and conducting interviews with members of the media.
7. To reach voters through new social media by utilizing Twitter, Facebook, SBE's website, and other means.
8. To utilize public notices, advertisements, and "ERIC" voter information mailings to further educate voters on Virginia's voter identification requirements.
9. To communicate regularly with Governor McDonnell and his successor regarding the status of SBE's outreach efforts.

Emphasis and Contents of Communications: Pursuant to the Governor's Executive Order, the communications for SBE's voter outreach plan will focus on the following issues:

1. That photo identification is required at the polling place in elections after July 1, 2014, and that voters who do not bring identification to the polling place or who refuse to provide identification at the polling place will be required to vote a provisional ballot.
2. The list of photo identification documents that will be accepted at the polling place.
3. That a voter may obtain a free form of valid photo identification if the voter does not possess an acceptable form of identification.
4. Provide contact information of the State Board of Elections and local registrar offices for voters to receive answers to any additional questions.

Resources: SBE plans to allocate significant resources toward achieving these goals and objectives. SBE will devote staff, including the attorneys in the Election Uniformity Division, towards our voter outreach efforts. SBE estimates a fiscal impact of \$200,000 per year from FY 2015 to FY 2017 for the outreach costs. This will ensure that SBE can perform a long-term and sustained outreach campaign building up to the 2016 Presidential Election. Educating voters about the new identification requirements during each of the lower turnout elections in 2014 and 2015 will help ensure most voters are aware of the changes by the November 2016 General Election. SBE staff participating in the project will work closely with SBE Business Manager Sharon Woo to ensure economical use of SBE funds. SBE will also seek assistance from other state agencies per Governor McDonnell's directive in his Executive Order.

II. Coordination with Interested Third Party Groups

A. Private Groups

SBE's outreach and coordination with interested third parties is essential towards a successful voter outreach campaign. Governor McDonnell recognized this when directing SBE to "coordinate with ... interested third-party groups, including but not limited to, the League of Woman Voters, the NAACP, Virginia's political parties, and other organizations. . . ." SBE's specific plan to achieve this directive is the following:

1. Compile a list of interested third-party groups including the League of Woman Voters (LWV), the NAACP, the major and minor political parties of Virginia, other state and local government entities, non-profits, churches, local community organizations (e.g. Rotary), colleges and universities, major Virginia employers and others.
2. Reach out to organizations one-by-one to invite them to participate in our efforts, determine their interest in participating, and identify the appropriate point of contact at each organization.
3. Initiate conference calls with all interested third-party groups to explain SBE's efforts, solicit their input, and welcome them to join our outreach efforts.
4. Meet with different stakeholders and voter advocacy groups to receive input and comments on implementing the voter outreach plan. SBE has begun hosting these meetings: in October, SBE met with the League of Women Voters to discuss the voter implementation plan and receive feedback on how best to insure a smooth and productive implementation of SB 1256.
5. Provide regular updates, additional documentation, etc., via email list.
6. Offer SBE staff, local registrars, and others as speakers to address group membership upon request.

7. Ensuring local general registrars and electoral boards are involved with these efforts at the local level.

B. Other State Agencies

In his Executive Order, Governor McDonnell directed other state agencies to cooperate with SBE and the local general registrars in their outreach efforts. Governor McDonnell directed agencies including but not limited to the Department of Social Services, Department of Motor Vehicles, Department of Education and agencies within the Health and Human Resources Secretariat to cooperate with SBE. These and other state agencies have significant experience and expertise in communicating important issues of public concern to Virginia's citizens. SBE will coordinate with these other state agencies so they act as force multipliers in posting SBE's promotional materials in their service centers, websites, and other aspects of where they interact with the public.

III. Media Strategy, Including Social Media

SBE plans a comprehensive media strategy to communicate to voters the changes in voting identification requirements and other laws related to voting. In addition, SBE will communicate important deadlines through the media and debunk any rumors or misinformation that may surface in the weeks leading up to General Elections.

A. Building Comprehensive Media Contact List

During the 2012 election cycle, SBE conducted a major effort to expand its media contact list. In particular, SBE's efforts have been directed at gathering media contacts for all of Virginia's 133 localities to ensure that SBE is reaching both the remote and rural areas and the urban population centers. These efforts include gathering contact information for local newspapers, radio stations, and even online news services like Patch.com, an online based community-specific news service that provides local coverage for individual towns and communities. SBE's efforts also include gathering contact information from independent news sources that target groups including, but not limited to, the African-American, Hispanic, and Asian communities of Virginia.

Additionally, SBE will continue to work with general registrars who are knowledgeable of local media, to ensure the agency builds a comprehensive list of media contacts for paper, radio, television, and new media mediums.

B. Regular Voter Outreach Through Media Contact List

Initially, SBE will send regular press releases to the media contact list to provide important information regarding the voter identification legislation implementation, including Board actions related to implementing this legislation and updates regarding other important changes to the law. SBE will also utilize this list to send press releases setting the record straight on rumors

and misinformation related to Virginia's voter identification requirements, especially in the days and weeks immediately leading up to the general elections.

SBE's media outreach efforts related to the voter identification requirement changes will be accompanied by press releases relating to important registration and absentee ballot deadlines, scheduling of outreach events across the Commonwealth and other important information normally communicated to the press in advance of an election. SBE will provide sample press releases to local general registrars to exponentially increase the outreach across the Commonwealth.

C. SBE Board Member and Staff Press Availability

SBE will communicate to the press SBE staff availability to conduct interviews and provide sound bites when requested. If the State Board members desire, SBE can inform the press of Board member availability to conduct interviews or provide updates. SBE staff will ensure Board members are briefed regularly on the specifics relating to legislative changes and other important information.

SBE will utilize our media list to announce and invite media to attend any press briefings conducted via conference call or in-person. SBE will ensure that staff members are trained on the proper methods of communicating with the media.

SBE will host press conferences on the start of major initiatives on voter readiness.

D. Utilizing Print and Social Media, Including SBE's Website

SBE will budget appropriately to ensure that the agency is able to add important voter identification information to the required newspaper constitutional amendment advertising required due to any constitutional amendments on the ballot for General Elections through November 8, 2016. Such public notice is required in all newspapers with circulation of over 50,000. However, provided funds are available, SBE will publish the constitutional amendment advertising in additional newspapers, including periodicals serving minority populations.

SBE will utilize social media to increase public awareness about the changes in Virginia's voter identification laws and other important information, especially among young voters.

IV. Procurement of Outreach Services

Overview

The State Board of Elections will seek a contractor to serve as an integrated marketing and advertising vendor to work with SBE's executive staff to plan, execute and measure an effective and efficient public relations campaign that will reach statewide voters. The contractor shall develop communications concepts based on SBE's public relations initiatives and goals and produce advertisements and public service announcements for recommended media. The

contractor shall efficiently and effectively execute all appropriate elements of a public relations campaign and assist in the evaluation of its effectiveness, striving for the maximum return on investments

SBE will also utilize YouTube, Facebook, and its website to link video PSAs.

Phase One: November – January

1. Issue the RFP in conjunction with the Department of General Services. This RFP is scheduled to go out November 5, 2013. Responses are due back by December 12, 2013.
2. Receive and review responses.
3. Evaluate the proposals and award a contract.

Phase Two: January – May

1. Develop the scope of the campaign with the selected vendor.
2. Advisement of draft plan with the vested stakeholders.
3. Develop project milestones to analyze and track evaluation measures.

Phase Three: June – ongoing

1. Implementation of the plan.
2. Monitoring of milestones to ensure timely accomplishment of goals.
3. Monitoring of expenditures to ensure project remains within budget.

V. Partnership with General Registrars and Electoral Boards and “Phone-A-Thon”

In his Executive Order, Governor McDonnell encouraged the general registrars and electoral board members to conduct their own outreach efforts in coordination with the State Board of Elections. SBE is extremely fortunate to have a strong working relationship with Virginia’s general registrars and electoral boards as well as their professional associations, the Voter Registrars’ Association of Virginia (VRAV) and the Virginia Electoral Board Association (VEBA). In furtherance of the Governor’s message, SBE is committed to working with the registrars and electoral boards in ensuring the smooth implementation of the voter identification legislation at the local level. An effective partnership with the local registrars and electoral boards should act as a catalyst and will allow SBE’s message to be amplified at the local level.

SBE will work closely with the statewide leadership of VRAV and VEBA to ensure that both SBE and the localities’ speak with one voice on issues associated with the voter identification requirement changes. Working with VRAV and VEBA leadership in crafting a consistent and coherent communications message will be a main priority of the agency and coordination will take place regularly through SBE’s weekly conference call with the leadership. In addition, SBE will work directly with the regional leadership of VRAV and VEBA to ensure that outreach is being conducted in each region of the Commonwealth.

SBE will ensure that the general registrars are given a copy of all SBE press releases for further dissemination into their communities and so that the election community speaks with one voice on important issues leading up to the election.

SBE's plan of coordination will be a topic addressed and reinforced at the annual training conference of registrars and electoral board members attended by all localities in July 2014 in Midlothian, Virginia. SBE anticipates over 500 local election officials to attend the training. In addition, VRAV's and VEBA's annual meetings will be held in early 2014. Both of these forums of election officials will provide an ideal forum to assess ongoing coordination and outreach efforts.

Finally, SBE hopes to work with the local general registrars in planning a statewide "Phone-A-Thon" that will take place prior to the November 2016 presidential election. SBE anticipates dozens of registrars and volunteers to participate in this event that will allow voters to call in with questions regarding the voting process, including questions related to the new voter identification requirements. Voters will be informed of the event through a scrolling message broadcasted on the bottom of the television screen during normal programming. This event was held regionally in 2008 and 2012, and was a major success.

VI. Regular Communication with Governor McDonnell

In this Executive Order, Governor McDonnell directed the State Board of Elections to regularly report to him on the status of the outreach efforts described in the Executive Order.

SBE will ensure that the agency provides regular updates to Governor McDonnell, Secretary of Administration Lisa Hicks-Thomas and members of the new Administration ~~others~~ on the status of the outreach efforts. SBE will provide updates in its weekly report to Secretary Hicks-Thomas as well as more thorough briefings when needed and/or upon request. SBE will brief the new Governor following the start of the new Governor's term in January or 2014.

IV. Conclusion

The State Board of Elections staff is committed to taking the actions described in this plan to ensure the legislation is implemented "without adding inconvenience, confusion, or hardship to the Commonwealth's voters." SBE staff will work diligently to implement the plans described in this initiative in a timely and effective manner to ensure successful implementation of SB1256.

Appendix A – SB 1256

CHAPTER 725

An Act to amend and reenact §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia, relating to voter identification requirements; photo ID.

[S 1256]

Approved March 25, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-411.1, 24.2-643, and 24.2-701 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of State Board.

A. The State Board shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Board shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.
3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places *and voter registration cards containing the voter's photograph and signature for free for those voters who do not have one of the forms of identification specified in subsection B of § 24.2-643. The Board shall promulgate rules and regulations authorizing each general registrar to obtain a photograph and signature of a voter who does not have one of the forms of identification specified in subsection B of § 24.2-643 for the purpose of providing such voter a registration card containing the voter's photograph and signature. The Board shall provide each general registrar with the equipment necessary to obtain a voter's signature and photograph and no general registrar shall be required to purchase such equipment at his own expense. Photographs and signatures obtained by a general registrar shall be submitted to the Board. The Board may contract with an outside vendor for the production and distribution of voter registration cards containing the voter's photograph and signature.*

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Board. The Board shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.
5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.
6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.
7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.
8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.
9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The State Board may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.
10. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

§ 24.2-411.1. Offices of the Department of Motor Vehicles.

A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each person who comes to an office of the Department to:

1. Apply for, replace, or renew a driver's license;
2. Apply for, replace, or renew a special identification card; or
3. Change an address on an existing driver's license or special identification card.

B. The method used to receive an application for voter registration shall avoid duplication of the license portion of the license application and require only the minimum additional information necessary to enable registrars to determine the voter eligibility of the applicant and to administer voter registration and election laws. A person who does not sign the registration portion of the application shall be deemed to have declined to register at that time. The voter application shall include a statement that, if an applicant declines to register to vote, the fact the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

Each application form distributed under this section shall be accompanied by the following statement featured prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

Any completed application for voter registration submitted by a person who is already registered shall serve as a written request to update his registration record. Any change of address form submitted for purposes of a motor vehicle driver's license or special identification card shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes. If the information from the notification of change of address for voter registration indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a request for transfer from the registered

voter. The notification and the registered voter's registration record shall be transmitted as directed by the State Board of Elections to the appropriate general registrar who shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424. The Department and State Board shall cooperate in the prompt transmittal by electronic or other means of the notification to the appropriate general registrar.

C. The completed voter registration portion of the application shall be transmitted as directed by the State Board not later than five business days after the date of receipt. The Department and State Board shall cooperate in the prompt transmittal by electronic or other means of the voter registration portion of the application to the appropriate general registrar.

D. The State Board of Elections shall maintain statistical records on the number of applications to register to vote with information provided from the Department of Motor Vehicles.

E. A person who provides services at the Department of Motor Vehicles shall not disclose, except as authorized by law for official use, the social security number, or any part thereof, of any applicant for voter registration.

F. The Department of Motor Vehicles shall provide assistance as required in providing voter registration cards containing the voter's photograph and signature as provided in subdivision A 3 of § 24.2-404.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: ~~his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, his concealed handgun permit issued pursuant to § 18.2-308~~ *valid United States passport*, or any other *photo identification card* issued by a ~~government agency~~ of the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card *containing a photograph of the voter and* issued by any institution of higher education located in the Commonwealth of Virginia; *or* any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business; ~~or a copy of a current utility bill, bank statement, government check, or paycheck that shows the name and address of the voter.~~

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.).

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

~~E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

~~For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subdivision shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.~~

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 42 U.S.C. § 1973ff(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;
2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;
3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service ID number; or
 5. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name and address of the school or institution of learning; or
 6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, the nature of the disability, illness, or pregnancy; or
 7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name and address of the institution of confinement; or
 8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or
 9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or
 10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability; or
 11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, his religion and the nature of the obligation; or
 12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer, address of his place of work, and hours he will be at the workplace and commuting on election day; or
 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or
 14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated and the name of the party chairman or candidate who designated him.
2. That the provisions of this act shall become effective on July 1, 2014.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

Appendix B: Executive Order No. 62 (2013)

Implementation of Senate Bill 1256 Relating to Identification Requirements for Voters at the Polling Place on Election Day

Importance of the Initiative

The Commonwealth of Virginia and its people have a strong interest in ensuring that their elections have integrity and reliability. For the citizens of Virginia to have faith in their government, they must have faith and confidence in the conduct and outcome of their elections. This means that government must provide open, honest, and secure elections. As such, Virginia has an abiding interest in deterring and detecting any potential voter fraud. Documented cases of voter fraud have occurred both in Virginia and in other parts of the United States. Virginia's history of some very close elections demonstrates that any voter fraud could negatively affect an election decided by a very small number of votes.

While conducting safe elections, we must absolutely ensure that our voting laws have no discriminatory effect and that eligible voters are able to vote without any unnecessary or burdensome hurdles. All eligible voters regardless of income, race, age, and other factors should be able to have equal access to the electoral process. The great principle of one man, one vote is essential to American democracy, and must be protected. Embracing a vibrant democracy through encouraging young and new voters to participate, and in restoring rights rapidly to qualifying felons has been an important part of this Administration. Now, all voters must be fully informed of any changes in the law that may impact their ability to vote.

Enactment of Senate Bill 1256

Virginia has long required voters to bring valid identification to the polling place on Election Day in order to cast a vote. Likewise, federal law has required identification for certain first-time voters in federal elections since the implementation of the Help America Vote Act (HAVA) almost a decade ago. These efforts have made our electoral system less subject to fraud, but we must continue to look for ways to further address any vulnerability in our system. Senate Bill 1256 continues that mission, providing a process for individuals to obtain free photo identification cards and requiring that acceptable identification with a photo of the voter be provided on Election Day in order to vote. We must maintain the provisional ballot safeguard for individuals who fail to present proper documentation at the polling place. Maintaining the provisional ballot provides an opportunity to present identification to local electoral boards by multiple means of transmission after the election. While this new act is not effective until election conducted after July 1, 2014, the time for preparation and education is now.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § § 2.2-103 and 2.2-104 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the State Board of Elections, and request that local election officials, take several steps described in this Executive Order.

Specifically, this Executive Order directs the State Board of Elections to take necessary steps to ensure that all eligible Virginia voters are made aware of the provisions of this new law and are given the necessary information in order to provide an appropriate form of identification when voting in the 2014 elections, and provide details on how to attain a free photo identification, if needed. This Executive Order requests that local election officials cooperate in these efforts. I also direct the State Board of Elections, using the funds appropriated in the Fiscal Year 2014 budget, to expeditiously acquire and distribute to local registrars the necessary equipment and materials to allow for creation and distribution of photo voter registration cards.

Voter Outreach Campaign

I direct the State Board of Elections to engage in a robust voter outreach campaign to educate voters about the changes to Virginia's voter identification requirements. This outreach campaign will educate the Commonwealth's voters on the following:

1. That photo identification is required at the polling place requiring in elections after July 1, 2014, and that voters who do not bring identification to the polling place or who refuse to provide identification at the polling place will be required to vote a provisional ballot;
2. The list of photo identification documents that will be accepted at the polling place;
3. That a voter may obtain a free form of valid photo identification if the voter does not have an acceptable form of identification; and
4. Provide contact information of the State Board of Elections and local registrar offices for voters to receive answers to any additional questions.

I direct the State Board of Elections to utilize newspaper advertisements, the internet, social media, television and radio (including Public Service Announcements), public town hall meetings, direct mail, public notices in state and local buildings, voter registration offices, and polling places and other means to communicate the information described above to Virginia voters, to the maximum extent that sufficient funds exist for such purposes.

I direct the State Board of Elections to coordinate with local election officials, interested third-party groups including, but not limited to, the League of Woman Voters, the NAACP, Virginia's political parties, media entities, and other organizations to help educate voters about Virginia's voter identification requirements.

I direct the State Board of Elections to ensure that its voter outreach efforts are directed at all regions of the Commonwealth and in all of its localities.

I encourage local general registrars and electoral board members to conduct their own outreach efforts in coordination with the State Board of Elections. General registrar and electoral board outreach at the local level should target local voters through local media, including radio and television, and print, making efforts to educate voters through outreach to various local community groups.

I direct other state agencies to assist and cooperate with the State Board of Elections and local general registrars in their outreach efforts, including the Department of Social Services, Department of Motor Vehicles, Department of Education, and agencies within the Health and Human Resources Secretariat.

I direct the State Board of Elections to adopt any rules, regulations or guidelines necessary to implement any particulars of this legislation, including the procedures for a voter to apply for and obtain a free photo identification card, or for the implementation of voter outreach efforts.

I direct the State Board of Elections to regularly report to me on the status of the outreach efforts from the date of implementation, July, 1, 2014, through the 2014 General Election.

Effective Date of this Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until December 1, 2014, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this the 26th day of March, 2013.

/s/ Robert F. McDonnell, Governor

Attest: /s/Janet V. Kelly, Secretary of the Commonwealth



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Other Business & Public Comment

BOARD WORKING PAPERS



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Good of the Order

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Adjournment

BOARD WORKING PAPERS



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STATE BOARD *of* ELECTIONS

BOARD MEETING

Monday, December 2, 2013
General Assembly Building
Room C
10:00 AM

BOARD WORKING PAPERS
Master Copy
Prepared by Rose Mansfield
Executive Assistant to the Board