

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

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

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## Introduction

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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**

**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**

**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**

**Rose Mansfield, administration, Department of Elections**

### **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 (Attachment 1). This final report provides an overview of tasks accomplished and areas recommended for continued study.

# 1- Work with the appropriate authority in the implementation of the recommendations contained in the 2014 resolution.

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The recommendations of the 2014 resolution were:

1. The General Registrar should be designated as “Director of Elections” for the locality being served — this can be accomplished by an amendment to §24.2-114(18), adding language to the effect that “The general registrar shall serve as Director of Elections for the locality”.
2. The Code of Virginia should be modified to reassign duties associated with absentee voting and campaign finance reporting to the General Registrar in the role as Director of Elections, Chapters 7 and 9 respectively in §24.2.
3. The compensation for the General Registrar/Director of Elections should be adjusted to reflect the duties now being formally re-assigned with all due responsibility and accountability. The duties of General Registrar/Director of Elections require a constant availability and service to the population of the locality, accompanied by peak workloads leading up to and following an election. The job requires adherence to complex laws and procedures to ensure integrity and accountability. Such a job pattern is remarkably similar to that of a locality Treasurer: constant service with peak periods during the year and specific legal requirements and guidelines to ensure integrity and accountability. Notwithstanding that Treasurers are elected and General Registrars are appointed, the GREB Workgroup recognizes that the similar work pattern and essential service to the locality are more alike than different and therefore recommends that the salary and population brackets for General Registrar/Director of Elections be the same as that of the Treasurer, including the additional compensation for completing a subject specific certification program as part of continuing education.
4. The General Assembly should be requested to resume 100% reimbursements through the Department of Elections for general registrar and electoral board salaries as provided for by statute 24.2-108 and 24.2-111

## Recommendations 1 and 2

Patrons were identified for recommendations 1 and 2, resulting in HB1433 and SB1092. Both of the bills passed resulting in full implementation of recommendations 1 and 2.

### Recommendations 3 and 4

In close cooperation with the Commissioner of Elections, the Workgroup analyzed the fiscal impact of recommendations 3 and 4. The Commissioner incorporated the results in his budget proposal for the Department of Elections FY17-18 funding. This budget recommendation will also fully fund part-time registrars to full time.

## 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).

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Previous reports have explained a survey sent to all General Registrars and Secretaries of Electoral Boards for responses from the two groups to the same questions. This survey contained 97 questions about the duties of the Electoral Boards and asked whether these duties were carried out by the EB, the GR or shared by both.

Continuing analysis of that survey was conducted to identify those duties in the Code of Virginia most often shared by electoral boards and general registrars (directors of election). The areas involved elections, officers of election, and ballots. The study group identified approximately 36 Code sections for language adjustment to reflect the shared duties. These recommended changes made no substantive changes to the law itself, just to the responsibility between the electoral board and the director of elections. This document is included as Attachment 2.

As a result of this continuing analysis, the Workgroup was able to create a definition, job description and summary of electoral board duties. This document is itself a significant contribution to the process and should stand alone in adoption by the Department of Elections, General Assembly, circuit courts, and any others who desire to understand the duties and responsibilities of Virginia electoral boards. It is found in Attachment 3.

### 3-Examine and recommend state funding mechanisms for voter registration and elections for the localities (initial charge 1 and 8).

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As noted earlier from our 2014 recommendation #4 in report item 1 on page 7, the budget submission of the Department of Elections includes restoration of full funding for reimbursements to localities for registrar and electoral board salaries.

Workgroup members recognize that not all Virginia localities take seriously their responsibility to properly fund elections. It is apparent that some localities may not know how to properly plan for this funding.

While further study and discussions are certainly appropriate for this subject, the Commonwealth cannot stand as a leader in this discussion until its own obligations to localities are met, in terms of full funding required by Code. The “notwithstanding” exclusions in the Appropriations Act need to be seriously addressed by members of the General Assembly.

The success of the Commissioner of Elections’ FY17-18 budget submission will go a long way toward that effort for the Commonwealth. Its failure will be an indictment of the unfunded mandate syndrome that afflicts the body politic.

## 4-Evaluate staffing of the general registrars' offices (initial charge 6 and 7).

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A survey of all localities was conducted to determine Election Office staffing levels at three levels: prior to the National Voter registration Act of 1996, immediately post NVRA 1997 and current levels. The analysis of this data has proven very difficult. Our conclusion is that the numbers alone from this survey cannot offer the insight needed in conducting a proper analysis of staffing in local offices. Given different population ranges which dictate the number of office staff, which determines the impact of the duties, it is apparent that a more in depth data collection effort is needed.

We strongly recommend further study in this area and a critical analysis of the range of skills required by new technologies at the local level and reduced support at the Department of Elections.

## 5-Establish standards for continuing education needs and recognition for advanced studies (initial charge 8).

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This subject was reviewed in report item #8 of our interim report. We have no additional information to add to what has already been reported.

## 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).

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In May 2015, Commissioner of Elections Edgardo Cortés gave a summary presentation of Department of Elections funding to the GREB. He also gave an overview of the paradigm change the Department is undergoing from a typical physical staff support operation to a primary information technology support system.

Commissioner Cortés stated that there has been a reduction in general fund monies to the Department over the last couple of years. Funds from the Help America Vote Act (HAVA) have been and are currently being used as the main funding for the agency. He stated that roughly 60% of general operating funds are pulled from HAVA, but that the HAVA funds will be exhausted in the very near future. Commissioner Cortés reviewed the costs, expenditures, and associated numbers from fiscal year 2007 to the fiscal year 2019.

It is clear from his presentation that the General Assembly can no longer substitute federal dollars for state appropriations if the Department of Elections is to remain a responsible and viable state agency.

<insert draft option> - see separate page

The FY17-18 budget request seeks the necessary funding from the Commonwealth to keep the Department of Elections solvent. It does not address larger concerns about adequate staffing levels to provide field support, supervision, and compliance. GREB supports this budget submission wholeheartedly and recommends the State Board of Elections urge the General Assembly to fully fund this request.

## 7- Study other areas as deemed necessary.

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The most noticed item for which additional action should occur is a total review and revision of the Code of Virginia §24.2. Our interim report in report item #7 included the following recommendation:

- A. Amend archaic sections of §24.2 to reflect the reality of current office practices. Even better would be a recodification of the entire chapter. For example, many Code sections that deal with ballots date back to voting on paper ballots and hand-counting, which required a closer audit of ballots than is necessary today with vote counting equipment. §§24.2-616 – 24.2-621 are examples. As mentioned in Section 6, §24.2-112 can be problematic because of its language.

Other example sections with problems are:

1. §24.2-111 Compensation and expenses of general registrar;
2. §24.2-411 Office of general registrar to be provided postage, stationery, office supplies – is that all;
3. §24.2-116 Officers of Election to be made at least \$75 – too low; and
4. §24.2-113 Special Assistant Registrars – obsolete;

The continuing analysis of duties found even more antiquated sections in the Code that cry out for updating.

Attachment 1 – GREB Interim Report July 2015

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## Attachment 2 – Recommended Bill to Update Code of Virginia

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Attachment 3 – Electoral Board Job Description

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