



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Friday, July 28, 2017
House Room 2
Virginia State Capitol
10:30AM - 2:00PM

SBE Board Working Papers

**STATE BOARD OF ELECTIONS
AGENDA**

*DATE: July 28, 2017
LOCATION: House Room 2, Virginia State Capitol
Richmond, Virginia
TIME: 10:30 a.m.*

I. CALL TO ORDER

*James B. Alcorn
SBE Chair*

II. APPROVAL OF MINUTES

*Singleton McAllister
SBE Secretary*

III. NEW BUSINESS

A. GREB Workgroup Report

*James B. Alcorn
SBE Chair*

B. Administrative Procedures Act Exemption

*James B. Alcorn
SBE Chair*

IV. OTHER BUSINESS & PUBLIC COMMENT

V. ADJOURNMENT



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Call to Order

BOARD WORKING PAPERS

James Alcorn
SBE Chair



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Approval of Board Minutes

October 4, 2016
November 21, 2016
December 5, 2016
January 18, 2017
February 10, 2017
May 1, 2017
June 27, 2017

BOARD WORKING PAPERS
Singleton McAllister
Secretary of the Board



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STATE BOARD *of* ELECTIONS

GREB Workgroup Report

BOARD WORKING PAPERS
James Alcorn
SBE Chairman

A Review of Duties and Responsibilities of Electoral Boards and General Registrars

2016 Report from the General Registrar/Electoral Board (GREB) Workgroup

January 2017

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Introduction

Two study resolutions requested by the Voter Registrar's Association of Virginia (VRAV) and Virginia Electoral Board Association (VEBA) were introduced in the 2014 Session of the Virginia General Assembly [HJ22(Minchew), HJ24 (Webert)]. Each of these proposed studies noted that more than 20 years had passed since the last comprehensive Joint Legislative Audit and Review Commission (JLARC) study of General Registrar (GR) duties in 1992. The House Rules Committee, citing overload at JLARC, asked that these studies be referred to the State Board of Elections (SBE). In May 2014, the State Board of Elections established the GREB Workgroup with the task of reviewing the Duties and Responsibilities of the Commonwealth's 133 Electoral Boards (EBs) and General Registrars (GRs) and developing suggestions and changes to recommend to the Virginia General Assembly.

The initial 10 areas the Workgroup was to address are as follows:

- 1) Analysis of voter registration data of the 133 localities, to include the associated costs at both the local and state levels.
- 2) Gather data from the four year election cycle in order to identify workloads and costs associated with each type of election.
- 3) Examine the duties of General Registrars and Electoral Board members required by the Code of Virginia and VAC.
- 4) Compare the statutory and regulatory duties to the duties currently undertaken by the GRs and EBs.
- 5) Identify those duties statutorily belonging to the EBs that are routinely undertaken by the GRs.
- 6) Evaluate the effects on local offices of increases and shifts in the overall number of registered voters in the Commonwealth.
- 7) Analyze the impact on the workload of the GRs and EBs caused by changes in the manner in which votes are cast on and preceding Election Day.
- 8) Review the educational requirements, qualifications and training of GRs and EBs, and compensation schedules associated with those offices.
- 9) Identify efficiencies that may be achieved by uniform application of advances in technology utilized for voter registration and election administration.
- 10) Seek out "best practices" within the Commonwealth and, beyond that, offer improvements in the elections process.

Establishment of Workgroup

The membership was based upon recommendations from the Virginia Electoral Board Association (VEBA) and the Voter Registrar's Association of Virginia (VRAV).

Special thanks are offered on behalf of the members of the Workgroup to the co-chairs, former Lieutenant-Governor John Hager and former SBE Secretary Jean Jensen, for their enthusiastic and genuine leadership and hard work.

Special thanks also to former SBE Chairman, Charlie Judd, and current SBE Vice-Chairman Clara Belle Wheeler, for their willingness to proceed in securing the resources and legislative actions to keep Virginia elections at the forefront of representative democracy.

Membership and affiliation of the GREB Workgroup:

Honorable Charlie Judd, former Chairman of the State Board of Elections 2011-2014

Honorable Clara Belle Wheeler, current Vice Chair State Board of Elections, (appointed in 2015)

Honorable John Hager, former Lieutenant Governor of Virginia, Co-chair of workgroup

Honorable Jean Jensen, former Secretary of the State Board of Elections, Co-Chair of workgroup (resigned 2016)

Honorable Kate Hanley, Fairfax Electoral Board, appointed 2016 to replace Jean Jensen as Co-Chair of workgroup

Renee Andrews, Falls Church City, VEBA representative

Mary "Tommie" Doxey, Newport News, VEBA representative (resigned September 2014)

Bill Thomas, Richmond City, VEBA representative (appointed October 2014)

Bill Bell, Isle of Wight County, VEBA representative

Robin Lind, Goochland County, VEBA representative

Al Ablowich, Virginia Beach City, VEBA representative (appointed 2016)

Larry Haake, Chesterfield County, VRAV representative

Barbara Gunter, Bedford County, VRAV representative

Tracy Howard, Radford City, VRAV representative

Special thanks also to ELECT support staff

Martha Brissette, elections uniformity, Department of Elections (deceased March 2016)

Rose Mansfield, administration, Department of Elections (resigned December 2016)

First Year of Work – 2014

The GREB Workgroup began meeting on a monthly basis in September 2014. The first report of the workgroup was presented in the form of a resolution to the State Board of Elections on November 24, 2014.

This resolution included a summary of actions from the initial meetings, recommendations for action by the Virginia General Assembly and the Department of Elections, and ongoing work and further recommendations of the group.

The recommended on-going work was:

1. Work with the appropriate authority in the implementation of the recommendations contained herein;
2. Further evaluate the roles and responsibilities of Electoral Board members to make certain their historically important role of checks and balances is maintained and emphasized (initial charge 3, 4, and 5);
3. Examine and recommend state funding mechanisms for voter registration and elections for the localities (initial charge 1 and 8);
4. Evaluate staffing of the general registrars' offices (initial charge 6 and 7);
5. Establish standards for continuing education needs and recognition for advanced studies (initial charge 8);
6. Analyze and review minimum funding and staffing levels of the Department of Elections to ensure a robust, efficient and responsive agency capable of conscientiously serving the more than 5 million voters registered in the Commonwealth today (initial charge 2 and 9); and
7. Study other areas as deemed necessary.

Second Year of Work – 2015

An interim report was delivered to the State Board of Elections in July 2015 of work completed . This final report provides an overview of tasks accomplished and areas recommended for continued study.

Third Year of Work – 2016 Work Plan

Charge 1: Evaluate Staffing (and thereby local support) of Directors of Election Offices

This effort will be to measure local support gauged by appropriate staffing for the Director of Elections, with a particular focus on those previous part-time offices that moved to full-time July 1, 2016.

Charge 2: Standards for and Recognition of Continuing Education

A summary of other constitutional offices that have salary supplements based on attaining professional certifications would be extremely helpful. The Workgroup should conduct studies and analysis of this data that could provide actionable legislative remedy for completion of such certification programs as CERA and VREO.

Charge 3: Examine State Funding Mechanisms for Localities

The GREB Workgroup recommends the Department of Elections reintroduce its Budget requests for Director of Elections salary brackets to be conformed to those of Treasurer; that localities receive 100% reimbursement of electoral board and director of elections salaries as required by §24.2-108 and -111, and that funding be provided to replace the HAVA monies which are fully depleted in FY2018.

The Workgroup's recommendation, and the SBE's subsequent endorsement, that compensation for Directors of Election/General Registrars be increased to the same level as Treasurer, did not gain administrative or legislative support. However, at least one jurisdiction has already implemented that recommendation, at least one other has it budgeted for FY 2018, and another increased the salary by 25% in September.

Resistance to adequately fund elections at the local level will not disappear while the Budget Act continues to disregard Code requirements for state reimbursement to localities for the costs they incur.

Charge 4: Funding of ELECT

Budget Amendments were introduced to request funding to replace the dwindling HAVA monies that will be exhausted in FY2018. These amendments failed but the \$7 million need persists. Without this funding, the Department of Elections will be unable to function.

The Workgroup should seek reliable data that can be communicated to the administration and general assembly.

Charge 5: How is ELECT serving the needs of the election community?

The Commissioner of Elections will be invited to provide an update on his previously reported transition to a primarily Information Technology operation.

Charge 6: Roles & Responsibilities of Electoral Board Members

Although a new document (“Electoral Board Job Description”) was developed creating a definition, job description and summary of Electoral Board duties, distribution has been inadequate.

A renewed effort is required to distribute this document to all Electoral Boards, members of the General Assembly, state and local political chairs and party executive directors, clerks of court and Circuit Court Judges. The Workgroup should reach out to the leadership of VRAV and VEBA to encourage them to provide qualified speakers for statewide organizations such as VACo, VML, Virginia Clerk’s Association, and Judicial Conference when they conduct regional or state meetings.

While the document will need regular up-dating to reflect changing Code Requirements, legislation, rule or regulation is recommended requiring Electoral Board nominees to affirm they have read and agreed to the document before their nomination is accepted by the Circuit Court judge.

Charge 7: Recodification

The Workgroup previously recognized the need for recodification of §24.2 and recommended it to the State Board of Elections, which unanimously accepted the recommendation; in light of the limited resources available to the Code Commission the Workgroup should continue to look at ways to get the job done in the most effective, efficient and least costly way possible.

Charge 8: Other Issues

The Workgroup must be willing to consider other issues that arise from the review, analysis and pursuit of the preceding charges.

Charge 1- Evaluate Staffing (and thereby local support) of Directors of Election Offices.

This effort will be to measure local support gauged by appropriate staffing for the Director of Elections, with a particular focus on those previous part-time offices that moved to full-time July 1, 2016.

A survey was distributed to gather information about the readiness and local support of the offices of the Director of Elections in the Commonwealth. The results are somewhat shocking as to the high level of clear lack of support and thus violations of the Code of Virginia that are occurring in a substantial number of Virginia localities regarding the electoral process.

Summary results from 129 localities that responded to the survey are presented here, with the full survey results found in Attachment 1.

1. 26% of responding localities stated there was NOT any capable staff ready to assume the duties of the General Registrar/Director of Elections in an emergency.
2. 24% of responding localities stated the locality does NOT allow the General Registrar/Director of Elections to hire temporary employees as needed. (Note: this despite the authority to do so given in the Code of Virginia §24.2-112 and supported by an opinion of the Attorney General on October 1, 2014.)
3. 22% of responding localities reported staffing approved by the Electoral Board was DENIED by the locality. (Note: this despite the language in §24.2-112 that the Electoral Board “SHALL” (emphasis added) determine the number of assistant registrar and that the locality “SHALL” (emphasis added) pay the assistant registrars.)

RECOMMENDATIONS

What is to be done when a locality violates the Code of Virginia by failing to follow the directives in §24.2 dealing with election law? The only true locality “attention-getter” is funding, so a certain remedy would be to deny any state funding to any locality that violates the Code of Virginia as it applies to §24.2.

Some improved language is also possible in §24.2-112:

Current	Proposed
In Russell County, there shall be at least one full-time assistant registrar who shall serve in the office of the general registrar. <continued below>	<p><i>Every general registrar in each county and city shall have at least one capable full time assistant who is trained and able to take over the</i></p>

Current	Proposed
<p>In any county or city whose population is over 15,500, there shall be at least one assistant registrar who shall serve at least one day each week in the office of the general registrar.</p> <p>Any county or city whose population is 15,500 or less shall have at least one substitute registrar who is able to take over the duties of the general registrar in an emergency and who shall assist the general registrar when he requests.</p>	<p><i>duties of the general registrar in an emergency or otherwise be prepared to act in the absence of the general registrar, as directed.</i></p>
<p>The compensation of any assistant registrar, other than those who agree to serve without pay, or any other employee of the general registrar shall be fixed and paid by the local governing body and shall be the equivalent of or exceed the minimum hourly wage established by federal law in 29 U.S.C. § 206 (a) (1), as amended.</p>	<p>The compensation of any assistant registrar, other than those who agree to serve without pay, or any other employee of the general registrar shall be fixed and paid by the local governing body and shall be <i>no less than twice</i> the minimum hourly wage established by federal law in 29 U.S.C. § 206 (a) (1), as amended.</p>

Charge 2 - Standards for and Recognition of Continuing Education.

A summary of other constitutional offices that have salary supplements based on attaining professional certifications would be extremely helpful. The Workgroup should conduct studies and analysis of this data that could provide actionable legislative remedy for completion of such certification programs as CERA and VREO.

During the course of the effort, it was learned that there may be disaffection among some members of the General Assembly for continuing education or, at least, in supplementing salaries for attaining professional certifications based on continuing education. More analysis must be given this topic before making a recommendation for a restructured program that may include monetary incentives.

STATE TRAINING STANDARDS FOR OFFICERS OF ELECTION

The GREB Workgroup was asked by the State Board of Elections to review their existing training standards for officers of election and make recommendations. Those standards were reviewed, recommendations were made and approved by the State Board of Elections. The revised training standards as recommended by this Workgroup are found in Attachment 2.

Charge 3 & 4 - Examine State Funding Mechanisms for Localities and Funding of Elect.

Charge 3: Examine State Funding Mechanisms for Localities

The GREB Workgroup recommends the Department of Elections reintroduce its Budget requests for Director of Elections salary brackets to be conformed to those of Treasurer; that localities receive 100% reimbursement of electoral board and director of elections salaries as required by §24.2-108 and -111, and that funding be provided to replace the HAVA monies which are fully depleted in FY2018.

The Workgroup's recommendation, and the SBE's subsequent endorsement, that compensation for Directors of Election/General Registrars be increased to the same level as Treasurer, did not gain administrative or legislative support. However, one jurisdiction has already implemented that recommendation, at least one other has it budgeted for FY2018, and another summarily raised compensation by 25% mid-year.

Resistance to adequately fund elections at the local level will not disappear while the Budget Act continues to disregard Code requirements for state reimbursement to localities for the costs they incur.

Charge 4: Funding of ELECT

Budget Amendments were introduced to request funding to replace the dwindling HAVA monies that will be exhausted in FY2018. These amendments failed but the \$7 million need persists. Without this funding, the Department of Elections will be unable to function.

The Workgroup should seek reliable data that can be communicated to the administration and general assembly.

The Workgroup continues to work toward achieving the previously presented and approved recommendation to match the salary of the Treasurer in the Constitutional Officer listing with the General Registrar / Director of Elections, while at the same time achieve sufficient funding to return to 100% reimbursement of localities for certain election-related expenses, as is provided in the Code of Virginia §§24.2-108 and 24.2-111. A budget amendment to accomplish both of these goals is being sought in the House and Senate for the 2017 Session.

The Workgroup continues to monitor the status of ELECT's federal funds and the lack of Virginia funding. We believe that lawmakers are well aware of the use of HAVA funding for operational expenses at ELECT, the impending exhaustion of those federal funds, and the need to provide Virginia general fund dollars for the operation of ELECT. The Commissioner of Elections did report to the Workgroup that federal funds on hand would last until June 30, 2018 (see Charge 5 below.)

Charge 5 - How is ELECT serving the needs of the election community?

The Commissioner of Elections will be invited to provide an update on his previously reported transition to a primary information technology operation.

Commissioner of Elections Edgardo Cortes did provide a briefing to the Workgroup on September 20, 2016. This was mainly asked as an update to the financial situation in ELECT as it related to federal funds vs. state funds and the transition to primarily IT support.

Commissioner Cortes reported that due to savings from VERIS support being brought in-house, the federal funds were expected to maintain through June 30, 2018. The transition from “election in a box” to IT and elections policy support and guidance continues. Commissioner Cortes reported on the establishment of liaison positions within ELECT to provide a liaison for each VRAV/VEBA district.

During the past year, the Workgroup has become aware of issues related to IT that raise grave concerns given that is to be the main focus of ELECT. Some of these issues are:

1. Development of a new Electronic Pollbook (EPB) that has not yet been successful, with suggestion that millions of dollars have been spent.
2. VERIS issues such as slowdown, shutdown, and crashes.
3. With the launch of the new online voter registration process, issues of slowness, duplicates, and crashes.

This information has come from testimony from stakeholders and first-hand experience from Workgroup members. Some have had insight or knowledge that certain remedies or programs were being worked on, but this was not commonly known. We conclude that there is no general knowledge or awareness of what exactly ELECT is doing to address problems, develop new processes or programs, or, specifically, the path they are following in the IT transition.

RECOMMENDATION

The Workgroup recommends that an initial program audit be requested by the State Board of Elections from the Department of Elections to include specific IT projects underway, planned, or considered and specific steps being taken to support the undertakings, e.g. certain number of computer programmers being hired. Further, it is recommended that this audit be updated no less than quarterly and that the information be clearly available to the electoral community.

Charge 6 - Roles & Responsibilities of Electoral Board Members.

Although a new document (“Electoral Board Job Description”) was developed creating a definition, job description and summary of Electoral Board duties, distribution has been inadequate.

A renewed effort is required to distribute this document to all Electoral Boards, members of the General Assembly, state and local political chairs and party executive directors, clerks of court and Circuit Court Judges. The Workgroup should reach out to the leadership of VRAV and VEBA to encourage them to provide qualified speakers for statewide organizations such as VACo, VML, Virginia Clerk’s Association, and Judicial Conference when they conduct regional or state meetings.

We may want to seek legislation, rule or regulation requiring Electoral Board nominees to affirm they have read and agreed to the document before their nomination is accepted by the Circuit Court judge.

The previously approved and published Electoral Board Job Description was reviewed and some technical adjustments made. Additionally, the Workgroup has reviewed Document ELECT-119, REV 12.2015 “Certificate of Eligibility for Appointment to Electoral Board” and has a recommendation for adding a brief statement to that document.

RECOMMENDATIONS

1. Add to ELECT-119 “Certificate of Eligibility for Appointment to Electoral Board” the paragraph:

“I have read the Electoral Board Job Description provided by the Director of Elections as part of this certificate and affirm that I will faithfully discharge all the duties and responsibilities described therein.”

The Electoral Board Job Description and proposed change to ELECT-119 can be found in Attachment 3.
2. The effort should continue to distribute the Electoral Board Job Description to all Electoral Boards, members of the General Assembly, state and local political chairs and party executive directors, clerks of court and Circuit Court Judges.

Charge 7 - Recodification.

The Workgroup previously recognized the need for recodification of §24.2 and recommended it to the State Board of Elections, which unanimously accepted the recommendation; in light of the limited resources available to the Code Commission the Workgroup should continue to look at ways to get the job done in the most effective, efficient and least costly way possible.

The interest of the Workgroup in recodification was to review code sections with the intention of eliminating those that were in conflict, irrelevant, and no longer applicable. It has become apparent based on study, investigation and collaboration with others that recodification as it exists, may not include the goals that we desire.

Discussions now focus on the need for a task force to “clean-up” §24.2 and present a thoughtful revision as a candidate for §24.3. That discussion continues.

Charge 8 - Study other areas as deemed necessary.

The Workgroup must be willing to consider other issues that arise from the review, analysis and pursuit of the preceding charges.

As mentioned under Charge 5 (page 11), there has been much concern regarding IT issues surrounding VERIS and other IT related functions of ELECT. The IT issue was front and center when a joint meeting of the House and Senate Privileges and Elections committees was held on October 13, 2016, specifically to consider IT and other issues at ELECT. In view of the raised concern, GREB has a separate recommendation regarding IT resources provided by ELECT.

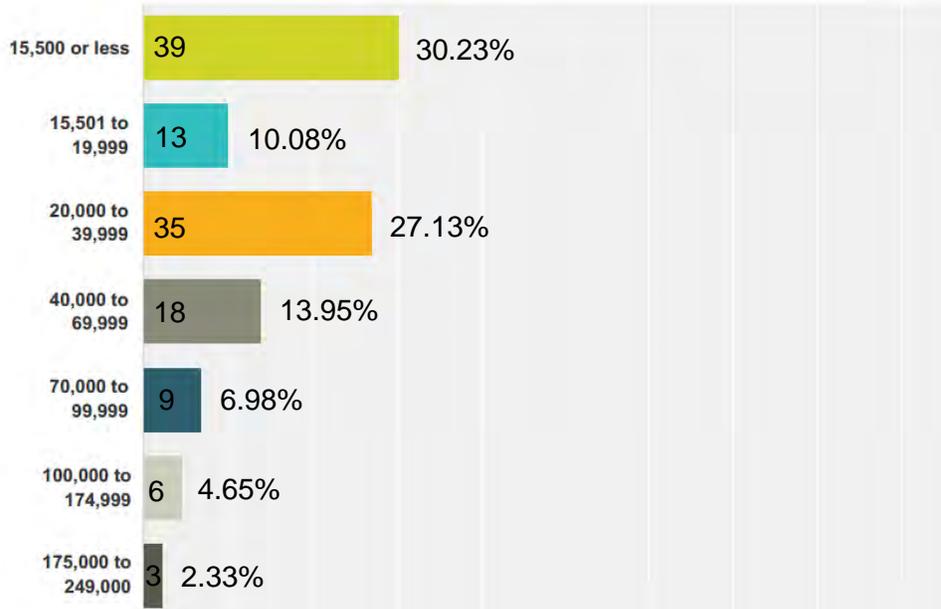
RECOMMENDATION

GREB recommends that VRAV and VEBA establish a committee of IT proficient members to work with ELECT on VERIS and other IT issues. This VRAV/VEBA committee shall report its activities to the GREB by May 1, 2017.

Attachment 1 – Locality Survey of Local Support

Q2 Please indicate your locality population size.

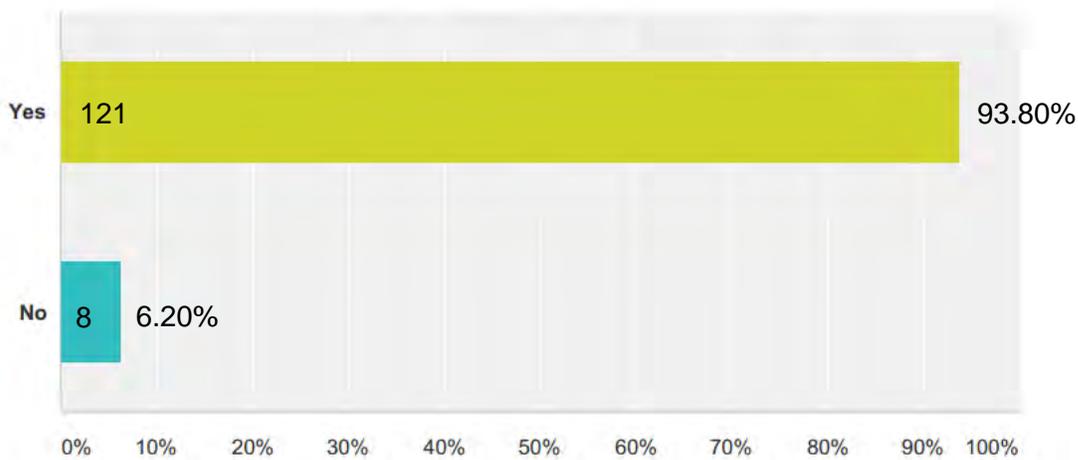
Answered: 129 Skipped: 0



6 localities with population greater than 250,00 is 4.65% of total

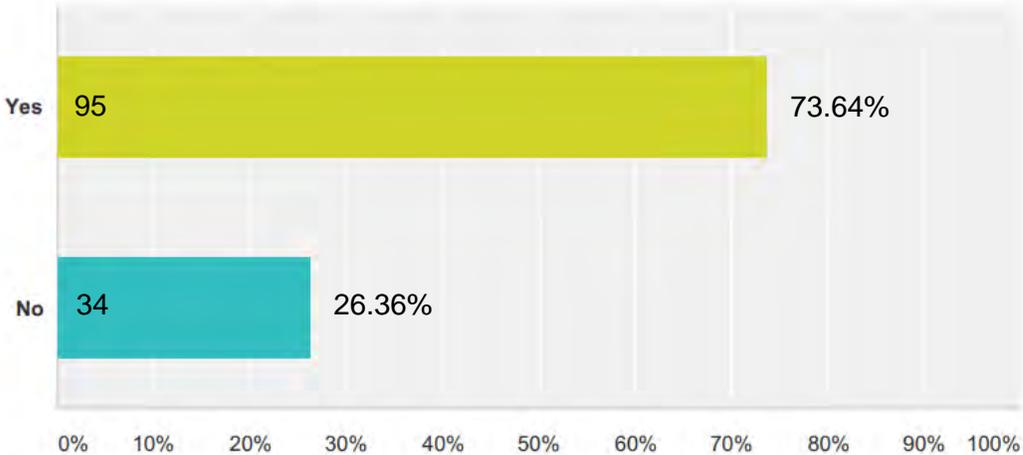
Q3 Does your locality have at least one Assistant Registrar who serves at least one day each week in the office of the General Registrar/Director of Elections?

Answered: 129 Skipped: 0



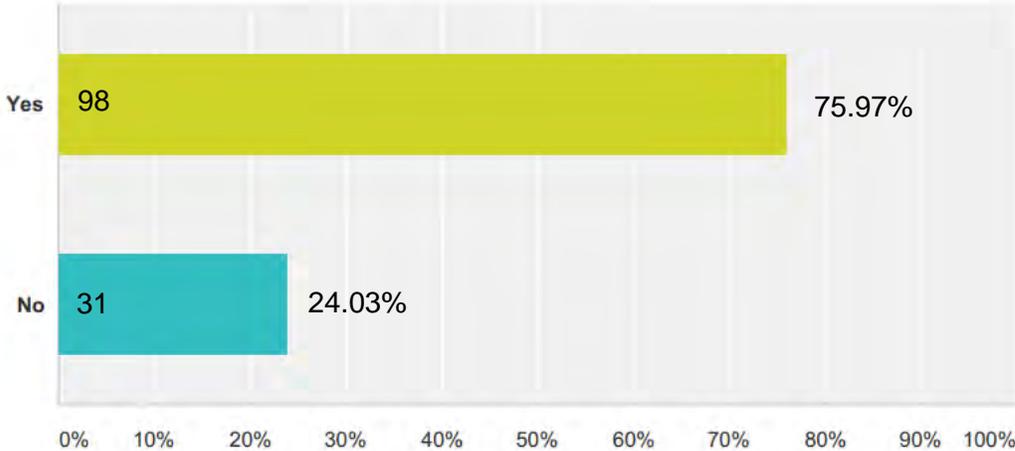
Q4 Does your locality have staff capable of taking over the duties of the General Registrar/Director of Elections in an emergency?

Answered: 129 Skipped: 0



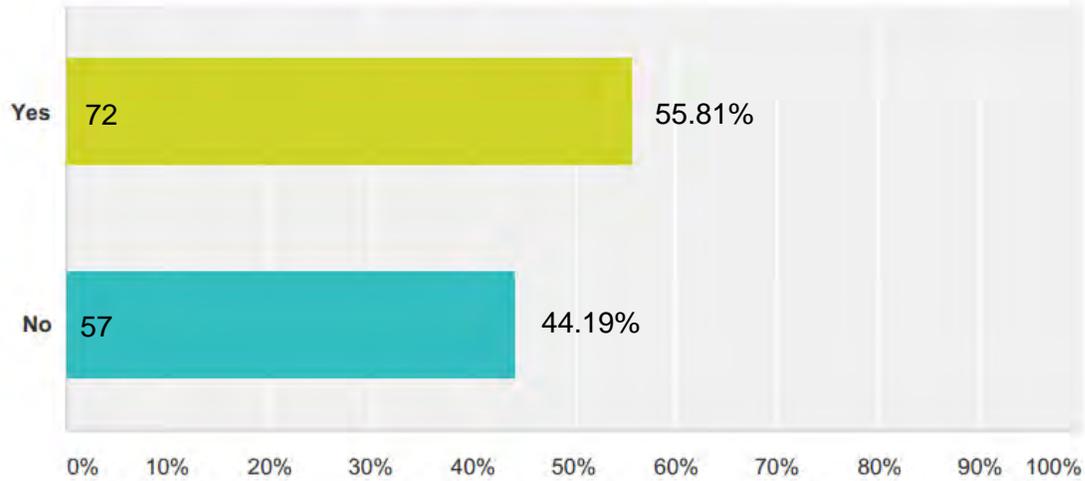
Q5 Does your locality allow the General Registrar/Director of Elections discretion to hire temporary employees on a part-time basis as needed?

Answered: 129 Skipped: 0



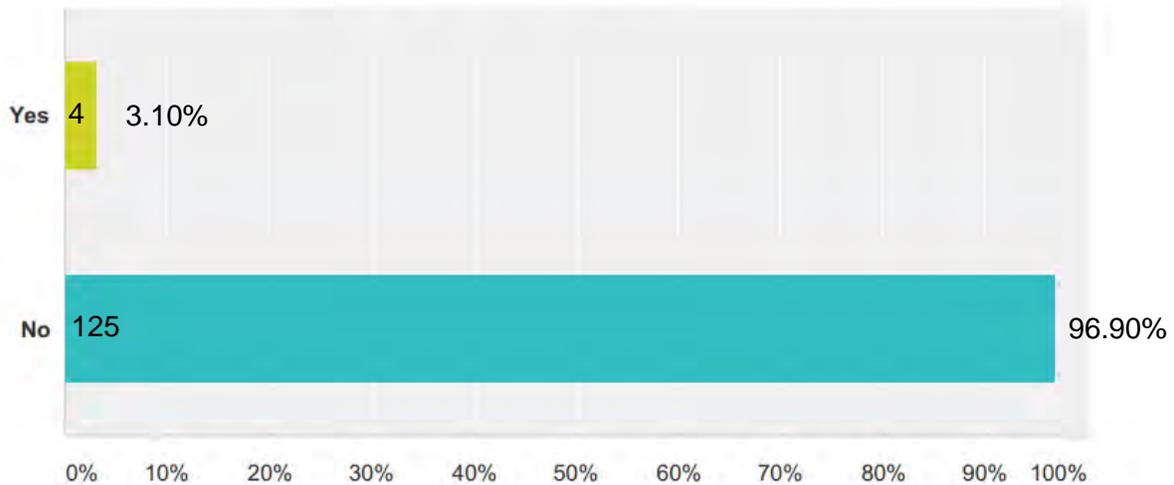
Q6 Does your Electoral Board review the staffing needs of the General Registrar/Director of Elections office?

Answered: 129 Skipped: 0



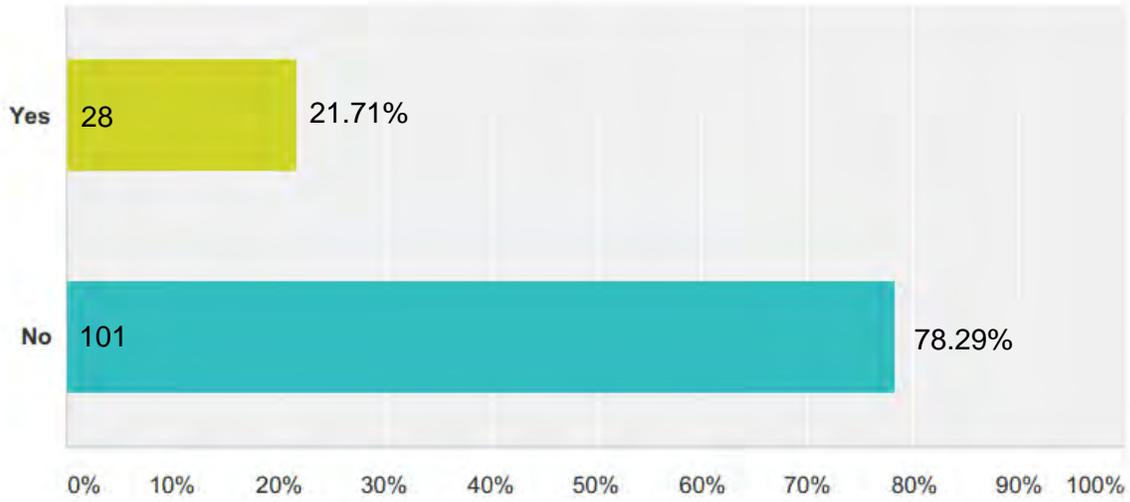
Q7 Has the Electoral Board ever denied approval of a General Registrar/Director of Elections request for an Assistant Registrar?

Answered: 129 Skipped: 0



Q8 Have you requested staffing, approved by the Electoral Board, that has been denied by your locality?

Answered: 129 Skipped: 0



Attachment 2 – Revised Training Standards for Officers of Election

**VIRGINIA STATE BOARD OF ELECTIONS
 MINIMUM TRAINING STANDARDS FOR OFFICERS OF ELECTION
 TRAINING MATERIALS TO BE DEVELOPED BY
 THE DEPARTMENT OF ELECTIONS**

PURSUANT TO §24.2-103.

These standards are based on the premise that the Department of Elections is best suited to provide appropriate training on those subjects that are uniform statewide. The subjects listed here tend to be applicable to all localities statewide, (e.g. provisional ballot processing.) The State Board of Elections believes that the Department of Elections is best positioned to provide uniform training for all Officers of Election on the following:

STANDARD	CODE REFERENCE
<p>To ensure uniformity in elections, the Department of Elections shall maintain the current “What If” document and “Election Day Guide”, and develop an appropriate training standard based upon them, excluding operational training on specific voting equipment or electronic pollbooks which may vary by locality.</p>	<p>§24.2-103</p>
<p>The Department of Elections shall provide appropriate overview training for Chief and Assistant Chief officers on reacting to emergency situations. This shall cover basics, with specifics left to each locality. Basic situations include disorderly voter, power disruption, traffic issues, earthquake, terrorist attack, etc. This should be presented from the perspective of the Commonwealth, with the locality also providing specific information in its mandatory standards.</p>	<p>§§ 24.2-604 24.2-606 24.2-607 24.2-608</p>

<p>The Department of Elections shall provide appropriate training on procedures to be followed when a provisional ballot is cast and when the polling hours are extended by order of a court of competent jurisdiction.</p>	<p>§24.2-653</p>
<p>The Department of Elections shall provide appropriate training on voter ID requirements.</p>	<p>§24.2-643(B)</p>
<p>The Department of Elections shall provide appropriate training on polling place accessibility and proper interaction with disabled voters.</p>	<p>§24.2-626.1</p>

**VIRGINIA STATE BOARD OF ELECTIONS
 MINIMUM TRAINING STANDARDS FOR OFFICERS OF ELECTION
 TRAINING MATERIALS TO BE DEVELOPED BY
 EACH LOCALITY**

PURSUANT TO §24.2-103.

These standards are based on the premise that local electoral boards and Directors of Election already have training programs in place for these subjects. These subjects tend to be locality-specific, (e.g. voting systems — which vary by locality). The State Board of Elections believes that each locality is best positioned to train its Officers of Election on these subjects, dependent upon circumstances in the locality.

STANDARD	CODE REFERENCE
<p>To ensure integrity and purity in elections, each electoral board and director of elections shall provide appropriate training as indicated below, on subjects that are specific to the locality. The local training, when combined with the training developed by the Department of Elections, shall be sufficient to produce an effective, error-free election. The electoral board and director of elections shall review its training program at least every two years.</p>	<p>§24.2-103</p>
<p>Each electoral board and director of elections shall ensure that all chief officers and assistant chief officers receive training prior to each election, in those procedures associated with determining and properly securing the results of the election, with concentration on those laws and procedures that are new.</p>	<p>§24.2-115</p>

<p>Each electoral board and director of elections shall ensure that all officers of election are properly trained on the use of the voting equipment utilized in the locality, including the vote counter(s) and the handicap-accessible voting assistance machine.</p>	<p>§§24.2-625 – 24.2-642 Voting Equipment Guidelines</p>
<p>Each electoral board and director of elections shall ensure that all officers of election are properly trained on the use of the electronic (or paper) pollbook utilized in their locality.</p>	<p>§24.2-651 – 24.2-653 EPB Operational Guidelines</p>
<p>Each electoral board and director of elections shall ensure that the officers of election working in a Central Absentee Precinct are properly trained in the requirements and processes associated with absentee ballots.</p>	<p>§24.2-707 §24.2-708 §24.2-709 §24.2-712 Et.al.</p>
<p>Each electoral board and director of elections shall ensure training for Chief and Assistant Chief officers on reacting to emergency situations. This shall cover specifics, including contact with local jurisdiction's police or sheriff's department, and department of emergency services or public safety, to deal with disorderly voter, power disruption, traffic issues, earthquake, terrorist attack, etc.</p>	<p>§§ 24.2-604 24.2-606 24.2-607 24.2-608</p>
<p>Each electoral board and director of elections shall certify before the November general election to the Department of Elections that Officers of Election have been trained according to Department standards.</p>	<p>§24.2-103-B</p>

Attachment 3 – Electoral Board Job Description and ELECT-119

Electoral Board Job Description

Summary:

The Electoral Board of each County and City in Virginia is made up of three members who serve three-year staggered terms. Two members are members of the political party of the most recently elected governor. The chair and secretary must represent different political parties unless the position is declined. Although the bipartisan board is appointed by the Circuit Court based upon local party recommendations, each member must carry out official duties in a nonpartisan manner. The authority for the administration of many aspects of elections for the locality remains with the Electoral Board, including oversight of the General Registrar/Director of Elections, and is responsible to the State Board of Elections for that administration. It appoints the General Registrar, who handles voter records. Generally, the work of the Electoral Board should be shared equally by all three members, although the Secretary has additional responsibilities.

I. Responsibilities:

A. Election administration includes:

1. Approval of voting equipment to be used, and development and approval of a security plan to keep all equipment and materials secure.
2. Ensure the creation, production and proper custody of ballots.
3. Ensure the proper conduct of Logic and Accuracy (L&A) test to be sure equipment is programmed correctly for each election.
4. Assist in conducting absentee voting when requested by the Director of Elections.
5. Appointment of officers of election and ensuring that training, assignment and review of precinct officers of election occurs.
6. Ensure coordination with other local government departments (e.g., police, sheriff, public works, IT, schools) to ensure smooth conduct of each election.
7. Assistance in procuring, packing and delivering supplies to polling places.
8. Ensure proper setup of polling places prior to each election.
9. Assistance in polling places and offices as needed on Election Day. Availability to respond to inquiries from media, voters and political parties
10. Conduct of post-election canvass to ascertain that all precinct results are accurate and complete.
11. Based on input from the General Registrar, determination of validity and counting of provisional ballots.
12. The Electoral Board's signatures on the certification of results following the canvass is the ultimate declaration of the truth, accuracy and dependability of the vote totals being submitted to the Commonwealth and is thus the foundation of the democratic process.

- B. The Electoral Board has additional responsibilities, including:
1. Appointment, removal and annual performance evaluation of General Registrar.
 2. Certification of candidates, when required.
 3. Conduct of meetings in accordance with the Freedom of Information Act (FOIA).
 4. Familiarity with federal and state laws that must be followed in conducting elections.
 5. Attendance at training programs provided by Virginia Department of Elections (ELECT).
 6. Together with the General Registrar, administration of the Office of Elections, including budgeting and dealing with local government officials, as needed.
 7. The Secretary of the Electoral Board has specific tasks and responsibilities according to the Code and must take and keep accurate minutes of all board meetings.

II. Electoral Board Activity Prohibitions:

- A. May not collect any fee as a notary during the time of such appointment.
- B. May not engage in political activities when performing official duties.
- C. May not solicit signatures for candidate petitions in a public building.

III. Qualifications:

The following qualification is required by law:

- Must be a qualified voter of the County or City, in good legal standing.

IV. Disqualifications:

- A. Must not be directly related to another Electoral Board member or General Registrar or to a candidate or holder of elected office.
- B. May not serve as chair of a political party, at local, district or state level, and may not hold elected office or offer to be a candidate for elected office
- C. May not be employed by or hold incompatible office under federal, state or local government (ELECT will provide a list of incompatible offices)

V. Additional desirable characteristics:

- A. Customer-service orientation in dealing with voters.
- B. Computer literacy, as much business is conducted via email.
- C. Ability to travel around the County or City.
- D. Public speaking ability to conduct training or address groups.
- E. Writing ability to write training materials, legislative positions, or analyses.
- F. Basic budgeting skills.
- G. Knowledge of basic legal concepts and judicial proceedings; willingness to become deeply familiar with United States Code Title 52 and Virginia Code Title 24.2 governing Elections and administrative regulations thereunder.
- H. Assertive manner when needed to enforce compliance with code or regulations.

Conditions:

Service on the Electoral Board is a year-round obligation. There is a general election every year in November and a primary election most years in June. In addition, there may be City or Town elections in May and special elections whenever called. From six to two weeks prior to each election, the board may need to be available a few times per week for a few hours. The week prior to and the week of the election, the board needs to be available most of the time, including 5am-10pm or later on Election Day. At other times the board may meet monthly and may attend training or networking meetings or conferences. Members may be asked to address local groups or attend meetings of interest.



TO: The Circuit Court _____
 County City

I, _____, certify that
PLEASE PRINT YOUR NAME

I am a qualified voter of the above-mentioned county (or city) and I further certify that:

I have read the Electoral Board Job Description provided by the Director of Elections as part of this Certificate and affirm that I will faithfully discharge all the duties and responsibilities described therein;

- ☛ I am not employed, either full or part-time, by the government of the United States, the Commonwealth of Virginia, or any County, City or Town;
- ☛ I do not hold any office or post, under any of the above governmental units, for which I am paid*;
- ☛ I do not hold any elective office;
- ☛ I am not the spouse, parent, grandparent, sibling, child or grandchild of a candidate for or holder of an elective office filled in whole or in part by any voters within the jurisdiction of the electoral board;
- ☛ I am not the spouse of a grandparent, parent, sibling, child, or grandchild, of a candidate for or holder of an elective office filled in whole or in part by any voters within the jurisdiction of the electoral board;
- ☛ I am not the spouse of either an electoral board member or the general registrar;
- ☛ I am not the parent, grandparent, sibling, child, or grandchild of either an electoral board member or the general registrar;
- ☛ I am not the spouse of a person who is the parent, grandparent, sibling, child, or grandchild of either an electoral board member or the general registrar;
- ☛ I am not the chair of a state, local or district level political party committee; and
- ☛ I am not a paid worker in the campaign of a candidate for nomination or election to any office filled in whole or in part by the qualified voters of the county or city.

I am, therefore, eligible, if appointed, to serve as a member of the county (or city) Electoral Board. Further, I understand that, should I be appointed to the Electoral Board: (i) I must notify the Court and immediately vacate the Electoral Board should I become disqualified for any reason; and (ii) I must submit to the Court my resignation from the Board if I decide to become a candidate for any office elected in whole or in part by the registered voters of my locality.

SIGNATURE OF NOMINEE FOR APPOINTMENT

PRINTED NAME OF NOMINEE FOR APPOINTMENT

RESIDENCE ADDRESS

MAILING ADDRESS

CITY/TOWN

ZIP

CITY/TOWN

ZIP

DATE:

DAYTIME PHONE NUMBER:

*Payment of a per diem prevents you from accepting appointment. However, you are not barred from qualification if you hold a position for which the only monies received are for reimbursement of your actual, itemized expenses.



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STATE BOARD *of* ELECTIONS

Administrative Procedures Act Exemption

BOARD WORKING PAPERS

James Alcorn
SBE Chairman



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STATE BOARD *of* ELECTIONS

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

July 28, 2017

Joint Commission on Administrative Rules
c/o Hon. Frank Wagner

Sen. Wagner,

We are writing in response to HB 1731 (2017 Va. Acts, ch. 678) regarding your review of exemptions to the Virginia Administrative Process Act (APA). The State Board of Elections holds an exemption to the APA for regulations concerning “the conduct of elections or the eligibility to vote.”¹ This exemption has been in law for over thirty years.²

The State Board of Elections strives to be a non-partisan Board and its structure and processes are meant to reinforce this ideal. The exemption to the APA is related to the nonpartisan ideal of the Board. JLARC came to a similar conclusion when they reviewed the exemptions to the APA in 2009.³

An example of an exemption designed to prevent undue influence over the regulatory process is the exemption provided for the conduct of elections or eligibility to vote (§2.2-4002. B.8). The State Board of Elections (SBE) is charged with ensuring unbiased elections, and it promulgates regulations pertaining to campaigns and penalties for campaign violations. According to SBE staff, there would be a clear conflict of interest in requiring the Governor, Attorney General, and legislators to review such proposed regulations.

The Board continues to believe that it is in the best interests of the Commonwealth for the State Board of Elections to be insulated from undue partisan influence. However, the Board does not believe it needs a general requirement from the APA in order to be insulated from undue partisan

¹ See Va. Code Sec. 2.2-4002(B)(8) and opinion of the Virginia Attorney General, 14-038 (2014) (“As the “conduct of elections” routinely has been determined to include only those activities that occur on, or in preparation for, elections days, campaign finance laws do not fall within the scope of this phrase.”) This exemption has existed since at least 1993. See House Document No. 51 (Review of Exemption to the Administrative Process Act), 1993 available at <http://jlarc.virginia.gov/pdfs/reports/Rpt146.pdf>

² Staff from the Division of Legislative Services indicate that this exemption is mentioned in the 1983 interim report of the Governor Robb's regulatory reform committee but the Board has been unable to determine exactly when it originated.

³ Review of Exemption to the Administrative Process Act, Joint Legislative Audit and Review Committee, No. 18, 2009, available at <http://jlarc.virginia.gov/pdfs/reports/Rpt391.pdf>.



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influence. Even for regulations that have been exempted from the APA, the Board has voluntarily submitted them for public comment and held hearings consistent with the APA. We believe this transparency helps build confidence in the electoral system, consensus amongst stakeholders, and more effective regulations. Other agencies and regulatory actions have limited exemptions from the APA that require public comment or public hearings.⁴ In order to ensure that future Boards continue this practice of public comment with hearings, we recommend a similar limited exemption from the APA that would require public comment with hearings for regulations concerning the conduct of elections or the eligibility to vote.

The Board has conducted several regulatory actions under this exemption during the period July 1, 2015, through June 30, 2017.

- VAC citation: 1 VAC 20-40:
 - *Action:* 2015 Voter Registration Application Regulation and Form Update⁵
 - *Summary of the regulation:* Propose changes to state voter registration application form and administrative regulation used to evaluate completeness of application.
 - *Effective date:* 6/1/2016
- VAC citation: 1 VAC 20-60
 - *Action:* Periodic Review Chapter 60 Election Administration⁶
 - *Summary of the regulation:* Amend regulations following periodic review.
 - *Effective date:* 10/4/2016
- VAC citation: 1 VAC 20-80
 - *Action:* Periodic Review of Chapter 80 Recounts and Contested Elections⁷
 - *Summary of the regulation:* The State Board of Elections is proposing amendments to one regulation on recounts and contested elections to implement recommendations received during its periodic review announced May 15, 2013, pursuant to 1 VAC 20-10-120, and to include statutory changes made in the intervening period. The comment period for Chapter 80 opened on June 3, 2013, and closed June 24, 2013. The Board did not take any further action on the matter after the conclusion of the comment period. The current action to seek public comment is an effort to finalize the periodic review. The standards the Board previously relied on have changed through legislation. It is because of this that the proposed regulations differ from the versions previously considered by the Board. The predominate substantive difference

⁴ See. Va. Code Sec. 2.2-4006(A)(8), (12), (14), and (15).

⁵ Available at: <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=4367>.

⁶ Available at: <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=4116>

⁷ Available at: <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=4521>



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includes moving duties associated with the Secretary of the State Board of Elections to the Commissioner of the Department of Elections.

- *Effective date:* 10/4/2016

Sincerely,

James Alcorn
Chair

Clara Belle Wheeler
Vice-Chair

Singleton McAllister
Secretary

Cc. Karen Perrin, Division of Legislative Services

DRAFT