

Minutes of the GREB WorkGroup
November 30, 2017

The GREB WorkGroup met at 10:00 am on November 30, 2017 in the Conference Room, McGuire Woods, Gateway Plaza, Richmond, Virginia.

Present: Co-Chairs John Hager and Kate Hanley, Al Ablowich, Renee Andrews, William Bell, Barbara Gunter, Lisa Jeffers, Clara Belle Wheeler, and Robin Lind. Michele White and Tracy Howard joined by telephone.

Mr. Lind nominated York County General Registrar/Director of Elections Walt Latham, VRAV President, to replace William Thomas who resigned at the previous meeting. Seconded by Bell and Andrews. Elected unanimously.

Mr. Latham then joined the meeting.

Ms. Hanley moved, seconded by Ms Gunter, that draft minutes be approved as corrected. Approved unanimously.

Discussion ensued on Charge 1, the VRAV Survey, led by Ms. Gunter who said the process has been improved but still suffers from human errors. Anecdotal evidence was shared on the number of ballots delivered after election day which could not be counted and on non-citizen declarations generated by the DMV.

Mr. Howard suggested a possible remedy: to allow voters 30 days to respond to a non-citizen declaration rather than 14 days, and to direct the Registrar to "inactivate" rather than "cancel" a registration.

Several members commented on the difficulties created by DMV online registration screens. Mr. Latham pointed out that §24.2-410.1 prohibits DMV from offering registration application to non-citizens but applications are processed nonetheless without the citizenship affirmed.

Mr. Hager asked what was the desired recommendation for the WorkGroup's report.

Mr. Lind suggested that the SBE require ELECT to "continue" periodic technology reviews, to which Mr. Hager responded "conduct" would be preferable.

After additional comments the members agreed to recommend that the SBE require ELECT to conduct annual technology surveys to identify the most pressing issues and report August 1; an additional recommendation would be to extend non-citizen declaration response time to 30 days. Mr. Hager suggested finding a patron for legislation to accomplish that and members Bell, Judd, and Gunter all mentioned possible candidates.

On Charge 2, Performance Evaluation of Director of Elections, Mr. Lind apologized for conflating two different issues and explained that the Evaluation had been approved at the previous meeting.

Dr. Wheeler questioned process for evaluation if it becomes political. Mr. Latham referred to a VRAV Committee in the past which was constituted to deal with problems. Ms. Hanley said the current evaluation form serves to give a clear picture of performance issues.

Mr. Bell referred to a court case involving a sitting registrar that led to prohibitions on dismissal for political reasons.

Mr. Ablowich asked if the real issue was whether a registrar has a legal remedy for adverse evaluation by the electoral board.

If the system works OK everything should go fine, said Mr. Latham. If a new electoral board member comes in and stirs the pot, it would be nice if issues were "mitigated" rather than "litigated."

Mr. Hager questioned the reference to General Registrar rather than Director of Elections, and asked whether there could be clarity and uniformity in the WorkGroup's reference. Discussion ensued at length.

On Charge 3, Implementation of SB 1254, Risk-Limiting Audits, Dr. Wheeler said that Senator Obenshain asked to delay a meeting until after the election. His concept has been changed drastically, she said, and it needs to get back to basics on what the audit is supposed to do. The purpose is to make sure machines are working correctly and give voters confidence they are. One fifth of all machines in the Commonwealth should be audited every year, she said, one fifth in each locality.

Ms. Hanley asked what was supposed to give confidence? What if machines were replaced within the five years? What of localities that leased machines?

Mr. Judd suggested that the existing L&A testing process before elections might inspire public confidence.

Ms. White said her board had approved a proposal to seek permission from the SBE to conduct a pilot Audit in their May elections. I want to get ahead of the process, she said. The Code doesn't give procedures; there is not pre-written guidance.

Mr. Hager suggested that the group go back with detailed language to the patron, seeking clarification.

Mr. Bell said that Electoral Board Secretary Phil Wolf in York County makes his own test deck for L&A Testing. L&A is not uniform across the state, he said.

Dr. Wheeler said that lack of uniformity is rampant and members cited multiple accounts of different procedures.

Mr. Hager again suggested that the issue go back to Sen. Obenshain and volunteered Mr. Bell and Dr. Wheeler to create a draft.

On Charge 4, the structure of the SBE, discussion ensued on Mr. Judd's proposal for a five-member board and variants. The members agreed to drop the variant that included compensation for board members because of possible opposition. Mr. Hager suggested that the Chair and Vice Chair be appointed "annually" by the Governor and that amendment was adopted.

Mr. Judd and Mr. Lind agreed to seek bi-partisan co-patrons in House and Senate for companion bills.

On Charge 5, List Maintenance and Management, Mr. Lind led discussion on the deficiencies of the Annual List Maintenance Report submitted by the Department of Elections to the P&E Committees.

Mr. Howard described a bill being introduced by Delegate to move the reporting deadline to October 1 which Mr. Lind described as impractical when the elections community is fully engaged in preparing for an election and unable to analyze it.

Mr. Bell said he could not tell what the report meant.

Mr. Latham gave an explanation on the purpose of the legislation introduced in 2014 to require the report.

Mr. Lind reported that none of the figures added up and the report was rubbish.

Mr. Latham said the first 10-12 pages were the important part. Mr. Lind replied that if you cannot rely on the data in the report, you cannot rely on the data in the summary. The figures, he said, are unreliable and not credible.

Mr. Latham said there are Absentee reports that Registrars recognize are not accurate. The problem with the report is that the VERIS information is wrong.

Mr. Howard agreed. Some reports capture "particular" information but not reflect actual time spent. He suggested that ELECT be compelled to provide accurate and reliable data to ensure the accuracy of the reports, and explain the methodology.

Mr. Hager said "We want something done." Put it in language that is in constructive fashion

Mr. Latham said "We don't care. We don't use it. We don't have to have it."

Mr. Lind was asked to produce language to that effect.

Under Old Business:

(1) discussion ensued on population brackets and salary levels being conformed to that of locality treasurer. Ms. Gunter described maximum and minimum salaries and arguments raised by legislators that there is a distinction between elected and appointed office holders. Mr. Lind said that the Commissioner reported he had requested full reimbursement to localities for EB and GR salaries. The group agreed to re-submit its recommendation from the 2016 Annual Report.

(2) discussion ensued on the issue of requiring a full-time assistant registrar in every locality capable of assuming the duties of the General Registrar.

New Business:

Discussion ensued on the "Misplaced Voters" in House Districts 2, 28 and 88 with the strong recommendation that all jurisdictions should re-examine their boundaries with GIS.

Under Good of the Order, Mr. Lind pointed out that Ms. Gunter had just completed another solar revolution and the group joined in singing Happy Birthday.

The WorkGroup agreed to meet next on Tuesday, December 19 at 10 am.

There being no further business, the WorkGroup adjourned at 1:15 pm.

Respectfully Submitted,

Robin Lind
Temporary Permanent Recording Secretary