



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Monday, January 19, 2015
Virginia State Capitol
House Room 1
9:00AM

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

DATE: January 19, 2015
LOCATION: Virginia State Capitol, House Room 1
TIME: 9:00 a.m.

- I. CALL TO ORDER** *Charles E. Judd*
Chair
- II. APPROVAL OF MINUTES** *SBE Board Members*
January 12, 2015
- III. COMMISSIONER'S REPORT** *Edgardo Cortés*
ELECT Commissioner
- IV. REPORT FROM LEGAL COUNSEL** *Anna Birkenheier*
SBE & ELECT
Legal Counsel
- V. NEW BUSINESS**
- A. To Ascertain the Results of the** *Matt Abell*
January 13, 2015 Special Election *Senior Election Administrator*
House of Delegates-District 74
- B. Request to Inspect Sealed Election Form** *Myron McClees*
ELECT Policy Analyst
- VI. OTHER BUSINESS & PUBLIC COMMENT**
- VII. GOOD OF THE ORDER**
- VIII. ADJOURNMENT**



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Call to Order

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Approval of Minutes January 12, 2015

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SBE Board Members

1 MINUTES

2

3 The State Board of Elections Board Meeting was held on Monday, January 12,
4 2015. The meeting was held in the Virginia General Assembly Building, Room C,
5 Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice Chair; James Alcorn, Secretary. Also in
7 attendance, representing the Department of Elections (ELECT) was Edgardo Cortés,
8 Commissioner; Liz Howard, Deputy Commissioner; Matt Abell, Senior Election
9 Administrator and Rose Mansfield, Executive Assistant. Anna Birkenheier, Assistant
10 Attorney General and Counsel to SBE and ELECT attended. Chairman Judd called the
11 meeting to order at 10:15AM.

12 The first order of business was the Commissioner's Report delivered by
13 Commissioner Cortés. Commissioner Cortés stated that ELECT is preparing for the
14 legislative session and is tracking 77 legislative bills associated to elections.
15 Commissioner Cortés stated that a special election will be held on January 13, 2015,
16 which marks the fourth special election in the commonwealth in the past six weeks. The
17 increase of special elections is tasking on the localities as well as the staffing at ELECT.
18 Commissioner Cortés stated that the governor announced a proposed budget amendment
19 to replace the legacy voting equipment across the commonwealth. The proposed
20 amendment will replace all DRE and the optical scan technology with digital scan
21 technology. The funding of 28 million dollars would also include funding for upgrading
22 hardware for the electronic pollbooks for those localities using the state sponsored
23 electronic pollbook solutions. This would be funded through bond proceeds and as part
24 of the amendment there is money to reimburse localities that have recently purchased
25 newer equipment over a three year period. The proposed amendment would include
26 funding for ELECT to address election night reporting. The amendment states that the
27 legacy equipment would not be used by the localities after August 1, 2015. The voting
28 equipment would be acquired through a statewide procurement and distributed to the
29 localities by ELECT.

30 Chairman Judd asked: "Would all localities be required to use electronic
31 pollbooks?" Commissioner Cortés replied: "There is not a mandate, with the current

32 proposal, to require the use of electronic pollbooks by all localities or to use the state
33 sponsored solution.” Chairman Judd asked: “Is the state planning to use a single vendor
34 for all the localities?” Commissioner Cortés replied: “Yes, as proposed, the statewide
35 procurement would be with a single vendor.” Vice Chair Bowers asked: “Is there a
36 process that the localities must adhere to receive reimbursements for previously
37 purchased equipment?” Commissioner Cortés stated: “ELECT will be developing a
38 reimbursement process with the associated paperwork.” Chairman Judd stated: “I have
39 reservations about a single vendor providing all of the voting equipment to the
40 commonwealth, because in any application where a monopoly exists the incentive for the
41 vendor to react quickly to issues or concerns and or provide upgrades diminishes. I would
42 encourage those individuals involved in this process to consider this thought process and
43 for the vendor’s to sharpen their pencils.”

44 The next order of business was the Legal Report presented by Anna Birkenheier,
45 Assistant Attorney General. Ms. Birkenheier stated that she request an executive closed
46 session. Chairman Judd stated that an executive closed session would be conducted at the
47 close of new business.

48 The next order of business was the approval of the Minutes from the State Board
49 of Elections Board Meeting held on December 12, 2014. Chairman Judd asked if Board
50 Members had any additions or corrections to the December 12, 2014 Board Minutes.
51 Chairman Judd asked if there were additions or corrections and there were none.
52 Chairman Judd moved *to adopt the Minutes for the December 12, 2014, Board Meeting.*
53 Vice Chair Bowers seconded the motion and the Board unanimously approved the
54 Minutes.

55 The next order of business was to ascertain the results of the January 6, 2015,
56 Special Election which was conducted by SBE Board Members and Matt Abell, Senior
57 Election Administrator. The Board Members reviewed and verified the abstracts with the
58 following results:

- 59 ✓ Kathleen J. Murphy received the greatest number of votes (6,419) in the
60 Thirty Fourth House of Delegates District.
- 61 ✓ Joseph E. Preston received the greatest number of votes (1,213) in the
62 Sixty Third House of Delegates District.

63 Chairman Judd announced that the ascertainment process was complete. Vice
64 Chair Bowers moved *that the SBE certify the results of the January 6, 2015, Special*
65 *Election*. Chairman Judd seconded the motion and the Board unanimously passed the
66 motion.

67 The next order of business was the request for temporary full-time status for the
68 General Registrars of Richmond County and Charles City County, Virginia present by
69 Liz Howard, ELECT Deputy Commissioner. Deputy Howard stated that the request is
70 authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of the
71 submitted requests. The request for Richmond County is for the period of February 1,
72 2015 through June 30, 2015. Vice Chair Bowers moved *that the Board approve the*
73 *request from the Electoral Board of the Richmond County for a temporary full-time*
74 *general registrar for the period of February 1, 2015 through June 30, 2015*. Secretary
75 Alcorn seconded the motion and Chairman Judd asked if there were any questions and
76 there were none. The Board unanimously approved the motion.

77 Deputy Howard stated that the request from Charles City County is for the period
78 of January 5, 2015 through January 19, 2015. Secretary Alcorn moved *that the Board*
79 *approve the request from the Electoral Board of the Richmond County for a temporary*
80 *full-time general registrar for the period of January 5, 2015 through January 19, 2015*.
81 Vice Chair Bowers seconded the motion and Chairman Judd asked if there were any
82 questions and there were none. The Board unanimously approved the motion.

83 Chairman Judd opened the floor to other business and public comment. There
84 were no public comments. Chairman Judd asked if there was additional business before
85 the Board and there were none.

86 Chairman Judd then moved *to close the meeting to discuss actual and probable*
87 *litigation matters and specific legal matters requiring the provision of legal advice by*
88 *legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia*. Vice Chair
89 Bowers seconded the motion and the Board unanimously carried the motion. Chairman
90 Judd directed Kimberly Bowers, Vice Chair; James Alcorn, Secretary; Edgardo Cortés,
91 Commissioner; Liz Howard, Deputy Commissioner; Anna Birkenheier, Assistant
92 Attorney General and SBE Counsel and Rose Mansfield, Executive Assistant, to remain

93 with the Board during the closed session. Secretary Alcorn seconded the motion and the
94 Board went into Executive Session at 10:40AM.

95 At 10:50AM Chairman Judd *moved to reconvene in open session and a roll call*
96 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
97 *certifying that during the closed meeting (i) only public business matters lawfully*
98 *exempted from open meeting requirements under this chapter, and (ii) only such public*
99 *business matters as were identified in the motion by which the closed meeting was*
100 *concerned were heard, were discussed or considered.* Vice Chair Bowers seconded the
101 motion and the Board unanimously approved the motion. Rose Mansfield, Executive
102 Assistant performed the roll call vote and all Board Members approved the motion.

103 Chairman Judd asked if there were comments for the Good of the Order. There
104 were no additional comments.

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

108 The Board shall reconvene on January 19, 2015 at 9:00AM in the Virginia State
109 Capitol - House Room C, Richmond, Virginia.

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112 _____
Secretary

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Chair

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Vice Chair

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Commissioner's Report

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Edgardo Cortés
Commissioner
Department of Elections



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Legal Report

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Anna Birkenheier
Assistant Attorney General



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New Business

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Ascertain the Results
of the
January 13, 2015
Special Election
House of Delegates
District 74

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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Request to Inspect Sealed Election Form

BOARD WORKING PAPERS
Myron McClees
ELECT Policy Analyst



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Memorandum

To: Members of the State Board of Elections

From: Myron McClees, Policy Analyst

Date: January 12, 2015

Re: Edits to the Request to Inspect Sealed Election Materials Form

Suggested actions for a Board member to make:

Move that the board adopt all provided edits to the *Request to Inspect Sealed Election Materials* form (SBE-659).

Applicable Code Sections: §§ 24.2-659, 24.2-669

Attachments:

Your Board materials include the following:

- *Request to Inspect Sealed Election Materials* form with tracked changes
- Final version of the *Request to Inspect Sealed Election Materials* form

Background:

The *Request to Inspect* form is used by localities when sealed election materials or envelopes need to be accessed. Virginia Code §§ 24.2-659 and 24.2-669 require that parties and candidates be notified when access to these sealed materials is granted by the proper administrative authority. The Code does not state which entity is required to actually notify the parties and candidates in every specific instance, and thus an instructional second page to the form provides this information. Currently, this instructional page states in § 7 that State Board staff will notify the parties if the materials were used in a statewide or federal election.

ELECT seeks an edit to the instructional form that would instead state that the local electoral board will contact the state parties. Local electoral boards have knowledge of the date time and location for access to sealed materials and may provide such information to parties and candidates who may wish to observe.

In addition to the change listed above, a small change is included that allows the Commissioner of Elections to designate another person to sign the form. This too increases efficiency, as there have

been previous instances where the agency head was not physically present to sign the document, yet wished to grant access to the materials in a timely fashion.



Election Date: _____ **Date of Request:** _____

Requested By: _____
(Name) (Title)

Locality: _____

Precinct Name: _____ **Precinct Number:** _____

Specific Envelope or Equipment which needs to be inspected:

The Envelope or Equipment needs to be inspected to determine:

ELECT review: _____ **Policy** _____ **Election Services** _____ **Voting Equipment**

AUTHORIZATION GRANTED BY THE COMMISSIONER OF THE DEPARTMENT OF ELECTIONS

To the Clerk of the Court for _____ **County/City:**

Pursuant to §§ 24.2-659 and 24.2-669, the Electoral Board is authorized to open and inspect the envelope(s) or equipment specified above for the reason(s) stated above. The Clerk of the Circuit Court must be present and the local chairs of each political party and each independent or primary candidate on the ballot for the precinct must be given sufficient notice of the time and place of the meeting and a majority of the officers of election from the precinct must be present and correct the statement of results and reseal the envelope or equipment.

Special conditions/instructions: _____

Edgardo Cortes, Commissioner (or designee)
Department of Elections

Date



Instructions for Retrieving Results from Voting Equipment after Election Night

1. **Lock the Equipment as you normally would after closing the polls on election night in order to secure the equipment.**
2. **The Officers of Election will complete the Statement of Results with as much information as is available for the precinct.**
3. **The available totals may be entered in VERIS, but will be subject to amendment once the results have been obtained from the locked voting equipment.**
4. **Because the equipment has been sealed you must contact the Department of Elections and obtain written permission from the Commissioner to unseal the equipment to ensure accurate returns pursuant to §24.2-659.**
5. **You must contact the local political parties and independent (or primary) candidates on the ballot for the precinct who are entitled to be present when the equipment is unsealed and the votes tabulated. Contact them directly and provide them with the opportunity to be present at the date and time that the equipment will be unsealed.**
6. **A majority of the Officers of Election from the precinct must also be present to complete the work of obtaining the results and amending the Statements of Results. Only the Officers of Election can handle the ballots, modify the SORs, reseal, sign and date the envelopes. This must be done in the presence of the Clerk or a Deputy Clerk of Court.**
7. **For statewide and federal elections, the local electoral board must notify the state political parties of the time set to unlock the equipment. Send this notice as soon as you have confirmed an agreed upon time and place with the parties. Do not unseal the equipment until the parties are present, or have confirmed that they will not be attending.**
8. **Notice must be provided to the parties at least 24 hours before any equipment is unsealed, unless all the affected candidates or parties waive this requirement.**



Election Date: _____ Date of Request: _____

Requested By: _____
(Name) (Title)

Locality: _____

Precinct Name: _____ Precinct Number: _____

Specific Envelope or Equipment which needs to be inspected:

The Envelope or Equipment needs to be inspected to determine:

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3. The available totals may be entered in VERIS, but will be subject to amendment once the results have been obtained from the locked voting equipment.
4. Because the equipment has been sealed you must contact the Department of Elections and obtain written permission from the Commissioner to unseal the equipment to ensure accurate returns pursuant to §24.2-659.
5. You must contact the local political parties and independent (or primary) candidates on the ballot for the precinct who are entitled to be present when the equipment is unsealed and the votes tabulated. Contact them directly and provide them with the opportunity to be present at the date and time that the equipment will be unsealed.
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7. For statewide and federal elections, ~~State Board staff will~~ the local electoral board must notify the state political parties of the time set to unlock the equipment. Send ~~us~~ this notice as soon as you have confirmed an agreed upon time and place with the parties. Do not unseal the equipment until the parties are present, or have confirmed that they will not be attending.
8. ~~If the parties cannot confirm attendance on the day after the election, they must be given~~ Notice must be provided to the parties at least 24 hours ~~notice~~ before any equipment is unsealed, unless all the affected candidates or parties waive this requirement.



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Other Business & Public Comment

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Good of the Order

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Adjournment

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BOARD MEETING

Monday, January 19, 2015
Virginia State Capitol
House Room 1
9:00AM

SBE Board Working Papers
Prepared by Rose Mansfield
Executive Assistant