



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, August 6, 2014
General Assembly Building
Room C
1:00 PM

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: August 6, 2014
LOCATION: General Assembly Building, Room C
TIME: 1:00 p.m.*

I. CALL TO ORDER

*Charles E. Judd
SBE Chair*

II. APPROVAL OF MINUTES

June 10th, June 24th, July 15th, and July 22, 2014

SBE Board Members

III. REPORT FROM LEGAL COUNSEL

*Kristina Perry Stoney
SBE Legal Counsel*

IV. COMMISSIONER'S REPORT

*Edgardo Cortés
ELECT Commissioner*

V. OLD BUSINESS

A. Voter Photo ID Regulation- Valid Definition

*Myron McClees
Elect Policy Analyst*

VI. NEW BUSINESS

A. Ballot Standards

*Matt Abell
ELECT Election Services Lead*

VII. OTHER BUSINESS & PUBLIC COMMENT

VIII. EXECUTIVE SESSION

Discussion of Pending Litigation Matters

IX. GOOD OF THE ORDER



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Call to Order

BOARD WORKING PAPERS



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes

BOARD WORKING PAPERS
SBE Board Members



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes June 10, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

2

3 The State Board of Elections Board Meeting was held on Tuesday, June 10, 2014.
4 The meeting was held in the Washington Building, 1100 Bank Street, Richmond,
5 Virginia, Room B27. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo
7 Cortés, Deputy Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and
8 SBE Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel; Chris
9 Piper, Election Services Manager; Myron McClees, SBE Policy Analyst; Martha
10 Brissette, SBE Policy Analyst, and Rose Mansfield, Executive Assistant. Chairman Judd
11 called the meeting to order at 10:15AM. Chairman Judd noted the delay in Board
12 Meeting start time was due to a demonstration of the voter identification card production
13 system. Chairman Judd stated that the SBE staff developed the program and the
14 associated training and staff deserves accolades for the entire process and
15 acknowledgement of their efforts.

16 The first order of business was the approval of the Minutes from the State Board
17 of Elections Board Meeting held on May 14, 2014. Chairman Judd asked if Board
18 Members had any additions or corrections to the May 14, 2014 Board Minutes. Ms.
19 Stoney noted a transcription error and cited the error for the record and for change.
20 Chairman Judd asked if there were additional additions or deletions to the Minutes and
21 there were none. Secretary Palmer moved to adopt the Minutes for the May 14, 2014,
22 Board Meeting as amended. Vice Chair Bowers seconded the motion and the Board
23 unanimously approved the Minutes.

24 The second order of business was the Secretary's Report delivered by Secretary
25 Palmer. Secretary Palmer stated that the commonwealth was conducting a federal
26 primary on this date and the polls opened without issue. Secretary Palmer stated that
27 statewide pricing was successfully negotiated by SBE staff with the four vendors who are
28 now certified to sell equipment in Virginia and this pricing should be a benefit to
29 localities and voting system vendors. Secretary Palmer noted that Voter Photo
30 Identification testing with general registrar' offices will start today taking place through
31 June, 2014. The software design and production was designed by SBE staff and SBE will

32 be responsible for printing and mailing the cards. Secretary Palmer stated that the
33 Virginia Board of Disabilities was provided with a voter ID production demonstration
34 and were pleased with the program. Terry Wagoner, Absentee Ballot Coordinator, spoke
35 at the annual conference for the Board of Disabilities about the new law and the
36 guidelines that will be provided to the election community. The mobility/portability
37 portion of this program is scheduled for testing in July, 2014 and available for use on or
38 about August 1. Chairman Judd asked if there were any questions and there were none.

39 The next order of business was the Legal Report delivered by Kristina Perry
40 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
41 Assistant Attorney General and SBE Counsel. Ms. Stoney stated that the letters of
42 assurance for matters to be discussed before the Board were provided to Board Members.
43 Ms. Stoney stated that currently there are two pending requests for opinions from the
44 attorney general regarding; (i) whether campaign finance regulation are exempt from the
45 Administrative Process Act (APA) process and (ii) deals with how to fill a vacancy of an
46 electoral board member when vacated mid-term. Ms. Birkenheier stated that the *Page v.*
47 *SBE* trial was held on May 21-22, 2014. The judges asked for post-trial briefs and the
48 projected time frame for additional action is July, 2014. Chairman Judd asked if there
49 were any questions and there were none.

50 The next order of business was the General Registrar and Electoral Board Survey
51 update presented by Edgardo Cortés, Deputy Secretary. Deputy Cortés stated that SBE is
52 in the process of selecting individuals to serve as members of the working group on the
53 review of duties and responsibilities of general registrars and electoral board members.
54 Recommendations for members have been received from the electoral board members
55 and the general registrar's of the commonwealth. Deputy Cortés stated that members will
56 be selected to form the workgroup from different size localities and geographical areas
57 within the commonwealth. SBE has received documents that represent prior efforts on a
58 study. The members selected will be announced at the Board Meeting on June 24, 2014.
59 Chairman Judd asked if there were any questions and there were none.

60 The next order of business was the Approval of Chapter 45 presented by Martha
61 Brissette, SBE Policy Analyst. Ms. Brissette stated that the new Chapter 45 subject
62 matter is *Absent and Overseas Voters*. Ms. Brissette stated that at the April 23, 2014

63 Board Meeting the Board requested staff to present the new Chapter 45 and underlying
64 periodic reviews when the regulation dealing with material omissions from absentee
65 envelope B could be considered with public comment invited. Staff accordingly has
66 prepared a separate action to allow public comment on proposed changes to the
67 regulations dealing with material omissions from absentee ballots. The proposed new
68 Chapter 45 has already been published for public comment with no comments received.
69 Vice Chair Bowers moved *that the Board approve the new Chapter 45, Military and*
70 *Overseas voting, including updated federal form references, to be effective on filing with*
71 *the Registrar of Regulations*. Secretary Palmer seconded the motion and Chairman Judd
72 asked if there were any comments and there were none. The Board unanimously passed
73 the motion.

74 The next order of business was the approval of the periodic review of Chapter 40
75 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that the Board
76 approved publishing the proposed changes to Chapter 40 for public comment at the
77 December 2, 2013 Board Meeting. No comments on the proposed changes were received
78 during the public comment period. SBE staff is recommending the Board adopt proposed
79 amendments to its regulations on voter registration to conclude its periodic review
80 announced May 15, 2013 pursuant to 1VAC 20-10-120. Vice Chair Bowers moved *that*
81 *the Board approve the proposed changes to Chapter 40, Voter Registration, in the Town*
82 *Hall action titled 2013 Periodic Review Voter Registration, to be effective on filing with*
83 *the Register of Regulations*. Chairman Judd seconded the motion and Chairman Judd
84 asked if there were any comments and there were none. The Board unanimously passed
85 the motion.

86 The next order of business was the approval of the periodic review of Chapter 70
87 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated the Board
88 approved publishing the proposed changes to Chapter 70 for public comment at the
89 December 2, 2013 Board Meeting. No comments on the proposed changes were received
90 during the public comment period. Secretary Palmer moved *that the Board approve the*
91 *proposed changes to Chapter 70, Absentee Voting, in the Town Hall action titled 2013*
92 *Periodic Review Absentee, to be effective on filing with the Register of Regulations*. Vice

93 Chair Bowers seconded the motion and Chairman Judd asked if there were any comments
94 and there were none. The Board unanimously passed the motion.

95 The next order of business was the approval of the proposed amendments to
96 regulations on Material Omissions present by Martha Brissette, SBE Policy Analyst. Ms.
97 Brissette stated that legislation enacted in the 2014 session adjusts the balance the Board
98 struck in applying the strict requirements of the *Code*. Two regulations need to be
99 amended to conform to the legislative changes. First, the regulation dealing with material
100 omissions from Envelope B needs to be revised to allow omission of date and middle
101 name or initial so long as first and last names are provided. This regulation also needs to
102 be adjusted to clarify that a sealed outer envelope allows accepting a voted ballot not
103 fully sealed inside Envelope B. The Federal Write-In Absentee Ballot (FWAB) regulation
104 is adjusted to provide the same standard. If positively approved for comment, the
105 proposed regulation will be submitted by tomorrow's noon deadline for publication on
106 June 30, 2014 and a comment forum through Monday, July 21, 2014, for presentation of
107 a final regulation to the Board at the next Board Meeting. Ms. Brissette identified the
108 changes in the regulations for the Board Members.

109 In addition to the proposed changes, Chairman Judd stated that: (i) the order of
110 the first and last name should be considered a material omission; (ii) the generational
111 suffix should be considered a material omission, and (iii) the street identifier i.e. drive
112 verses court, should be considered a material omission. Chairman Judd stated: "We are
113 trying to protect the integrity of the voter and we want the records to be intact." Secretary
114 Palmer stated: "The suggestion of strictly requiring the last name first and then last name
115 last on the affidavit is of some concern as it is somewhat counterintuitive. Most
116 individuals simply place their first and last name. In the last session, the General
117 Assembly did not seem concerned over what order of the name provide but rather the fact
118 that election officials receive the first and last names of the individual. The generational
119 suffix is important in some instances where individuals are living at the same residence
120 and the street identifier is a mistake that could be easily made. Virginia's counting of
121 absentee ballots has increased to 99 percent and whatever the Board has been doing is
122 yielding Virginia excellent results and is working. The General Assembly laid out the
123 affidavit form in the *Code*." Vice Chair Bowers stated: "From a data entry perspective

124 most systems ask for the last name first. There is concern about the generational suffix if
125 two voters with the same name absent the suffix, Senior or Junior, at the same address
126 and one requests an absentee ballot and leaves the suffix absent and then the other goes to
127 the polls to vote. How will you be able to tell which voter had requested the absentee
128 ballot and had concluded the voting process.” Secretary Palmer stated that Envelope B is
129 an affidavit confirming the identity and residence of the individuals, substitutes for
130 identification and that is signed by the voter and witnessed by another person. Secretary
131 Palmer moved *that Board seek public comment on the proposed amendments to its*
132 *regulations addressing material omissions on absentee ballots to include the suggestions*
133 *on the generational suffix that include: (i) the voter omitted the generational suffix when*
134 *one or more individuals with the same name are registered at the same address and it is*
135 *impossible to determine the identity of the voter from Envelope B; (and (ii) the voter did*
136 *not provide his house number and street identifier or rural route address. Additionally,*
137 *staff recommendation for public comment on absentee ballots at IVAC-20-70-20 and 20-*
138 *7-30[20-45-40] to implement recently enacted legislation effective July 1, 2014. Vice*
139 *Chair Bowers seconded the motion. Chairman Judd asked if there were any public*
140 *comments.*

141 Theresa Martin, League of Women Voters of Virginia, approached the podium.
142 Ms. Martin stated regarding the street identifier that the street signs in her neighborhood
143 have been changed twice in the last five years which emphasizes the opportunity for
144 confusion regarding voters at the polls. Chairman Judd asked if there were any other
145 comments.

146 Bill Jenkins, General Registrar-Sussex County, approached the podium. Mr.
147 Jenkins stated: “As a registrar I finds it hard to believe that people do not know exactly
148 where they live. I only need to know two things; who you are and where do you live.
149 This determines in local elections who you vote for.” Chairman Judd asked if there were
150 any other comments. The Board unanimously passed the motion.

151 The next order of business was the proposed amendments to regulation on Photo
152 Voter Identification Cards present by Myron McClees, SBE Policy Analyst. Mr. McClees
153 stated that the general assembly passed legislation in 2013 that requires all individuals in-
154 person to show a photo identification document prior to casting a regular ballot.

155 Concomitant with this requirement was the duty of SBE to assist general registrars in
156 providing free photo identification to voters that do not possess one of the requisite forms
157 of identification. The bill included a delayed implementation date of July 1, 2014. A
158 proposed regulation was presented before the Board during the April 2, 2014 Board
159 Meeting. Statements received during the comment period were provided to the Board
160 during the May 14, 2014 meeting. Mr. McClees presented two grammatical changes for
161 the Boards consideration.

162 Secretary Palmer provided a definition of “Permanent Satellite Location” to the
163 Board Members. Chairman Judd stated for clarification the general registrars would
164 provide photo identification services as a standard service. Secretary Palmer moved *that*
165 *a definition for “Permanent Satellite Location” to be defined as an office managed,*
166 *maintained, and operated under the control of the general registrar for the locality that is*
167 *consistently operation throughout the year and is not the principal office of the general*
168 *registrar. Offices of other agencies where registration takes place pursuant to Virginia*
169 *Code § 24.2-412(B) are not considered permanent satellite locations.* Vice Chair Bowers
170 seconded the motion and Chairman Judd asked if there were any comments and there
171 were none. The Board unanimously approved the motion.

172 Secretary Palmer informed the Board that the definition for “Valid” is included in
173 the Board Materials as it relates to photo identification. Chairman Judd asked if there
174 were any comments.

175 Courtney Mills, Staff Attorney for the Fair Election Legal Network, asked for a
176 clarification on the “appearance of the voter”. Ms. Mills stated that some states are
177 addressing the issue of transgender voters who present differently in person. Chairman
178 Judd asked: “How are the other states addressing this issue?” Ms. Mills stated: “I believe
179 they are still addressing the issue.” Ms. Stoney stated that the proposed regulation does
180 allow the voter to request a replacement for their identification if their appearance has
181 changed substantially. Chairman Judd asked if there were additional comments.

182 Lisa Wooten, General Registrar and President of VRAV; Jake Washburn, General
183 Registrar of Albemarle County; William Bell, Secretary of Isle of Wight County, and Bill
184 Jenkins, General Registrar of Sussex County provided comment. Mr. Bell expressed
185 concern about individuals requesting photo voter identification cards in the days before

186 the election. Ms. Wooten expressed concern about placing her signature on the temporary
187 identification card of a voter from another locality.

188 Vice Chair Bowers stated that if the proposed definition for “Valid” had inserted
189 “regardless of expiration date” the definition would accurately reflect the intent
190 of 1VAC20-40-10. Deputy Cortés recommended that staff meet separately to revise the
191 language to present for Board approval at today’s meeting. Ms. Stoney stated that the
192 revision would allow the opportunity to address the issue of transgender and would
193 suggest that in Section E the insertion be added: “Or the identification document could
194 not otherwise be considered valid”. Secretary Palmer moved *that the proposed*
195 *amendments to regulations on Photo Voter Identification Cards be tabled*. Chairman
196 Judd seconded the motion and the Board unanimously passed the motion.

197 Chairman Judd noted that section 1VAC20-40-90 was still on the table. Mr.
198 McClees stated that there are changes within this section and noted each of the changes.
199 Secretary Palmer noted that in Section C the period of time when the temporary
200 document will be considered an acceptable form of identification and 30 days after the
201 issuance. Secretary Palmer suggested language to support this change from 45 days to 30
202 days, “The general registrar shall provide voter identification document to any eligible
203 voter whose application for the voter photo identification card is made after the deadline
204 for registering to vote and in the next proximate election in which the voter is eligible to
205 vote is received through Election Day. The temporary identification card should be
206 considered as an acceptable form of identification for 30 days after issuance.” Secretary
207 Palmer moved *that the suggested changes be adopted by modifying the draft 1VAC-20-*
208 *40-90 striking the words “is received during the voting period through Election Day for*
209 *the next most proximate election period, striking 45 and inserting the phrase “for the*
210 *photo voter identification card is made after the registration deadline and registering to*
211 *vote in the next most proximate election for which the voter is eligible to vote and*
212 *inserting 30 days.”* Vice Chair Bowers seconded the motion and Chairman Judd asked if
213 there were any comments on the changes.

214 Lisa Wooten, General Registrar and President of VRAV; Jake Washburn, General
215 Registrar of Albemarle County; William Bell, Secretary of Isle of Wight County, and Bill
216 Jenkins, General Registrar of Sussex County provided comment. Chairman Judd asked if

217 there were additional comments. Ms. Stoney stated that Section F include language
218 allowing for a voter photo identification if the voter is included on the Division of Motor
219 Vehicle (DMV) database if the identification would not otherwise be considered valid.
220 Secretary Palmer moved; *that in Section C the words “is received during the absentee*
221 *voting period through election day for the next most proximate election.” be stricken;*
222 *that IVAC-20-40-90 in Section C be revised to include the phrase “for the voter photo*
223 *identification cards made after the registration deadline and registering to vote in the*
224 *next most proximate election for which the voter is eligible to vote.”; that 45 days be*
225 *stricken and that 30 days be inserted in Section C.; that the words voter photo*
226 *identification card be added before the word “application” in Section C and that the*
227 *words “or identification document is not considered valid” added to the end of the first*
228 *sentence in Section F.* Vice Chair seconded the motion and the Board unanimously
229 approved the amended motion. Secretary Palmer moved *that the Board adopt regulation*
230 *IVAC 20-40-90 voter photo identification card.* Vice Chair Bowers seconded motion.
231 Chairman Judd asked if there were additional comments and there were none. The Board
232 unanimously approved the motion.

233 The next order of business was the Experian Presentation presented by Bill
234 Butler, Senior Product Manager. Mr. Butler presented the Board Members with materials
235 related to the presentation and explained the details of the services Experian has offered
236 to Orange County, California by auditing the voter registration rolls and showing savings
237 and enhanced accuracy of voters who have moved in state or out of state. Mr. Butler
238 emphasized the need for voter rolls list maintenance. Secretary Palmer informed Mr.
239 Butler that a proposal for pilot project specific to meet Virginia needs should be prepared
240 and presented to the Board Members. Chairman Judd asked if there were any public
241 comments.

242 Marian Schneider, Staff Attorney for the Advancement Project, approached the
243 podium. Ms. Schneider commented on the need to tread carefully when using third-party
244 credit reporting data. Chairman Judd asked if there were additional public comments.

245 Therese Martin, League of Women Voters of Virginia, approached the podium.
246 Ms. Martin stated that the list of eligible identifications are inconsistent at the locality
247 level and encouraged the Board Members to have the localities describe the acceptable

248 forms of identification utilizing the same language. Ms. Martin stated that any locality
249 that utilizes a post office box for their mailing address should include a street address so
250 that voters can locate the office. Chairman Judd asked if there were additional comments.

251 Courtney Mills, Fair Elections Network, approached the podium. Ms. Mills asked:
252 “Was it communicated to the general registrars when providing IDs to voters outside
253 their locality, that they are to compare signatures on the photo voter ID application to the
254 voter registration forms? Secretary Palmer replied: “No, and the registrar would not
255 have access to the signature to make the comparison.” Chairman Judd asked if there were
256 additional comments.

257 Chairman Judd moved *that the tabled agenda item regarding proposed*
258 *Amendments to Regulations on Photo Voter Identification Cards presented by Myron*
259 *McClees., SBE Policy Analyst be readdressed.* Vice Chair Bowers seconded the motion
260 and the Board unanimously approved the motion. Secretary Palmer stated that the
261 proposed regulation provides the definition of “permanent satellite location” means an
262 office managed and operated under the control of the general registrar for the locality that
263 is consistently operational throughout the year and is not the principle office of the
264 general registrar. Offices of other agencies where registration takes place pursuant to
265 *Virginia Code § 24.2-412(B)* are not considered permanent satellite locations. Secretary
266 Palmer stated that the definition of “valid” for all purposes related to voter identification
267 shall mean documents containing the name and photograph of the voter appearing to be
268 genuinely issued by the agency or issuing entity appearing upon the document where the
269 bearer of the document reasonably appears to be the person whose photograph is
270 contained thereon. Other data contained on the document, including but not limited to
271 expiration date, shall not be considered in determining the validity of the document.
272 Secretary Palmer stated this language was proposed by SBE Staff. Secretary Palmer
273 moved *that the cited definitions of “permanent satellite location” and “valid” be*
274 *incorporated into IVAC 20-20-10.* Vice Chair Bowers seconded the motion and
275 Chairman Judd asked if there were comments and there were none. The Board
276 unanimously approved the motion.

277 Chairman Judd asked if there were comments for the Good of the Order. Deputy
278 Cortés expressed gratitude to Ms. Susan Lee, Election Uniformity Manager; Mr. Matt

279 Davis, Information Technology Manager and their teams for their efforts in preparing for
280 the photo identification program ready for implementation.

281 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
282 motion and without further comment the Board voted to adjourn. The meeting was
283 adjourned at approximately 12:30PM.

284 The Board shall reconvene on June 24, 2014 at 4:00PM in the General Assembly
285 Building, Room C.

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Secretary

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Chair

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Vice Chair

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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes June 24, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, June 24, 2014.
4 The meeting was held in the General Assembly Building, Richmond, Virginia, Room C.
5 In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair;
6 Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés, Deputy
7 Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and SBE Counsel;
8 Anna Birkenheier, Assistant Attorney General and SBE Counsel; Chris Piper, Election
9 Services Manager; Matt Abell, Election Services Lead; Susan Lee, Election Uniformity
10 Manager; Martha Brissette, SBE Policy Analyst; Gary Fox, Voting Technology Specialist
11 and Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at
12 4:00PM.

13 The first order of business was the approval of the Minutes from the State Board
14 of Elections Board Meeting held on June 10, 2014. Chairman Judd asked if Board
15 Members had any additions or corrections to the June 10, 2014 Board Minutes and there
16 were none. Chairman Judd moved *to adopt the Minutes for the June 10, 2014, Board*
17 *Meeting*. Vice Chair Bowers seconded the motion and the Board unanimously approved
18 the Minutes.

19 The second order of business was the Secretary's Report delivered by Secretary
20 Palmer. Secretary Palmer stated that SBE received correspondence from legislators
21 regarding the rule making process in regards to defining what a "valid" identification is.
22 Secretary Palmer reported that the voter identification testing period during the month of
23 June, 2014, was successful. The testers received their identification within three to five
24 days of SBE processing the request. SBE created voter photo software that additional
25 provides direction to the offices' of the general registrars' and staff. This will assist the
26 general registrars' in obtaining the best possible picture of the voter. Secretary Palmer
27 thanked the SBE Team for their efforts in producing this software and implementing the
28 program. Virginians will be confident that "No voter is left behind." In regards to the
29 outreach program, mailings will be sent to those voters' who do not have a Division of
30 Motor Vehicle (DMV) record or other records that SBE can obtain. The Electronic
31 Registration Information Center (ERIC) mailing will provide the identification

32 requirements as with previous identification outreach program. SBE is working with the
33 Outdoor Advertising Association of Virginia to evaluate the use of billboards and
34 roadside advertising posters on interstates and thoroughfares' across the commonwealth.
35 Secretary Palmer asked if there were any questions and there were none.

36 The next order of business was the Legal Report delivered by Kristina Perry
37 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
38 Assistant Attorney General and SBE Counsel. Ms. Stoney stated that counsel requested
39 an executive session to discuss probable and pending legal matters.

40 The next order of business was the General Registrar and Electoral Board Survey
41 update presented by Edgardo Cortés, Deputy Secretary. Deputy Cortés stated that SBE is
42 in the process of selecting individuals to serve as members of the working group on the
43 review of duties and responsibilities of general registrars and electoral board members.
44 Recommendations for members have been received from the electoral board members
45 and the general registrar's of the commonwealth. Deputy Cortés stated that a list of
46 volunteers desiring to serve on the workgroups is also being compiled. Deputy Cortés
47 stated that members will be selected to form the workgroup from different size localities
48 and geographical areas within the commonwealth. The members selected will be
49 announced at the Board Meeting on July 22, 2014. Deputy Cortés stated that the second
50 group will be working on SB11 which passed during the last legislative session. This
51 legislation deals with electronic return of absentee ballots by military personnel stationed
52 overseas and requires SBE to establish a working group to establish the process. The list
53 of selected individuals will be presented at the July 22, 2014 Board Meeting for
54 appointment. SBE will be providing the support in regards to information and research.
55 The group will have the same meeting requirements of a Board in regards to public notice
56 and open meetings.

57 The next order of business was the Voter Identification Regulations; 1VAC20-40-
58 10 and 1VAC20-40-90. Chairman Judd stated that SBE Board Members received
59 correspondence from legislators expressing concern about the SBE Boards' definition of
60 "valid" relating to identification cards. Chairman Judd stated that he was open to
61 submitting the definition approved at the June 10, 2014 Board Meeting out for public
62 comment and believed that was occurring when the materials were presented at the last

63 meeting. Vice Chair Bowers stated that the question regarding the new voter
64 identifications being issued and the absence of an expiration date and why the definition
65 of “valid” would include an expiration date for the purpose of identifying the voter. The
66 validity of the identification is not based on whether the commonwealth is checking the
67 ability of the voter to drive but, rather whether the voter is who they say they are and
68 residing at the address listed on the general registrar’s records. Secretary Palmer stated
69 that SBE received three letters; (i) from Members of the House of Delegates and (ii) from
70 the Members of Virginia State Senate and (iii) from Senator Mark Obenshain. These
71 letters brought attention to a number of issues including the definition of and whether
72 “valid” is not defined and whether SBE has the authority to regulate. Secretary Palmer
73 stated that the definition of “valid” should go out for public comment.

74 Chairman Judd stated that what the voter identification intended to accomplish is
75 to identify the voter at the polls and the address matches what is in the database.
76 Chairman Judd asked legal counsel to determine if SBE has the ability to define “valid”
77 for our purposes and our purposes only. Ms. Stoney stated that the Board requested the
78 review of regulations however: “The language of the regulation is up to the Board
79 Members and at your discretion. After the public comment period, the attorney generals’
80 office will review the proposed language that will be adopted by the Board.” Vice Chair
81 Bowers stated that it is important to define “valid” to ensure uniformity across the
82 commonwealth. Chairman Judd referred to the Minutes of the June 10, 2014 Board
83 Meeting quoting the definition provided by Secretary Palmer: “...the definition of “valid”
84 for all purposes related to voter identification shall mean documents containing the name
85 and photograph of the voter appearing to be genuinely issued by the agency or issuing
86 entity appearing upon the document where the bearer of the document reasonably appears
87 to be the person whose photograph is contained thereon. Other data contained on the
88 document, including but not limited to expiration date, shall not be considered in
89 determining the validity of the document.” Secretary Palmer proposed that the definition
90 for public comment read: “Documents containing the name and photo of voter appearing
91 to be genuinely issued by the agency or issuing entity appearing upon the document
92 where the bearer of the document reasonably appears to be the person whose photograph
93 is contained thereon. Other data contained on the document, including but not limited to

94 expiration date, shall not be considered in determining the validity of the document.”
95 Secretary Palmer stated that the current definition be subject to public comment and also
96 include language that is similar to the original language which would include a small
97 change of: “Valid for all purposes related to voter identification shall mean documents
98 having legal effect, legally or officially acceptable or of binding force and appearing to
99 be genuinely issued by the agency or issuing entity appearing upon the document where
100 the bearer of the document reasonably appears to be the person whose photograph is
101 contained thereon. Such documents shall be accepted up to 30 days after expiration.”
102 Secretary Palmer moved *that both definitions be placed out for public comment on Town*
103 *Hall.* Vice Chair Bowers seconded the motion. Deputy Cortés explained the process for
104 posting regulations to Town Hall and the comments would be ready for Board Member
105 review at the August 27, 2014, Board Meeting. Chairman Judd asked if there were public
106 comments.

107 Anna School, Executive Director of Progress Virginia; Carol Noggle, Virginia
108 League of Women Voter’s; Courtney Mills, Staff Attorney for the Fair Election Legal
109 Network; Marian Schneider, Staff Attorney for the Advancement Project and Robin Lind,
110 Secretary of the Goochland County Electoral Board provided comment. Chairman Judd
111 asked if there were additional comments. The Board Members by roll call vote cast two
112 yeas’ and one nay with Vice Chair Bowers dissenting.

113 The next order of business was the Certification of the results of the primary held
114 on June 10, 2014, presented by Matt Abell, Election Services Lead. Mr. Abell explained
115 the process and Board Members examined the abstracts. Chairman Judd announced that
116 having examined the certified abstracts of the votes cast from the June 10, 2014, Primary
117 Election the State Board determined on this 24th day of June, 2014; that Donald S. Beyer,
118 Jr. received the greatest number of votes (17,783) in said election and was the House of
119 Representatives 8th District Democratic candidate and that; David A. Brat received the
120 greatest number of votes (36,105) in said election and was the House of Representatives
121 7th District Republican candidate and that; Robert J. Wittman received the greatest
122 number of votes (13,292) in said election of the House of Representatives 1st District
123 Republican candidate on November, 2014 ballot. Chairman Judd announced that the
124 ascertainment process was complete.

125 The next order of business was the ballot position drawing for the August 19,
126 2014 Special Election in the 38th Senate District. Matt Abell, Election Services Lead,
127 explained the process. Vice Chair Bowers drew the first position of the Republican Party
128 and Secretary Palmer drew the second position of Democratic Party. Chairman Judd
129 declared that the ballot order had been determined with the Republican candidate listed
130 first and the Democratic candidate listed second.

131 The next order of business was the certification of ES&S voting systems
132 presented by Gary Fox, Voting Technology Specialist. Mr. Fox explained the particulars
133 of the equipment to the Board Members. Mr. Fox explained that the product sheets and
134 test reports were included in the Board Materials. ES&S also provided their
135 corresponding Technical Data Package and Corporate Information on April 28, 2014.
136 Both of these submissions were deemed complete and in sufficient detail to warrant Step
137 3, the Preliminary Review. On May 16, 2013, the Election Assistance Commission
138 (EAC) issued their Grant of Certification of the ES&S EVS 5.2.0.0. EVS 5.2.0.1 is the
139 same system as ES&S EVS 5.2.0.0 with the addition of the plastic ballot box and write-in
140 report. National Technical Systems ((NTS) formerly Wyle Laboratories) completed
141 successful testing on March 1, 2013. Mr. Fox noted that the equipment was used in
142 Stafford County during the June Primary without issue and was well received. Vice Chair
143 Bowers moved *that the Board certify ES&S EVS 5.2.0.0/5.2.0.2 voting systems for use in*
144 *elections in the Commonwealth of Virginia, pursuant to the State Certification of Voting*
145 *Systems: Requirements and Procedures*. Secretary Palmer seconded the motion.
146 Chairman Judd asked if there were public comments and there were none. The Board
147 unanimously approved the motion.

148 The next order of business was the Democracy Live Presentation presented by
149 Bryan Finney, Founder and President of Democracy Live. Mr. Finney introduced Jackie
150 Harris, Systems Coordinator for Democracy Live. Mr. Finney explained that Democracy
151 Live has been working on a project to support military and overseas voters to ease their
152 access to electronic ballots. Mr. Finney stated that the Commonwealth of Virginia is a
153 leader in using this technology and Democracy Live has delivered this service in a secure
154 format. Mr. Finney stated that Democracy Live has developed a new sample ballot that
155 could be delivered electronically to overseas and military personnel. Mr. Finney provided

156 a visual demonstration of the equipment to the Board Members. Mr. Finney stated this
157 program would result in a more informed voter and decreased time in casting their ballot.
158 Mr. Finney stated that Democracy Live will be providing this service to the voters of the
159 commonwealth without charge for the next election. Chairman Judd thanked Mr. Finney
160 for the presentation and stated that applicable input would be generated by SBE Staff and
161 Democracy Live would be contacted accordingly.

162 Chairman Judd asked if there were any public comments. Carol Noggle, Virginia
163 League of Women Voter's; Anna School, Executive Director of Progress Virginia;
164 Courtney Mills, Staff Attorney for the Fair Election Legal Network; Marian Schneider,
165 Staff Attorney for the Advancement Project; Robin Lind, Secretary of the Goochland
166 County Electoral Board; and Wanda Judd, Citizen of the Commonwealth provided public
167 comment.

168 Chairman Judd then moved *to close the meeting to discuss actual and probable*
169 *litigation matters and specific legal matters requiring the provision of legal advice by*
170 *legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.* Vice Chair
171 Bowers seconded the motion and the Board unanimously carried the motion. Chairman
172 Judd directed Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés,
173 Deputy Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and SBE
174 Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel and Rose
175 Mansfield, Executive Assistant, to remain with the Board during the closed session.
176 Secretary Palmer seconded the motion and the Board went into Executive Session at
177 5:15PM.

178 At 6:00PM Chairman Judd *moved to reconvene in open session and a roll call*
179 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
180 *certifying that during the closed meeting (i) only public business matters lawfully*
181 *exempted from open meeting requirements under this chapter, and (ii) only such public*
182 *business matters as were identified in the motion by which the closed meeting was*
183 *concerned were heard, were discussed or considered.* Vice Chair Bowers seconded the
184 motion and the Board unanimously approved the motion. Rose Mansfield, Executive
185 Assistant performed the roll call vote and all Board Members approved the motion.

186

187 Chairman Judd asked if there were comments for the Good of the Order.
188 Secretary Palmer stated that the SBE Website will have a location to post public
189 comments regarding the subjects presented at today's Board Meeting.

190 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
191 motion and without further comment the Board voted to adjourn. The meeting was
192 adjourned at approximately 6:05PM.

193 The Board shall reconvene on July 22, 2014 at 8:00AM during the SBE Annual
194 Training Event, 12042 West Broad Street, Richmond, Virginia, Room-Large Ballroom.

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Secretary

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Chair

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Vice Chair

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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes July 15, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, July 15, 2014.
4 The meeting was held in the General Assembly Building, Richmond, Virginia, Room C.
5 In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair;
6 Kimberly Bowers, Vice Chair; Kristina Perry Stoney, Senior Assistant Attorney General
7 and SBE Counsel and Anna Birkenheier, Assistant Attorney General. In attendance,
8 representing the Department of Elections (ELECT) was Edgardo Cortés, Commissioner;
9 Chris Piper, Election Services Manager; Matt Abell, Election Services Lead; Susan Lee,
10 Election Uniformity Manager; Myron McClees, ELECT Policy Analyst; Brooks Braun,
11 ELECT Policy Analyst and Rose Mansfield, Executive Assistant. Chairman Judd called
12 the meeting to order at 10:00AM.

13 The first order of business was the Commissioner's Report delivered by
14 Commissioner Cortés. Commissioner Cortés stated the photo identification
15 implementation program became active on July 1, 2014. The localities are trained and
16 prepared to issue photo identifications to citizens of the commonwealth. Commissioner
17 Cortés stated that as of July 14, 2014, 133 identifications were processed from 54
18 localities. The top producing localities were Richmond, Petersburg and Roanoke.
19 Commissioner Cortés stated because the identifications are produced at the Department
20 of Elections statistical information is available. The average age of the applicants was 60
21 years of age with the youngest individual being 22 years of age and the eldest being 90
22 years of age. Commissioner Cortés stated that it is anticipated that the quantity of the
23 requests will increase as the commonwealth approaches an election. The local general
24 registrars are involved in outreach programs and ELECT will be expanding their outreach
25 plans.

26 The second order of business was the Legal Report delivered by Kristina Perry
27 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
28 Assistant Attorney General and SBE Counsel. Ms. Stoney stated that counsel did not
29 have a legal update to provide Board Members.

30 The next order of business was the Petition Appeals presented by Chris Piper,
31 Elections Services Manager. Mr. Piper stated that in 2013, Virginia General Assembly

32 Members passed Chapter 684 which allows for a candidate who is denied ballot access,
33 based on an insufficient number of signatures on their petitions, to appeal to SBE to have
34 those signatures denied reconsidered. SBE passed a regulation in 2013, 1VAC20-50-30,
35 Appeals of Petition Signature Insufficiency, which laid out the procedures for candidates
36 appealing ELECT staff decisions regarding petitions. Mr. Piper stated that there are two
37 requests for appeals to be presented (i) Candidate Justin L. Upshaw and (ii) Candidate
38 Justin Gandino-Saadein. Mr. Piper explained that Mr. Upshaw submitted a request for
39 appeal without a list of signatures which is required under G1, 1VAC20-50-30. The
40 appeal will not be heard by SBE due to noncompliance on the behalf of Mr. Upshaw.
41 Mr. Piper stated that Mr. Justin Gandino-Saadein, Candidate 3rd District of the House of
42 Representatives, submitted the necessary paperwork to support his appeal. Mr. Gandino-
43 Saadein needs 379 qualifying signatures to be placed on the ballot. Mr. Piper stated that
44 the review of petitions by ELECT staff indicated that the majority of voters who did not
45 qualify are registered voters in the 2nd District not the 3rd District for which the Candidate
46 is seeking office. ELECT staff informed Mr. Gandino-Saadein that to consider those
47 voters in the other district affidavits would need to come from those voters stating that
48 they provided an incorrect address on the petitions. Chairman Judd asked if the candidate
49 was present.

50 Mr. Justin Gandino-Saadein approached the podium. Mr. Gandino-Saadein stated
51 that he was appealing the decision made by ELECT staff regarding the submitted
52 petitions for his candidacy in the 3rd District of the House of Representatives. Mr.
53 Gandino-Saadein stated that the campaign provided 2800 signatures of registered voters
54 which are more than adequate to gain ballot access. Mr. Gandino-Saadein stated that “this
55 disenfranchises voters and will make the 3rd District the only House of Representative
56 District without a choice of candidates.”

57 Chairman Judd stated: “It is the responsibility of the campaign to know the
58 district for each voter who is signing a petition to ensure that the candidate receives
59 enough valid signatures to gain ballot access. The responsibility of the circulators is to
60 ensure voters are in the right district when they sign petitions. SBE is not responsible for
61 disenfranchising voters if the petitions are not supporting the candidate in the correct
62 district.” Vice Chair Bowers stated: “That as a previous petitioner it was important to

63 make sure that voters were eligible to sign the petition and that they were in the right
64 district. Maps were checked against available data and SBE is not disenfranchising voters
65 because those voters will still go to the polls in November, 2014, to vote for the candidate
66 they see fit. The petitioning process is important because it shows the seriousness of the
67 candidate and also gives you a preview of what the candidate can expect in the way of
68 respect as the campaign progresses. The effort to obtain an overage on the petitions is
69 worth the cause so that when you come to the screening process you will have an
70 adequate number of valid signatures.” Chairman Judd asked if there were any other
71 questions and there were none. Chairman Judd complimented Mr. Gandino-Saadein on
72 his efforts and acknowledged the labor involved in gathering signatures for petitions.
73 Vice Chair Bowers moved *that the Board dismiss the appeal presented by Mr. Gandino-*
74 *Saadein.* Chairman Judd seconded the motion and without further comment the Board
75 unanimously approved the motion.

76 Chairman Judd directed Mr. Piper to explain the details around the request for
77 appeal regarding Mr. Justin Upshaw. Mr. Piper explained that the candidate was denied
78 ballot access due to an insufficient number of signatures. The request for the appeal
79 arrived before the deadline but, the list of signatures requiring review was not submitted
80 to ELECT staff. Therefore, the candidate did not meet the requirements of the
81 regulations. This inaction prevents this appeal from being presented to SBE. Chairman
82 Judd asked if there were any other concerns regarding the petition appeals.

83 Mr. Piper stated Mr. Draper was denied ballot access due to insufficient
84 signatures on his petitions. Mr. Draper attempted to submit a request for an appeal
85 however; the ELECT office did not receive the paperwork. Therefore, the candidate did
86 not meet the requirements of the regulations. This action prevents the appeal from being
87 presented to SBE. Chairman Judd asked if there were any comments.

88 Mr. Draper approached the podium. Mr. Draper stated that his campaign was in
89 error and had sent the documents to the wrong e-mail address and the rejected return
90 receipt was sent undetected to the campaigns junk mail box. Mr. Draper asked the Board
91 Members for an extension to his appeal. Vice Chair Bowers stated that this was an
92 unfortunate situation and to extend the deadline would not be within the regulation and
93 unfair to other candidates. Mr. Piper stated that on July 7, 2014 all candidates that did not

94 have a sufficient amount of signatures on their petitions were notified. The regulation
95 provides five calendar days to request an appeal and all the candidates were informed of
96 the Board Meeting date to hear the appeals. Mr. Piper stated that ELECT has followed
97 the guidelines of the regulation and the code. Mr. Piper stated that ELECT staff was in
98 constant communication with the campaigns throughout the process providing updates on
99 signature counts and status. Mr. Draper stated that their campaign was provided with an
100 update and were told that there were four pages that lack notarization which caused those
101 petitions to be rejected. Chairman Judd stated that SBE appreciates the efforts on behalf
102 of the Draper campaign however; the deadline has passed and the guidelines set by the
103 regulation must be adhered to for the sake of consistency and fairness to other candidates.

104 Chairman Judd asked if there were any public comments. Clara Bell Wheeler of
105 Chairman of the Albemarle County Electoral Board provided comment. Chairman Judd
106 asked if there were additional public comment and there were none.

107 Chairman Judd asked if there were comments for the Good of the Order.
108 Commissioner Cortés introduced Brooks Braun, Elect Policy Analyst and welcomed him
109 to the ELECT team. Ms. Perry Stoney congratulated Commissioner Cortés on his new
110 appointment to commissioner and noted the wedding anniversary of herself and her
111 spouse.

112 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
113 motion and without further comment the Board voted to adjourn. The meeting was
114 adjourned at approximately 10:55AM.

115 The Board shall reconvene on July 22, 2014 at 8:00AM during the Department of
116 Elections, Annual Training Event, 12042 West Broad Street, Richmond, Virginia, Room-
117 Large Ballroom.

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Secretary

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Chair

Vice Chair

DRAFT



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes July 22, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, July 22, 2014.
4 The meeting was held in the Hilton Richmond Hotel, 12042 West Broad Street,
5 Richmond, Virginia, Room-Large Ballroom. In attendance, representing the State Board
6 of Elections (SBE) was Charles Judd, Chair; Don Palmer, Secretary; Kristina Perry
7 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
8 Assistant Attorney General. In attendance, representing the Department of Elections
9 (ELECT) was Edgardo Cortés, Commissioner; Matt Abell, Election Services Lead; Gary
10 Fox, Voting Technology Specialist and Rose Mansfield, Executive Assistant. Chairman
11 Judd called the meeting to order at 8:00AM.

12 The first order of business was the Commissioner's Report delivered by
13 Commissioner Cortés. Commissioner Cortés stated that there will be a request for SBE to
14 appoint a formal working group to review the responsibilities of the general registrar's
15 and the electoral boards. On August 6, 2014, during the Board Meeting, ELECT will
16 provide a proposed resolution that would name the members of this proposed working
17 group. This group would be a formal group established by the Board and would fall under
18 the public meeting requirements. Commissioner Cortés stated that as of July 18, 2014,
19 170 voter photo identifications had been produced by ELECT. The average age of the
20 applicants was 59 years of age with the youngest individual being 18 years of age and the
21 eldest being 96 years of age.

22 Secretary Palmer asked for an update on the mobility part of the voter photo
23 identification program that is slated for implementation by the end of July, 2014.
24 Commissioner Cortés stated that there are two parts to this program; (i) the on-line mode
25 that requires a secure internet connection and (ii) the off-line mode are slated for
26 implementation by the end of summer, 2014, and ELECT is approaching the testing
27 phase. The developer is working with the issue of data security.

28 The next order of business was the Legal Report presented by Kristina Perry
29 Stoney, Senior Assistant Attorney General. Ms. Stoney reported that the request for
30 opinion from the attorney general office has been issued regarding the appointment of an
31 electoral board member once a vacancy occurs. The opinion issued stated that an

32 appointment to fill the vacancy of an unexpired electoral board term must reflect political
33 party representation based on the votes for the office of Governor at the last preceding
34 election at the time the appointment for the vacancy is made. Accordingly, the party of
35 the candidate who prevailed in the most recent gubernatorial election is entitled to
36 recommend the electoral board appointment to fill the vacancy. Chairman Judd asked: “Is
37 there a provision, in the opinion, that would maintain the electoral board seating as two
38 individuals from one party and one individual from the other party”? Ms. Stoney replied:
39 “Yes, the electoral board would always maintain the two to one ratio”.

40 The next order business was the Ballot Position Drawing for the November 4,
41 2014, election presented by Matt Abell, Election Services Lead. Mr. Abell explained the
42 process. Secretary Palmer drew the first position of the Republican Party and Chairman
43 Judd drew the second position of the Democratic Party. Mr. Abell explained that 3
44 additional drawings needed to be conducted as 3rd party candidates may fill some of the
45 vacancies. Those parties are the Libertarian, Independent Green, and Green Parties which
46 would be on the ballot in some districts. Secretary Palmer drew the third position of the
47 Green Party. Ms. Stoney drew the fourth position of the Libertarian Party. Secretary
48 Palmer drew the fifth position of the Independent Green Party. Chairman Judd declared
49 the ballot order in positions as: (i) Republican Party, (ii) Democratic Party, (iii) Green
50 Party, (iv) Libertarian Party, and (v) Independent Green Party.

51 The next order of business was the UNISYN Voting System Certification
52 presented by Gary Fox, Voting Technology Specialist. Mr. Fox stated that SBE certified
53 the Unisyn OpenElect Optical Scan Voting System version 1.2 on March 8, 2014, and on
54 April 23, 2014; SBE approved new *Virginia State Certification of Voting Systems:
55 Requirements and Procedures* guidelines which allow the commonwealth to test systems
56 for recounts. Mr. Fox stated that while testing this equipment in Loudon County
57 suggestions were made for modifications and enhancements. ELECT approached the
58 vendor with the suggested changes and Unisyn OpenElect Optical Scan Voting System
59 made the changes. Upon Unisyn’s agreement with the test plan, the evaluation was
60 conducted on June 17-18, 2014, at PRO V&V Labs in Huntsville, Alabama. The Unisyn
61 OpenElect Optical Scan Voting System version 1.2.0.1 successfully completed Virginia
62 State Certification. Secretary Palmer moved *that the Board Certify the Unisyn Optical*

63 *Scan Voting System version 1.2.0.1 for use in election in the Commonwealth of Virginia,*
64 *pursuant to the State Certification of Voting Systems: Requirements and Procedures.*
65 Chairman Judd seconded the motion and with no public comments SBE unanimously
66 passed the motion.

67 Chairman Judd asked if there were any public comments. Greg Riddlemoser,
68 Stafford County General Registrar; Gwen Sowder, Williamsburg City General Registrar;
69 Robin Lind, Goochland County Electoral Board Secretary; Renee Andrews, Falls Church
70 City Electoral Board Secretary; Sherman Cain, Tazewell County Electoral Board
71 Secretary; Clara Bell Wheeler, Albemarle County Electoral Board Chairman and Walt
72 Latham, York County General Registrar provided comment.

73 Chairman Judd asked if there were comments for the Good of the Order.
74 Commissioner Cortés provided an update on the statistical data for list maintenance and
75 the crosscheck program. Commissioner Cortés stated that Maryland sent a list containing
76 the names of individuals who potentially could be registered in both states, i.e. Virginia
77 and Maryland, that ELECT is processing. Commissioner Cortés stated that ELECT will
78 work with Maryland on this project and will submit a report to the general assembly in
79 the near future.

80 Secretary Palmer thanked ELECT for their work on this project and stated that
81 one of the major findings of the Presidential Election Commission was that “messy rolls
82 create long lines”. Secretary Palmer reported that Louisiana and Washington, D.C. have
83 joined Electronic Registration Information Center (ERIC).

84 Chairman Judd moved *that the Board adjourn*. Secretary Palmer seconded the
85 motion and without further comment the Board voted to adjourn. The meeting was
86 adjourned at approximately 9:25AM.

87 The Board shall reconvene on August 6, 2014 at 1:00PM in the General Assembly
88 Building, Richmond, Virginia, Room-C.

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Secretary

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94 Chair

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98 Vice Chair

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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Commissioner's Report

BOARD WORKING PAPERS
Edgardo Cortés
Commissioner
Department of Elections



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STATE BOARD *of* ELECTIONS

Legal Report

BOARD WORKING PAPERS
Kristina Perry Stoney
Senior Assistant Attorney General



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

To: Edgardo Cortés, Commissioner
Virginia Department of Elections

From: Kristina Perry Stoney 
Senior Assistant Attorney General

Date: August 4, 2014

Subject: Definition of "Valid" Identification: Proposed Amendment to Regulation
1 VAC 20-40-10

The State Board of Elections (Board) has asked that I provide the requisite letter of assurance that certain regulatory changes proposed by the Board on June 24, 2014 are consistent with state law, that the Board has the authority to adopt such regulation, and that the regulation is a proper exercise of the Board's regulatory authority. For the following reasons, I am unable to provide the necessary assurance.

Background

On June 10, 2014, the Board adopted an amendment to 1 VAC 20-40-10 to define the term "valid" as used in Section 24.2-643(B) of the *Code of Virginia* relating to valid forms of photo identification for voting purposes. The definition adopted at that time defined the term "valid" as follows:

"Valid" for all purposes related to voter identification means documents containing the name and photograph of the voter appearing to be genuinely issued by the agency or issuing entity appearing upon the document where the bearer of the document reasonably appears to be the person whose photograph is contained thereon. Other data contained on the document, including but not limited to expiration date, shall not be considered in determining the validity of the document.

On May 30, 2014, prior to the adoption of the current regulation, proposed regulatory amendments, including a definition of the term "valid," were submitted for the Board's consideration and potential adoption at the scheduled June 10, 2014 meeting. I reviewed that proposal, including the definition of "valid" as it was proposed at that time, and determined that the Board was authorized to promulgate the regulation, that promulgating such a definition was a proper exercise of the Board's regulatory authority and that the regulation was consistent with state law. On June 6, 2014, I provided the necessary letter of assurance for the adoption of that regulation. During the June 10, 2014 meeting the Board proposed and adopted an alternate definition of "valid" and provision of a subsequent letter of assurance was not possible before the regulation went into effect.

Subsequent to that letter of assurance and as a result of consideration by the Board at your June 24, 2014 meeting of written comments received, both supportive and critical of the regulation, the Board chose to reconsider the adopted regulation defining "valid". The Board then proposed an amended definition of "valid" and voted to post that proposed amendment on the Town Hall website for public comment beginning on July 14, 2014. The proposed new definition of "valid" for consideration reads as follows:

"Valid" for all purposes related to voter identification means documents ~~containing the name and photograph of the voter~~ having legal effect, legally or officially acceptable or of binding force, and appearing to be genuinely issued by the agency or issuing entity appearing upon the document where the bearer of the document reasonably appears to be the person whose photograph is contained thereon. ~~Other data contained on the document, including but not limited to~~

~~expiration date, shall not be considered in determining the validity of the document.~~ Such documents shall be accepted up to 30 days after expiration.

Due to the impromptu proposal of this amended language during the course of the June 24, 2014 Board meeting, it was not reviewed by this office prior to its consideration by the Board.

Analysis

Prior to the effective date of the 2013 amendments to Section 24.2-643(B), the Board had adopted Guidance on the definition of the term "valid," which determined that an identification document, including a driver's license, was valid for voting purposes, notwithstanding it may have expired 30 days prior to the act of voting. Presumably, the Board adopted that Guidance to provide clarity and avoid confusion in the application of the requirement among the many local registrars and local election officials. Providing clarity and uniformity in the application of the term "valid" was and remains critical in assuring equal treatment of all voters in exercising their right to vote. Contrary to this critical goal, the definition of "valid" proposed on June 24, 2014 is likely to lead to inconsistent application and disparate treatment of voters across the Commonwealth.

Clearly the Board's goal in proposing this amended definition is to ensure that expired identification documents are not considered "valid" for voting purposes. Though the proposal achieves that goal, while still allowing for acceptance of identification that has expired within 30 days of voting, it is problematic for unintended reasons because it would also classify unexpired identification as invalid in certain circumstances. For example, a local election official would be unable to determine, when presented with a Virginia driver's license that had not expired, whether or not such license has "legal effect" or is "officially acceptable or of binding force." The license could have been suspended or revoked and thus not qualify under the proposed

definition. Consequently, an impossible burden is placed on the election officials with a high likelihood of varying interpretation as to the validity of the identification presented by voters.

Section 24.2-103(A) of the *Code* vests the Board with the power and duty to promulgate regulations but specifically requires uniformity in the practices and proceedings of electoral boards and general registrars so as to ensure that the Board, in exercising that power, achieves purity in all elections. The proposed amendment would likely lead to inconsistent application that would be in direct contradiction of the Board's duty to ensure uniformity in elections and contrary to the Board's statutory duties and thus inconsistent with state law.

The proposed amendment likely violates the *Equal Protection Clause* of the *Fourteenth Amendment* to the *United States Constitution* in that it could lead to an inconsistent result in its application and disparate treatment of voters from one jurisdiction to another. The burden of determining that a drivers license has "legal effect," or is "legally or officially acceptable or of binding force" imposes upon those who stand between an individual and the voting booth, a burden for which they are neither trained nor capable of assuming. The likely result is the arbitrary and disparate treatment of voters in different localities. Such language only serves to re-create the potential unequal treatment that this Board addressed in adopting the above referenced guidance as to the definition of "valid." This type of inconsistent standard has been held by the Supreme Court of the United States to be a violation of the *Equal Protection Clause*.

In *Bush v. Gore*, 531 U.S. 98 (2000), the Supreme Court noted:

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one persons vote over that of another.

Id. at 104-105. In *Bush*, the Court found that the Florida recount mechanisms did not satisfy the minimal requirements of non-arbitrary treatment of voters, for equal protection. The Court

found this particularly true as each county implemented different standards for determining which votes were to be counted. Similarly, I am concerned that the proposed definition of "valid" is likely to be implemented in each of Virginia's localities in an inconsistent and arbitrary manner because election officials are not equipped to assess the "legal effect" of an identification document or adequately determine whether the identification is "legally or officially acceptable or of binding force." Furthermore, I do not believe subsequent guidance from the Board in implementing this proposed regulation will ensure a uniform and consistent standard.

Because of the foregoing concerns, I am unable to provide you with the requisite assurance as to the amendment to 1 VAC 20-40-10 proposed by the Board on June 24, 2014.



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STATE BOARD *of* ELECTIONS

Old Business

BOARD WORKING PAPERS



★ VIRGINIA ★
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Voter Photo ID Regulation “Valid” Definition

BOARD WORKING PAPERS
Myron McClees
ELECT Policy Analyst



★VIRGINIA★
STATE BOARD
of ELECTIONS

Memorandum

To: Members of the State Board of Elections

From: Myron McClees, Policy Analyst

Date: August 6, 2014

Re: Feedback for Proposed Definitions Regulation for Voter Identification Card

Suggested actions for a Board member to make:

No suggestion from staff.

Applicable Code Sections: §§ 24.2-404, 24.2-643

Attachments:

Your Board materials include the following:

- Feedback received for proposed regulation 20-40-10 Definitions

Background:

The State Board of Elections recently created a regulation during its June 10, 2014 meeting specifying the requirements necessary for a voter to obtain a Voter Photo Identification Card. Simultaneously, the Board amended the definitions regulation 1VAC 20-40-10 to define various terms used within the newly created regulation. It was at this time that the Board voted to adopt a new definition of the word “valid” in relation to its usage for voter identification purposes. The definition stated, inter alia, that expired documents were sufficient for identification purposes so long as the bearer was recognizable and the document appeared to be genuine.

Subsequent to the passage of both regulations, at its June 24, 2014 meeting, the Board took action to revisit the newly-adopted definition of valid. A motion to adopt an edited definition, which would replace the definition adopted during its June 10, 2014 meeting, was seconded, and the Board voted to open the newly-drafted definition to public comment. The newly-drafted definition limits the acceptability of expired identification documents to only those that have expired within 30 days of their being utilized.

The comment period for the newly-drafted definition opened on July 14, 2014 and concluded on August 4, 2014. The comments from the public are being provided to the Board for consideration in its rendering a final definition of the term “valid” in relations to voter identification.

First 435 responses (those received by 9:40 a.m. on 7/30)

- 264 commenters explicitly against changing the June 10 definition (favor allowing IDs expired for any duration to suffice)
 - Including
 - General Registrars
 - Stafford
 - Falls Church
 - Lynchburg
 - Loudoun
 - Roanoke
 - Electoral Boards
 - Charlottesville
 - Falls Church
 - Arlington
 - Prince William
 - Montgomery
 - Former EB member from Fairfax
 - Multiple EB members speaking as individuals (not in their election official capacity)
 - Five FCDC members
 - Two people from the League of Women Voters
 - Virginia New Majority
 - Fair Elections Legal Network
- 83 commenters explicitly for changing the June 10 definition (against allowing expired IDs to count)
 - Including
 - General Registrars
 - Montgomery
 - Frederick
 - Fairfax EB
 - Reagan George/ Virginia Voter's Alliance
- 88 Comments did not specifically address the definition change that is proposed

Key arguments:

- Against changing the definition
 - The voter ID cards issued by the Department have no expiration date

- The purpose of voter ID is to establish the voter's identity, and that doesn't change, though things like their ability to drive or travel internationally might
 - Valid for driving and valid for voting are two very different things
- The SBE already announced one definition, it would be unfair to voters to change it this late in the game
- Figuring out whether IDs are expired or valid is time consuming for election officers, and can cause delays, making lines more problematic
- Requiring IDs to be current is especially burdensome on older people, who likely have driver's licenses, but may no longer drive, and therefore don't renew them, and who may not travel anymore, so they don't renew their passports
- For changing the definition
 - We require valid ID for various other things, like buying alcohol, using a credit card, boarding a plane
 - Someone could move to another state and retain their old, expired license, and come back here to vote a second time



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

To: Edgardo Cortés, Commissioner
Virginia Department of Elections

From: Kristina Perry Stoney 
Senior Assistant Attorney General

Date: August 4, 2014

Subject: Definition of "Valid" Identification: Proposed Amendment to Regulation
1 VAC 20-40-10

The State Board of Elections (Board) has asked that I provide the requisite letter of assurance that certain regulatory changes proposed by the Board on June 24, 2014 are consistent with state law, that the Board has the authority to adopt such regulation, and that the regulation is a proper exercise of the Board's regulatory authority. For the following reasons, I am unable to provide the necessary assurance.

Background

On June 10, 2014, the Board adopted an amendment to 1 VAC 20-40-10 to define the term "valid" as used in Section 24.2-643(B) of the *Code of Virginia* relating to valid forms of photo identification for voting purposes. The definition adopted at that time defined the term "valid" as follows:

"Valid" for all purposes related to voter identification means documents containing the name and photograph of the voter appearing to be genuinely issued by the agency or issuing entity appearing upon the document where the bearer of the document reasonably appears to be the person whose photograph is contained thereon. Other data contained on the document, including but not limited to expiration date, shall not be considered in determining the validity of the document.

On May 30, 2014, prior to the adoption of the current regulation, proposed regulatory amendments, including a definition of the term "valid," were submitted for the Board's consideration and potential adoption at the scheduled June 10, 2014 meeting. I reviewed that proposal, including the definition of "valid" as it was proposed at that time, and determined that the Board was authorized to promulgate the regulation, that promulgating such a definition was a proper exercise of the Board's regulatory authority and that the regulation was consistent with state law. On June 6, 2014, I provided the necessary letter of assurance for the adoption of that regulation. During the June 10, 2014 meeting the Board proposed and adopted an alternate definition of "valid" and provision of a subsequent letter of assurance was not possible before the regulation went into effect.

Subsequent to that letter of assurance and as a result of consideration by the Board at your June 24, 2014 meeting of written comments received, both supportive and critical of the regulation, the Board chose to reconsider the adopted regulation defining "valid". The Board then proposed an amended definition of "valid" and voted to post that proposed amendment on the Town Hall website for public comment beginning on July 14, 2014. The proposed new definition of "valid" for consideration reads as follows:

"Valid" for all purposes related to voter identification means documents ~~containing the name and photograph of the voter~~ having legal effect, legally or officially acceptable or of binding force, and appearing to be genuinely issued by the agency or issuing entity appearing upon the document where the bearer of the document reasonably appears to be the person whose photograph is contained thereon. ~~Other data contained on the document, including but not limited to~~

~~expiration date, shall not be considered in determining the validity of the document.~~ Such documents shall be accepted up to 30 days after expiration.

Due to the impromptu proposal of this amended language during the course of the June 24, 2014 Board meeting, it was not reviewed by this office prior to its consideration by the Board.

Analysis

Prior to the effective date of the 2013 amendments to Section 24.2-643(B), the Board had adopted Guidance on the definition of the term "valid," which determined that an identification document, including a driver's license, was valid for voting purposes, notwithstanding it may have expired 30 days prior to the act of voting. Presumably, the Board adopted that Guidance to provide clarity and avoid confusion in the application of the requirement among the many local registrars and local election officials. Providing clarity and uniformity in the application of the term "valid" was and remains critical in assuring equal treatment of all voters in exercising their right to vote. Contrary to this critical goal, the definition of "valid" proposed on June 24, 2014 is likely to lead to inconsistent application and disparate treatment of voters across the Commonwealth.

Clearly the Board's goal in proposing this amended definition is to ensure that expired identification documents are not considered "valid" for voting purposes. Though the proposal achieves that goal, while still allowing for acceptance of identification that has expired within 30 days of voting, it is problematic for unintended reasons because it would also classify unexpired identification as invalid in certain circumstances. For example, a local election official would be unable to determine, when presented with a Virginia driver's license that had not expired, whether or not such license has "legal effect" or is "officially acceptable or of binding force." The license could have been suspended or revoked and thus not qualify under the proposed

definition. Consequently, an impossible burden is placed on the election officials with a high likelihood of varying interpretation as to the validity of the identification presented by voters.

Section 24.2-103(A) of the *Code* vests the Board with the power and duty to promulgate regulations but specifically requires uniformity in the practices and proceedings of electoral boards and general registrars so as to ensure that the Board, in exercising that power, achieves purity in all elections. The proposed amendment would likely lead to inconsistent application that would be in direct contradiction of the Board's duty to ensure uniformity in elections and contrary to the Board's statutory duties and thus inconsistent with state law.

The proposed amendment likely violates the *Equal Protection Clause* of the *Fourteenth Amendment* to the *United States Constitution* in that it could lead to an inconsistent result in its application and disparate treatment of voters from one jurisdiction to another. The burden of determining that a drivers license has "legal effect," or is "legally or officially acceptable or of binding force" imposes upon those who stand between an individual and the voting booth, a burden for which they are neither trained nor capable of assuming. The likely result is the arbitrary and disparate treatment of voters in different localities. Such language only serves to re-create the potential unequal treatment that this Board addressed in adopting the above referenced guidance as to the definition of "valid." This type of inconsistent standard has been held by the Supreme Court of the United States to be a violation of the *Equal Protection Clause*.

In *Bush v. Gore*, 531 U.S. 98 (2000), the Supreme Court noted:

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one persons vote over that of another.

Id. at 104-105. In *Bush*, the Court found that the Florida recount mechanisms did not satisfy the minimal requirements of non-arbitrary treatment of voters, for equal protection. The Court

found this particularly true as each county implemented different standards for determining which votes were to be counted. Similarly, I am concerned that the proposed definition of "valid" is likely to be implemented in each of Virginia's localities in an inconsistent and arbitrary manner because election officials are not equipped to assess the "legal effect" of an identification document or adequately determine whether the identification is "legally or officially acceptable or of binding force." Furthermore, I do not believe subsequent guidance from the Board in implementing this proposed regulation will ensure a uniform and consistent standard.

Because of the foregoing concerns, I am unable to provide you with the requisite assurance as to the amendment to 1 VAC 20-40-10 proposed by the Board on June 24, 2014.



COMMONWEALTH of VIRGINIA
STATE BOARD OF ELECTIONS

Kimberly T. Bowers
Vice Chair

Charles E. Judd
Chairman

Donald L. Palmer
Secretary

August 6, 2014

I would like to formally submit this written statement into the official record for today's meeting of the Virginia State Board of Elections. Due to required travel on behalf of my employer, I am unfortunately unable to be physically present during the SBE's discussion regarding the town hall comment period that closed on August 4th. While my strong opinion and statements are on the record from prior meetings around the topic of Photo ID (and I previously provided comments and made the motion to have an expired DMV issued license be considered a valid form of voter identification), I would like to ensure that my sentiments are also read during the first meeting following the conclusion of the public comment period. I am also sure that much of what I am about to state will probably be expressed by others during the open comment period of this meeting (as many of the comments on Town Hall that I have read reflect my sentiment).

We, the members of the State Board of Elections, should do everything we can to ensure that voting as a process is not convoluted, confusing, intimidating, or restrictive and ensure equal access to all those qualified to exercise voting rights. With so many election based changes in a short period of time, I also take very seriously the role that the members of this Board have in giving out guidance to the Electoral community on the practices and policies that ensure the entire voting and election process is executed and implemented uniformly across the Commonwealth. This responsibility is also inclusive of the new voter identification laws and the subsequent guidelines around its implementation.

There is absolutely no reason why we should not accept an expired driver's license if presented at the polls as a form of identification. The Department of Motor Vehicles issues a driver's license for the purpose of driving. However, its uses are many and one of the main reasons it is used is for purposes of identification. In fact, this form of identification is widely accepted for its validity and its authenticity in identifying an individual. It was also discussed during a prior meeting that other forms of identification do not have expiration dates on them, and in fact the decision was made to not to use expiration dates on the free voter cards issued by the registrars offices around the Commonwealth as a result of SB 1256 and subsequently the Governor's Executive Order. We should not complicate the matter around whether or not this document should be viewed as acceptable or get into an argument around the SBE's ability to define valid. This board has sought to provide very succinct and uniform guidance to those in the field and to the public (with a great deal of buy in through forums such as Town Hall) throughout the changes that have occurred over the last 3 years. The guidance on this matter ensures that no citizen is turned away based on an expiration date.

We have heard from the electoral community and from the citizens of Virginia the sentiment that an expiration date should not be an additional restriction. The point of voter identification remains the same- to identify the voter and verify the person who walks into their respective polling location. An officially issued (Department of Motor Vehicles) expired ID or an unexpired (Department of Motor Vehicles) ID will accomplish exactly the same thing. Therefore, I am adamantly opposed to having an expiration date be the reason that one's photo form of identification is not accepted for the purposes of casting a ballot on Election Day.

Thank you,

A handwritten signature in cursive script that reads "Kimberly Bowers".

Vice Chairman
Virginia State Board of Elections



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New Business

BOARD WORKING PAPERS



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Ballot Standards

BOARD WORKING PAPERS
Matt Abell
ELECT Elections Services Lead



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STATE BOARD
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Memorandum

To: Members of the State Board of Elections

From: Chris Piper, Manager, Election Services

Date: August 6, 2014

Re: Request for Approval of Minor Changes to Ballot Standards and Verification Procedures

Suggested motion for a Board member to make:

I move that the Board approve staff's suggested changes to the "Ballot Standards and Verification Procedures" document.

Applicable Code Sections: §§ 24.2-103 and 24.2-613.

Summary of changes to the "Ballot Standards and Verification Procedures" document:

1. Removed and replaced, as applicable, references to the "State Board of Elections/SBE" with "Department of Elections/ELECT".
2. Removed and replaced outdated reference of "(Vote for not more than one)" with "(Vote for only one)".
 - a. Change is required by Acts of Assembly Chapter 568.
3. Inserted the appropriate revision date (i.e. 8/2014) into the footer of each page.

These changes are made throughout the document.

Background: The changes presented in the revised version of the "Ballot Standards and Verification Procedures" document are necessary to properly reflect the law changes that went into effect on July 1, 2014.

§ 24.2-612 State Board’s Ballot Standards and Verification Procedures

The State Board of Elections (SBE) acknowledges its Code-obligated ballot verification requirements as specified in § [24.2-612](#). The most critical role for SBE is to ensure ballot development presents the voter with the proper offices, issues and candidates in an election. Election contest issues may arise without this accomplished.

SBE further acknowledges that voting methods (paper ballot, optical scan and Direct Record Electronic [DRE] machines) present ballot content in different ways. Paper, optical scan and DRE voting methods have established ballot layouts which have developed throughout the years. This document does not replace those established layouts. Moreover, it attempts to present the Code requirements for ballot preparation.

With that in mind, what follows are SBE’s verification points:

Ballot Header: Present on the top of the ballot or within the DRE programming. The “Commonwealth of Virginia” and “Official Ballot” may appear on two lines or one. When it appears on one line the information is separated by a comma. The size of the text may vary but it can never be less than 12 pt. font. The use of bold text is recommended as it draws the voter’s attention, but is not required. In all Primary Elections except Presidential Primaries, the “Election Title” must include the Political Party Name before the words “Primary Election” (§ [24.2-529](#)). The “Election Title” in a Presidential Primary is “Republican/Democratic Party Presidential Primary”.

Commonwealth of Virginia Official Ballot County, City, Or Town Name Election Title Tuesday, Date of Election	Commonwealth of Virginia Official Ballot County, City, Or Town Name “Party Name” Primary Election Tuesday, Date of Election
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Voting Instruction, (Optical Scan Ballots ONLY): Must present the voter with clear instructions on how to mark their ballot properly. Sizes of the text may vary but never be less than 12 pt. font. The use of bold text is recommended as it draws the voter’s attention, but is not required.

Office Header: This header varies depending upon whether it’s a General or Special Election and the type of office elected. The line containing either (“Vote for only one) or (Vote for not more than ____”) must not be less than 10 pt. font (§ [24.2 613](#)). All other content should not be less than 12 pt. font. The use of bold text is recommended as it draws the voter’s attention; but bold text is not required. Text within the header can be centered or left justified. Below are several Office Header examples:

GENERAL OFFICE HEADER	SPECIAL OFFICE HEADER	SPECIAL OFFICE HEADER (Without Member and District)
Member House of Delegates 99th District (Vote for only one)	Member Senate of Virginia 9th District For unexpired term to end December 31, 2015 (Vote for only one)	CLERK OF COURT For unexpired term to end December 31, 2015 (Vote for only one)

§ 24.2-612 State Board's Ballot Standards and Verification Procedures

Placement of Offices and Issues on the Ballot: The placement of offices and issues involved in an election must conform to the following logic: General Election before Special Election; Statewide before Regional; Regional before Local; Locality-wide before District; and District before Town.

Statewide Offices	
BALLOT PLACEMENT	OFFICE/ISSUE TITLE
1	President
2	Member United States Senate
3	Member House of Representatives
4	Governor
5	Lieutenant Governor
6	Attorney General
Statewide Issues, if applicable	
7	Proposed Constitutional Amendment (statewide)
8	Proposed Bond Referendum (statewide)
Regional Offices	
9	Member Senate of Virginia
10	Member House of Delegates
Regional Issues, if applicable	
11	Regional Referendum
Locality-wide Offices	
12	Clerk of Court
13	Commonwealth's Attorney
14	Sheriff
15	Commissioner of Revenue
16	Treasurer
17	Chairman Board of Supervisors
	County Board
	Mayor, City
18	Member Board of Supervisors At Large
	Member City Council At Large
19	Chairman School Board
20	Member School Board At Large
Locality-wide Issues, if applicable	
21	Bond Issues
22	Referendum
District Offices	
23	Member Board of Supervisors
	Member City Council Super District
	Member City Council Election

§ 24.2-612 State Board's Ballot Standards and Verification Procedures

24	Member School Board Super District
25	Member School Board
26	Soil and Water Conservation Director
District Issues, if applicable	
27	Referendum
Town Offices	
28	Mayor
29	Member Town Council At Large
30	Member Town Council
31	Recorder
32	Treasurer
Town Issues, if applicable	
33	Referendum

Candidate Names: A candidate's ballot name must follow the State Board's policy as stated on the back of each Certificate of Candidate Qualification (SBE-501).

Titles: **NO** titles [Rev., Dr., Mr., Mrs., etc.] are to be used, either before or following the candidate's name.

A woman **must use** her given first name, not her husband's, and without a "Mrs." in front of a name.

EXAMPLE: Mary L. Jones **not** Mrs. John W. Jones.

Criteria: First name or initial or familiar form of first name (see example below)
 Middle name or initial or familiar form of middle name
 Nickname should be other than form of first or middle name and must appear within quotation marks
 Last name
 Suffix, if one: Sr. is optional. All other suffixes must be used since they appear on a person's birth certificate and are part of the person's legal name.

Examples: The candidate's full legal name is **Thomas Wendell Smyth III**. The following options are available:

- Tom W. Smyth III (Tom is a familiar, commonly used, form of Thomas)
- T. Wendell Smyth III
- Thomas W. Smyth III
- Thomas Wendell Smyth III
- Thomas W. "Tom" Smyth III
- T. W. "Tom" Smyth III
- T. W. "Spanky" Smyth III
- T. W. Smyth III

§ 24.2-612 State Board's Ballot Standards and Verification Procedures

Initials for **both** the first and middle names may be used **only** when the initials **are also** the nickname **or** if the Department of Elections (ELECT) determines initials must be used in order for some form of the candidate's full legal name to fit on the ballot.

Length: The entire name to appear on the ballot **must not exceed** 25 spaces, including any punctuation and spaces between names. If the candidate's name exceeds 25 spaces, contact ELECT staff to make appropriate accommodations to meet the criteria established by the Board.

Candidate Order: Primary ballot order will be determined by the time of filing with the political party chair (§ [24.2-529](#)). Simultaneous primary filings will be determined by a drawing conducted by SBE for statewide and General Assembly offices and by the local electoral board for all local offices. Party ID is not present in a Primary Election.

The political party ballot order in a General or Special Election will be determined by drawings conducted by SBE (§ [24.2-613](#)). Independent candidates always appear last and are in alphabetical order by last name. Party identification is only present in federal, statewide, and General Assembly elections (§ 24.2-613). The Party ID's for the political parties, recognized political parties and Independents are as follows: Democrat (D), Republican (R), Libertarian (L), Green (G), Independent Green (IG), Constitution (C), and Independent (I) (§ 24.2-613). The party ID follows after the candidates name with a space, then a dash, another space and then the abbreviation of the party, i.e., **Gregory J. Davis - L**.

Candidate names printed on paper and optical scan ballots must not be less than 12 pt. font. Candidate names **printed** on AVC Advantage DRE ballots must not be less than 14 pt. font. (§ [24.2-640](#)).

Presidential Ballot Exception: A presidential ballot must present the candidates in the following manner (§ [24.2-614](#)). Sizes of the text may vary but never be less than 12 pt. font. The use of bold text is recommended as it draws the voter's attention but is not required.

President and Vice President (Vote for only one)
____ Party Electors for Harry Potter , President Princess Leia , Vice President
____ Party Electors for Lois Lane , President Clark Kent , Vice President
Write-In

Write-In line(s): The words "Write-In" must reflect the number of seats to be elected (i.e., "Vote for not more than **three**") should have **3** write-in blocks after the last candidate's name or enough space to accommodate three write in candidate names. Write-in voting is not permitted in a Primary Election (§ [24.2-529](#)).

§ 24.2-612 State Board's Ballot Standards and Verification Procedures

Question Header: Sizes of the text may vary but never less than 12 pt. font. The use of bold text is recommended as it draws the voter's attention but is not required.

Question Text: Sizes of the text may vary but never be less than 12 pt. font. Statewide and regional content must appear on the ballot as it appears in the legislation passed by the General Assembly. Local content must appear on the ballot as it appears in the Circuit Court's Writ. "Yes" and "No" appear in their own individual blocks after the text of the question.

Proposed Constitutional Amendments Question 1	Food and Beverage Tax
Shall Section 6 of Article X of the Constitution of Virginia ...?	Should the County be authorized to levy a tax on food and beverages sold...?
Yes	Yes
No	No

Verification Procedures for Localities that Contracts Ballot Preparation to a Ballot Printer or Voting Equipment Vendor:

- Request delivery of ballot proof(s) from local printer or voting equipment vendor after receiving certification of candidate information from ELECT (§ 24.2-612);
- The general registrar and the Secretary of Electoral Board must review the ballot(s) to ensure the standards are met (the Secretary may formally designate another Board member or deputy/assistant registrar to review in their place);
- If necessary, return ballot(s) to local printer or voting equipment vendor for correction and review corrected proof to ensure error is corrected;
- The general registrar and/or Secretary of Electoral Board must send* the final proof of the ballot stating that they have proofed the ballot, believe it to be correct and have met the standards of the State Board; and
 - Upon receipt, ELECT will verify that the ballot matches the standards set forth in this document.
 - After receipt of ELECT verification, the locality may proceed with ballot production.
 - ELECT staff will **NOT** review ballots for correct spelling of candidate names or office titles.

Verification Procedures for Localities that Prepare their Own Ballot(s):

- Create ballot proof(s) after receiving certification of candidate information from ELECT (§ 24.2-612);
- If general registrar creates the ballot(s), the general registrar and Secretary of the Electoral Board must review the ballot(s) to ensure the standards are met (the Secretary may formally designate another Board member or Deputy/Assistant Registrar to review in their place);
- If necessary, correct errors and review; and
- The general registrar and Secretary of Electoral Board must send* the final proof of the ballot to ELECT stating that they have proofed the ballot and believe it to be correct and have met the standards of the State Board
 - Upon receipt, ELECT will verify that the ballot matches the standards set forth in this document.
 - After receipt of ELECT verification, the locality may proceed with ballot production.
 - ELECT staff will **NOT** review ballots for correct spelling of candidate names or office titles.

*Submission of the ballots to ELECT with EB signature is not required. Records of approval must be kept internally.



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Other Business & Public Comment

BOARD WORKING PAPERS



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Good of the Order

BOARD WORKING PAPERS



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Adjournment

BOARD WORKING PAPERS



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STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, August 6, 2014
General Assembly Building
Room C
1:00 PM

SBE Board Working Papers
Master Copy
Prepared by Rose Mansfield
Executive Assistant to the Board