



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Monday, November 24, 2014
General Assembly Building
Room C
1:00PM

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: November 24, 2014
LOCATION: General Assembly Building, Room C
TIME: 1:00 p.m.*

- I. CALL TO ORDER** *Charles E. Judd
Chair*
- II. APPROVAL OF MINUTES** *SBE Board Members*
October 7, 2014 & November 4, 2014
- III. COMMISSIONER'S REPORT** *Edgardo Cortés
ELECT Commissioner*
- IV. REPORT FROM LEGAL COUNSEL** *Anna Birkenheier
SBE Legal Counsel*
- V. OLD BUSINESS**
- A. Interim Report from GREB Workgroup *Charles E. Judd
Chair*
- B. Extend Charter to GREB Workgroup *Charles E. Judd
Chair*
- VI. NEW BUSINESS**
- A. Ballot Drawing –Special Election-Powhatan County *Matt Abell
Senior Elections Lead*
- B. Proposed Review of Voting Equipment Issues
 November 4, 2014, General Election *Edgardo Cortés
ELECT Commissioner*
- C. To Ascertain the Results of the
 November 4, 2014 General and Special Election *SBE Board Members*
- VII. OTHER BUSINESS & PUBLIC COMMENT**
- VIII. GOOD OF THE ORDER**
- IX. ADJOURNMENT**



★ VIRGINIA ★
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Call to Order

BOARD WORKING PAPERS



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes
October 7, 2014
November 4, 2014

BOARD WORKING PAPERS
SBE Board Members



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes October 7, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

2

3 The State Board of Elections Board Meeting was held on Tuesday, October 7,
4 2014. The meeting was held in the Washington Building – Room B27, 1100 Bank Street,
5 Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice Chair; Don Palmer, Secretary and Kristina
7 Perry Stoney, Senior Assistant Attorney General and SBE Counsel. In attendance,
8 representing the Department of Elections (ELECT) was Edgardo Cortés, Commissioner;
9 Matt Abell, Election Services Lead and Rose Mansfield, Executive Assistant. Chairman
10 Judd called the meeting to order at 12:00PM.

11 The first order of business was the approval of the Minutes from the State Board
12 of Elections Board Meeting held on August 6, 2014. Chairman Judd asked if Board
13 Members had any additions or corrections to the August 6, 2014 Board Minutes and there
14 were none. Secretary Palmer moved *to adopt the Minutes for the August 6, 2014, Board*
15 *Meeting*. Vice Chair Bowers seconded the motion and the Board unanimously approved
16 the Minutes. Chairman Judd asked if Board Members had any additions or corrections to
17 the August 27, 2014 Board Minutes and there were none. Secretary Palmer moved *to*
18 *adopt the Minutes for the August 27, 2014, Board Meeting*. Vice Chair Bowers seconded
19 the motion and the Board unanimously approved the Minutes.

20 The second order of business was the Commissioner’s Report delivered by
21 Commissioner Cortés. Commissioner Cortés reported that Voter Photo ID
22 implementation plan is meeting its’ target goals and that there has been interest across the
23 commonwealth about the numbers of individuals who may be without acceptable
24 identification on Election Day. Commissioner Cortés stated ELECT is posting on the
25 website the weekly numbers related to Voter Photo ID’s which includes recent DMV
26 data. Statewide there are approximately 197,000 individuals without DMV issued
27 identifications. ELECT filter individuals who had not registered, absent voting history
28 the commonwealth, a history of absentee ballot voting, and or military or UACOVA
29 voters which reduced the number to approximately 90,000. ELECT mailed 86,000
30 mailers to citizens of the commonwealth informing them about the new voter photo
31 identification law, what types of identifications would be acceptable on Election Day and

32 information on how to obtain a free Voter Photo Identification Card. Commissioner
33 Cortés stated that outreach materials were provided to general registrars, electoral board
34 members and community partners. The ELECT website will contain editable documents
35 that community partners can personalize to assist in their outreach efforts. ELECT sent a
36 mailer at the end of September, 2014 to 394,000 individuals in the commonwealth that
37 are not registered to vote and are identified as potential voters. There have been 1,500
38 free voter photo identification to date issued in the commonwealth. Commissioner Cortés
39 asked if there were any questions.

40 Chairman Judd noted that the number of voter photo identifications issued
41 represents 1.9% of the total voters who do not have a DMV issued ID card. Chairman
42 Judd inquired about the funding of the mailer involving 394,000 voters. Commissioner
43 Cortés stated the mailing was paid for with funds associated with the Help America Vote
44 Act (HAVA) and the mailing involving 86,000 individuals was paid for by utilizing the
45 outreach funds established with the Voter Photo ID program. Vice Chair Bowers inquired
46 about post-election community outreach efforts and suggested that information be
47 disseminated about the Voter Photo ID program in totality to include the statistical
48 information involving the free Voter Photo ID cards. Commissioner Cortés stated that
49 ELECT would enact this suggestion.

50 The next order of business was the Legal Report presented by Kristina Perry
51 Stoney, Senior Assistant Attorney General. Ms. Stoney reported that three attorney
52 general opinions were recently issued. Ms. Stoney reported that the first opinion was a
53 request from the City of Norfolk Office of Elections inquiring whether applicable law
54 requires, or forbids the Norfolk Electoral Board from accepting mailed voter registration
55 applications with electronically created signature. Commissioner Cortés stated that there
56 was agency guidance in 2014, directing localities to accept forms based on electronic
57 signatures. Secretary Palmer stated that there was concern about the interpretation of this
58 opinion and SBE should consider a regulation to provide clarification on this issue.
59 Chairman Judd directed ELECT to prepare a suggested regulation for presentation at the
60 next SBE Meeting. Ms. Stoney asked if there were additional questions and there were
61 none.

62 Ms. Stoney reported that the second opinion issued on October 1, 2014, was
63 requested from Commissioner Cortés inquiring whether regulations administering
64 Chapters 9.3, 9.4, and 9.5 of Title 24.2 of the *Code of Virginia*, which concerns campaign
65 finance laws, related to “the conduct of elections or eligibility to vote,” thereby
66 qualifying for an exemption from the Virginia Administrative Process Act (“APA”)
67 regulatory process. The response issued is that they do not relate to “the conduct of
68 elections and eligibility to vote,” and therefore do not qualify for an exemption from the
69 regulatory process established by the APA. Ms. Stoney asked if there were questions and
70 there were none.

71 Ms. Stoney reported that third opinion issued on October 1, 2014 and requested
72 from the King William County Electoral Board. The requests asks if under § 24.2-112 of
73 the *Code of Virginia*, a general registrar has the authority to hire, as needed, additional
74 employees on a temporary, part-time basis, irrespective of local government approval and
75 budgeting. The response issued states that under § 24.2-112 that the general registrar, in
76 his discretion, to hire additional temporary, part-time employees when needed and
77 requires the local governing body to compensate such employees as provided for by law.
78 Ms. Stoney asked if there were questions and there were none.

79 The next order of business was the Ballot Drawing for the Special Election in
80 House District Four to be held on December 9, 2014, presented by Matt Abell, Election
81 Services Lead. Mr. Abell explained the process. Vice Chair Bowers drew the first
82 position of the Republican Party and Secretary Palmer drew the second position of the
83 Democratic Party. Chairman Judd declared that the ballot order had been determined with
84 the Republican candidate listed first and the Democratic candidate listed second.

85 The next order of business was the Ballot Drawing for the Special Election in
86 Prince William County for the Board of Supervisions Election to be held on December
87 23, 2014, presented by Matt Abell, Election Services Lead. Mr. Abell explained the
88 process. Secretary Palmer drew the first position of the Democratic Party and Vice Chair
89 Bowers drew the second position of the Republican Party. Chairman Judd declared that
90 the ballot order had been determined with the Democratic candidate listed first and the
91 Republican candidate listed second.

92 The next order of business was the Ballot Drawing for the January Special
93 Election for which a date has not been designated presented by Matt Abell, Election
94 Services Lead. Mr. Abell explained that this Ballot Drawing will cover possible openings
95 in House of Delegates District 10 and Senate of Virginia District 16. The openings
96 would be the result of vacancies generated by the results of the November 4, 2014,
97 General Election. Mr. Abell explained that a special election could be called starting on
98 the first Tuesday in January and ending on the last Tuesday in January (January 6th, 13th,
99 20th & 27th, 2015).

100 The following Ballot Orders were conducted:

- 101 • January 6, 2015 - Secretary Palmer drew the first position of the
102 Democratic Party and Vice Chair Bowers drew the second position of the
103 Republican Party. Chairman Judd declared that the ballot order had been
104 determined with the Democratic candidate listed first and the Republican
105 candidate listed second.
- 106 • January 13, 2015 – Vice Chair Bowers drew the first position of the
107 Republican Party and Secretary Palmer drew the second position of the
108 Democratic Party. Chairman Judd declared that the ballot order had been
109 determined with the Republican candidate listed first and the Democratic
110 candidate listed second.
- 111 • January 20, 2015 – Secretary Palmer drew the first position of the
112 Democratic Party and Vice Chair Bowers drew the second position of the
113 Republican Party. Chairman Judd declared that the ballot order had been
114 determined with the Democratic candidate listed first and the Republican
115 candidate listed second.
- 116 • January 27, 2015 – Vice Chair Bowers drew the first position of the
117 Democratic Party and Secretary Palmer drew the second position of the
118 Republican Party. Chairman Judd declared that the ballot order had been
119 determined with the Democratic candidate listed first and the Republican
120 candidate listed second.

121

122 The next order of business was the nomination and replacement of a member of
123 the GREB Workgroup presented by Chairman Charles Judd. Chairman Judd nominated
124 Bill Thomas, Secretary of the Electoral Board, City of Richmond, Virginia. Chairman
125 Judd moved *that Bill Thomas, Secretary of the Electoral Board, City of Richmond,*
126 *Virginia fill the current vacancy on the GREB Workgroup.* Vice Chair Bowers seconded
127 the motion and the Board unanimously approved the motion.

128 Chairman Judd opened the floor to other business and public comment and there
129 was no additional business brought before the Board.

130 Chairman Judd asked if there were comments for the Good of the Order. Vice
131 Chair Bowers stated that on Saturday, October 4, 2014, she participated in an outreach
132 and voter education event during the 2nd Street Festival. Voting and registration materials
133 were distributed to festival goers and additional supplies were provided to organizations
134 to distribute at their future events. Chairman Judd asked if there was additional business.
135 Rose Mansfield wished all members of the Board and the Commissioner a “Happy
136 Bosses Day” prior to the official date of October 16, 2015. Chairman Judd asked if there
137 was additional business and there was none.

138 Chairman Judd moved *that the Board adjourn.* Vice Chair Bowers seconded the
139 motion and without further comment the Board voted to adjourn. The meeting was
140 adjourned at approximately 12:05PM.

141 The Board shall reconvene on November 4, 2014 at 9:00AM in the Washington
142 Building – Room B27, 1100 Bank Street, Richmond, Virginia.

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144 _____
145 Secretary

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147 _____
148 Chair

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150 _____
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152 Vice Chair

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DRAFT



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STATE BOARD *of* ELECTIONS

Approval of Minutes November 4, 2014

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

2

3 The Virginia State Board of Elections Board Meeting was held on Tuesday,
4 November 4, 2014. The meeting was held in the Washington Building – Room B27,
5 1100 Bank Street, Richmond, Virginia. In attendance, representing the State Board of
6 Elections (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice Chair; and Don
7 Palmer, Secretary. Also in attendance and representing the Department of Elections
8 (ELECT) was Edgardo Cortés, Commissioner and Rose Mansfield, Executive Assistant.
9 Kristina Perry Stoney, Senior Assistant Attorney General and Counsel to SBE and
10 ELECT were also present. Chairman Judd called the meeting to order at 9:00AM.

11 Chairman Judd stated that the purpose of this meeting was to fulfill the State
12 Board of Elections Board members' responsibility of addressing issues related to the
13 general election occurring on that day. Chairman Judd stated that SBE was informed of a
14 loss in the election community this morning. Dale Bolt, General Registrar of Prince
15 Edward County, Virginia passed away this past evening. Chairman Judd moved *that*
16 *when SBE adjourns on this Election Day, that the adjournment is in the honor and*
17 *memory of Dale Bolt, General Registrar of Prince Edward County.* Vice Chair Bowers
18 seconded the motion. Chairman Judd instructed that all those individuals present and who
19 agree with the motion stand in acknowledgement of the motion. Chairman Judd declared
20 that the motion was carried unanimously.

21 The first order of business was the Commissioner's Report delivered by
22 Commissioner Cortés. Commissioner Cortés reported that the polls successfully opened
23 at 6:00a.m. There have been some isolated reports of machine issues and electronic poll
24 book issues. The localities are resolving issues once identified. ELECT received a
25 minimal number of calls related to voter photo ID. Commissioner Cortés stated that 212
26 voters' applied for free voter photo ID's yesterday, November 4, 2014. To date, there
27 have been 3,199 citizens of the commonwealth apply for the free voter photo
28 identification card. Commissioner Cortés stated that there were 118,000 absentee ballot
29 requests which include those requests by mail and in-person. Commissioner Cortés asked
30 if there were any questions.

31 Secretary Palmer stated that some of the political advertisements that were mailed
32 to voters contained the requirements of the voter photo identification law on their mailers.
33 Secretary Palmer stated that he was pleased with this occurrence as the political parties
34 had significant contact with the voters.

35 The next order of business was the Legal Report presented by Kristina Perry
36 Stoney, Senior Assistant Attorney General. Ms. Stoney stated the SBE meeting would be
37 absent a legal report.

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

41 Chairman Judd stated that the Board has officially reconvened at 3:00p.m.
42 Chairman Judd asked Commissioner Cortés to provide an Election Day update.
43 Commissioner Cortés stated that ELECT issued a press release pertaining to the reports
44 of machine issues in a couple localities particularly, Newport News and Virginia Beach.
45 Both localities have equipment that appears to be experiencing calibration issues.
46 Commissioner Cortés stated that voters had difficulty selecting the candidate of their
47 choice.

48 There is a summary screen on these machines that permits the voter to verify their
49 choices. Commissioner Cortés stated that the localities were instructed to pull the
50 machines that were having problems. Virginia Beach has a total of 820 touch screen
51 machines, across 93 precincts, and 32 machines have been taken out-of-service due to
52 this issue. Commissioner Cortés stated that 25 precincts have had at least one piece of
53 equipment that had an issue and has been taken out-of-service. If the issue cannot be
54 resolved by the technicians the equipment will remain out-of-service for the remainder of
55 the day.

56 Chairman Judd inquired about the touch screen equipment that made it difficult
57 for voters to cast their ballot; “were there any votes cast before this problem was
58 identified?” Commissioner Cortés stated that there were votes cast, however the voter did
59 have the ability to view the summary screen before casting their ballot.

60 Secretary Palmer asked: “Is there a possibility that the equipment issues are
61 related to a different problem other than calibration?” Commissioner Cortés indicated

62 that, based on the information provided by Virginia Beach, ELECT believes it is a
63 calibration issue. Virginia Beach certified that they conducted the required pre-election
64 Logic & Accuracy testing. The equipment was tested at an off-site location and
65 transported to the polling location where it remained sealed until Election Day.
66 Chairman Judd stated that it is important to emphasize that the voter views a validation
67 screen that displays their choice for candidates before their ballot is cast. Vice Chair
68 Bowers asked: “Every precinct in Virginia Beach has an adequate number of operational
69 machines?” Commissioner Cortés replied: “correct”.

70 Chairman Judd opened the public comment period for questions from the public.
71 Questions were received from the audience and were directed to the commissioner and
72 Board Members. Chairman Judd moved *that the Board go into recess*. Vice Chair
73 Bowers seconded the motion and the Board unanimously approved the motion.

74 Chairman Judd stated that the Board has officially reconvened at 6:40p.m. The
75 clerk noted the absence of Secretary Palmer. Chairman Judd asked Commissioner Cortés
76 to provide an Election Day update. Commissioner Cortés stated that ELECT has been in
77 contact with the general registrar of Virginia Beach, Congressman Rigell’s campaign,
78 attorney general’s office, and both political parties regarding the reported machine issues.
79 The conversations encompassed the option of switching Virginia Beach’s voters from
80 machines to paper ballots for the time remaining on Election Day. Congressman Rigell’s
81 campaign has requested that SBE review this matter to determine exactly what happened
82 with the machines in Virginia Beach. Chairman Judd asked: “Will the votes that were
83 cast on the machines, that were taken out of service in Virginia Beach, be added to the
84 total tally sheets?” Commissioner Cortés stated that when the polls close the machines
85 will have their vote total report run and those numbers will be added to the statement of
86 results. Chairman Judd stated that the voter must acknowledge and accept their ballot
87 before official casting their vote. Commissioner Cortés responded: “correct”. Vice Chair
88 Bowers asked about the process of calibration on the touch screens used in Virginia
89 Beach. Chairman Judd asked the party representatives to speak to the issue of the
90 machines in Virginia Beach and to clarify if additional machines, over the 32 machines
91 confirmed, have been removed from the polling places due to calibration or other issues.
92 Kate Maxwell, Republican Party Representative stated that additional details were not

93 available. The Democratic Party Representative reported that the last incident of
94 machines malfunctioning he received was at 4:36 p.m.

95 Commissioner Cortés stated that a formal request from the campaign arrived at
96 6:47p.m. (During the Board Meeting via email) requesting that SBE order the Virginia
97 Beach General Registrar to switch to paper ballots over their 93 precincts. Chairman Judd
98 stated that the request of the campaign to issue paper ballots 13 minutes prior to the
99 official closing of the polls was unrealistic considering the ballots would have to be
100 printed and delivered to all the precincts in Virginia Beach. Vice Chair Bowers asked:
101 “What is the threshold for the timing of requesting paper ballots?” Commissioner Cortés
102 stated that similar requests have come before SBE before and it was understood from
103 those previous occasions that SBE does not have the authority to direct a general registrar
104 on the use of paper ballot. This is the responsibility of the local electoral board.

105 Vice Chair Bowers moved *that the Board Adjourn*. Chairman Judd seconded the
106 motion and the Board unanimously approved the motion. The meeting was adjourned at
107 approximately 7:05PM.

108 The Board shall reconvene on November 24, 2014 at 1:00p.m in the General
109 Assembly Building – Room C, Richmond, Virginia.

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112 _____
Secretary

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114

115 _____
Chair

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118 _____
Vice Chair

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STATE BOARD *of* ELECTIONS

Commissioner's Report

BOARD WORKING PAPERS
Edgardo Cortés
Commissioner
Department of Elections



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Legal Report

BOARD WORKING PAPERS
Anna Birkenheier
Assistant Attorney General



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Old Business

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Interim Report From GREB Workgroup

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Charles E. Judd
SBE Chair



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SBE Chair



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New Business

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Ballot Drawing Special Election Powhatan County

BOARD WORKING PAPERS
Matt Abell
ELECT Senior Election Services Lead



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STATE BOARD *of* ELECTIONS

Proposed Review of Voting Equipment November 4, 2014

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Ascertain the Results
of
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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

Monday, November 24, 2014
General Assembly Building
Room C
1:00PM

SBE Board Working Papers
Rose Mansfield
Executive Assistant