

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, June 10, 2014.
4 The meeting was held in the Washington Building, 1100 Bank Street, Richmond,
5 Virginia, Room B27. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo
7 Cortés, Deputy Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and
8 SBE Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel; Chris
9 Piper, Election Services Manager; Myron McClees, SBE Policy Analyst; Martha
10 Brissette, SBE Policy Analyst, and Rose Mansfield, Executive Assistant. Chairman Judd
11 called the meeting to order at 10:15AM. Chairman Judd noted the delay in Board
12 Meeting start time was due to a demonstration of the voter identification card production
13 system. Chairman Judd stated that the SBE staff developed the program and the
14 associated training and staff deserves accolades for the entire process and
15 acknowledgement of their efforts.

16 The first order of business was the approval of the Minutes from the State Board
17 of Elections Board Meeting held on May 14, 2014. Chairman Judd asked if Board
18 Members had any additions or corrections to the May 14, 2014 Board Minutes. Ms.
19 Stoney noted a transcription error and cited the error for the record and for change.
20 Chairman Judd asked if there were additional additions or deletions to the Minutes and
21 there were none. Secretary Palmer moved to adopt the Minutes for the May 14, 2014,
22 Board Meeting as amended. Vice Chair Bowers seconded the motion and the Board
23 unanimously approved the Minutes.

24 The second order of business was the Secretary's Report delivered by Secretary
25 Palmer. Secretary Palmer stated that the commonwealth was conducting a federal
26 primary on this date and the polls opened without issue. Secretary Palmer stated that
27 statewide pricing was successfully negotiated by SBE staff with the four vendors who are
28 now certified to sell equipment in Virginia and this pricing should be a benefit to
29 localities and voting system vendors. Secretary Palmer noted that Voter Photo
30 Identification testing with general registrar' offices will start today taking place through
31 June, 2014. The software design and production was designed by SBE staff and SBE will

32 be responsible for printing and mailing the cards. Secretary Palmer stated that the
33 Virginia Board of Disabilities was provided with a voter ID production demonstration
34 and were pleased with the program. Terry Wagoner, Absentee Ballot Coordinator, spoke
35 at the annual conference for the Board of Disabilities about the new law and the
36 guidelines that will be provided to the election community. The mobility/portability
37 portion of this program is scheduled for testing in July, 2014 and available for use on or
38 about August 1. Chairman Judd asked if there were any questions and there were none.

39 The next order of business was the Legal Report delivered by Kristina Perry
40 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
41 Assistant Attorney General and SBE Counsel. Ms. Stoney stated that the letters of
42 assurance for matters to be discussed before the Board were provided to Board Members.
43 Ms. Stoney stated that currently there are two pending requests for opinions from the
44 attorney general regarding; (i) whether campaign finance regulation are exempt from the
45 Administrative Process Act (APA) process and (ii) deals with how to fill a vacancy of an
46 electoral board member when vacated mid-term. Ms. Birkenheier stated that the *Page v.*
47 *SBE* trial was held on May 21-22, 2014. The judges asked for post-trial briefs and the
48 projected time frame for additional action is July, 2014. Chairman Judd asked if there
49 were any questions and there were none.

50 The next order of business was the General Registrar and Electoral Board Survey
51 update presented by Edgardo Cortés, Deputy Secretary. Deputy Cortés stated that SBE is
52 in the process of selecting individuals to serve as members of the working group on the
53 review of duties and responsibilities of general registrars and electoral board members.
54 Recommendations for members have been received from the electoral board members
55 and the general registrar's of the commonwealth. Deputy Cortés stated that members will
56 be selected to form the workgroup from different size localities and geographical areas
57 within the commonwealth. SBE has received documents that represent prior efforts on a
58 study. The members selected will be announced at the Board Meeting on June 24, 2014.
59 Chairman Judd asked if there were any questions and there were none.

60 The next order of business was the Approval of Chapter 45 presented by Martha
61 Brissette, SBE Policy Analyst. Ms. Brissette stated that the new Chapter 45 subject
62 matter is *Absent and Overseas Voters*. Ms. Brissette stated that at the April 23, 2014

63 Board Meeting the Board requested staff to present the new Chapter 45 and underlying
64 periodic reviews when the regulation dealing with material omissions from absentee
65 envelope B could be considered with public comment invited. Staff accordingly has
66 prepared a separate action to allow public comment on proposed changes to the
67 regulations dealing with material omissions from absentee ballots. The proposed new
68 Chapter 45 has already been published for public comment with no comments received.
69 Vice Chair Bowers moved *that the Board approve the new Chapter 45, Military and*
70 *Overseas voting, including updated federal form references, to be effective on filing with*
71 *the Registrar of Regulations*. Secretary Palmer seconded the motion and Chairman Judd
72 asked if there were any comments and there were none. The Board unanimously passed
73 the motion.

74 The next order of business was the approval of the periodic review of Chapter 40
75 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that the Board
76 approved publishing the proposed changes to Chapter 40 for public comment at the
77 December 2, 2013 Board Meeting. No comments on the proposed changes were received
78 during the public comment period. SBE staff is recommending the Board adopt proposed
79 amendments to its regulations on voter registration to conclude its periodic review
80 announced May 15, 2013 pursuant to 1VAC 20-10-120. Vice Chair Bowers moved *that*
81 *the Board approve the proposed changes to Chapter 40, Voter Registration, in the Town*
82 *Hall action titled 2013 Periodic Review Voter Registration, to be effective on filing with*
83 *the Register of Regulations*. Chairman Judd seconded the motion and Chairman Judd
84 asked if there were any comments and there were none. The Board unanimously passed
85 the motion.

86 The next order of business was the approval of the periodic review of Chapter 70
87 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated the Board
88 approved publishing the proposed changes to Chapter 70 for public comment at the
89 December 2, 2013 Board Meeting. No comments on the proposed changes were received
90 during the public comment period. Secretary Palmer moved *that the Board approve the*
91 *proposed changes to Chapter 70, Absentee Voting, in the Town Hall action titled 2013*
92 *Periodic Review Absentee, to be effective on filing with the Register of Regulations*. Vice

93 Chair Bowers seconded the motion and Chairman Judd asked if there were any comments
94 and there were none. The Board unanimously passed the motion.

95 The next order of business was the approval of the proposed amendments to
96 regulations on Material Omissions present by Martha Brissette, SBE Policy Analyst. Ms.
97 Brissette stated that legislation enacted in the 2014 session adjusts the balance the Board
98 struck in applying the strict requirements of the *Code*. Two regulations need to be
99 amended to conform to the legislative changes. First, the regulation dealing with material
100 omissions from Envelope B needs to be revised to allow omission of date and middle
101 name or initial so long as first and last names are provided. This regulation also needs to
102 be adjusted to clarify that a sealed outer envelope allows accepting a voted ballot not
103 fully sealed inside Envelope B. The Federal Write-In Absentee Ballot (FWAB) regulation
104 is adjusted to provide the same standard. If positively approved for comment, the
105 proposed regulation will be submitted by tomorrow's noon deadline for publication on
106 June 30, 2014 and a comment forum through Monday, July 21, 2014, for presentation of
107 a final regulation to the Board at the next Board Meeting. Ms. Brissette identified the
108 changes in the regulations for the Board Members.

109 In addition to the proposed changes, Chairman Judd stated that: (i) the order of
110 the first and last name should be considered a material omission; (ii) the generational
111 suffix should be considered a material omission, and (iii) the street identifier i.e. drive
112 verses court, should be considered a material omission. Chairman Judd stated: "We are
113 trying to protect the integrity of the voter and we want the records to be intact." Secretary
114 Palmer stated: "The suggestion of strictly requiring the last name first and then last name
115 last on the affidavit is of some concern as it is somewhat counterintuitive. Most
116 individuals simply place their first and last name. In the last session, the General
117 Assembly did not seem concerned over what order of the name provide but rather the fact
118 that election officials receive the first and last names of the individual. The generational
119 suffix is important in some instances where individuals are living at the same residence
120 and the street identifier is a mistake that could be easily made. Virginia's counting of
121 absentee ballots has increased to 99 percent and whatever the Board has been doing is
122 yielding Virginia excellent results and is working. The General Assembly laid out the
123 affidavit form in the *Code*." Vice Chair Bowers stated: "From a data entry perspective

124 most systems ask for the last name first. There is concern about the generational suffix if
125 two voters with the same name absent the suffix, Senior or Junior, at the same address
126 and one requests an absentee ballot and leaves the suffix absent and then the other goes to
127 the polls to vote. How will you be able to tell which voter had requested the absentee
128 ballot and had concluded the voting process.” Secretary Palmer stated that Envelope B is
129 an affidavit confirming the identity and residence of the individuals, substitutes for
130 identification and that is signed by the voter and witnessed by another person. Secretary
131 Palmer moved *that Board seek public comment on the proposed amendments to its*
132 *regulations addressing material omissions on absentee ballots to include the suggestions*
133 *on the generational suffix that include: (i) the voter omitted the generational suffix when*
134 *one or more individuals with the same name are registered at the same address and it is*
135 *impossible to determine the identity of the voter from Envelope B; (and (ii) the voter did*
136 *not provide his house number and street identifier or rural route address. Additionally,*
137 *staff recommendation for public comment on absentee ballots at IVAC-20-70-20 and 20-*
138 *7-30[20-45-40] to implement recently enacted legislation effective July 1, 2014. Vice*
139 *Chair Bowers seconded the motion. Chairman Judd asked if there were any public*
140 *comments.*

141 Theresa Martin, League of Women Voters of Virginia, approached the podium.
142 Ms. Martin stated regarding the street identifier that the street signs in her neighborhood
143 have been changed twice in the last five years which emphasizes the opportunity for
144 confusion regarding voters at the polls. Chairman Judd asked if there were any other
145 comments.

146 Bill Jenkins, General Registrar-Sussex County, approached the podium. Mr.
147 Jenkins stated: “As a registrar I finds it hard to believe that people do not know exactly
148 where they live. I only need to know two things; who you are and where do you live.
149 This determines in local elections who you vote for.” Chairman Judd asked if there were
150 any other comments. The Board unanimously passed the motion.

151 The next order of business was the proposed amendments to regulation on Photo
152 Voter Identification Cards present by Myron McClees, SBE Policy Analyst. Mr. McClees
153 stated that the general assembly passed legislation in 2013 that requires all individuals in-
154 person to show a photo identification document prior to casting a regular ballot.

155 Concomitant with this requirement was the duty of SBE to assist general registrars in
156 providing free photo identification to voters that do not possess one of the requisite forms
157 of identification. The bill included a delayed implementation date of July 1, 2014. A
158 proposed regulation was presented before the Board during the April 2, 2014 Board
159 Meeting. Statements received during the comment period were provided to the Board
160 during the May 14, 2014 meeting. Mr. McClees presented two grammatical changes for
161 the Boards consideration.

162 Secretary Palmer provided a definition of “Permanent Satellite Location” to the
163 Board Members. Chairman Judd stated for clarification the general registrars would
164 provide photo identification services as a standard service. Secretary Palmer moved *that*
165 *a definition for “Permanent Satellite Location” to be defined as an office managed,*
166 *maintained, and operated under the control of the general registrar for the locality that is*
167 *consistently operation throughout the year and is not the principal office of the general*
168 *registrar. Offices of other agencies where registration takes place pursuant to Virginia*
169 *Code § 24.2-412(B) are not considered permanent satellite locations.* Vice Chair Bowers
170 seconded the motion and Chairman Judd asked if there were any comments and there
171 were none. The Board unanimously approved the motion.

172 Secretary Palmer informed the Board that the definition for “Valid” is included in
173 the Board Materials as it relates to photo identification. Chairman Judd asked if there
174 were any comments.

175 Courtney Mills, Staff Attorney for the Fair Election Legal Network, asked for a
176 clarification on the “appearance of the voter”. Ms. Mills stated that some states are
177 addressing the issue of transgender voters who present differently in person. Chairman
178 Judd asked: “How are the other states addressing this issue?” Ms. Mills stated: “I believe
179 they are still addressing the issue.” Ms. Stoney stated that the proposed regulation does
180 allow the voter to request a replacement for their identification if their appearance has
181 changed substantially. Chairman Judd asked if there were additional comments.

182 Lisa Wooten, General Registrar and President of VRAV; Jake Washburn, General
183 Registrar of Albemarle County; William Bell, Secretary of Isle of Wight County, and Bill
184 Jenkins, General Registrar of Sussex County provided comment. Mr. Bell expressed
185 concern about individuals requesting photo voter identification cards in the days before

186 the election. Ms. Wooten expressed concern about placing her signature on the temporary
187 identification card of a voter from another locality.

188 Vice Chair Bowers stated that if the proposed definition for “Valid” had inserted
189 “regardless of expiration date” the definition would accurately reflect the intent
190 of 1VAC20-40-10. Deputy Cortés recommended that staff meet separately to revise the
191 language to present for Board approval at today’s meeting. Ms. Stoney stated that the
192 revision would allow the opportunity to address the issue of transgender and would
193 suggest that in Section E the insertion be added: “Or the identification document could
194 not otherwise be considered valid”. Secretary Palmer moved *that the proposed*
195 *amendments to regulations on Photo Voter Identification Cards be tabled*. Chairman
196 Judd seconded the motion and the Board unanimously passed the motion.

197 Chairman Judd noted that section 1VAC20-40-90 was still on the table. Mr.
198 McClees stated that there are changes within this section and noted each of the changes.
199 Secretary Palmer noted that in Section C the period of time when the temporary
200 document will be considered an acceptable form of identification and 30 days after the
201 issuance. Secretary Palmer suggested language to support this change from 45 days to 30
202 days, “The general registrar shall provide voter identification document to any eligible
203 voter whose application for the voter photo identification card is made after the deadline
204 for registering to vote and in the next proximate election in which the voter is eligible to
205 vote is received through Election Day. The temporary identification card should be
206 considered as an acceptable form of identification for 30 days after issuance.” Secretary
207 Palmer moved *that the suggested changes be adopted by modifying the draft 1VAC-20-*
208 *40-90 striking the words “is received during the voting period through Election Day for*
209 *the next most proximate election period, striking 45 and inserting the phrase “for the*
210 *photo voter identification card is made after the registration deadline and registering to*
211 *vote in the next most proximate election for which the voter is eligible to vote and*
212 *inserting 30 days.”* Vice Chair Bowers seconded the motion and Chairman Judd asked if
213 there were any comments on the changes.

214 Lisa Wooten, General Registrar and President of VRAV; Jake Washburn, General
215 Registrar of Albemarle County; William Bell, Secretary of Isle of Wight County, and Bill
216 Jenkins, General Registrar of Sussex County provided comment. Chairman Judd asked if

217 there were additional comments. Ms. Stoney stated that Section F include language
218 allowing for a voter photo identification if the voter is included on the Division of Motor
219 Vehicle (DMV) database if the identification would not otherwise be considered valid.
220 Secretary Palmer moved; *that in Section C the words “is received during the absentee*
221 *voting period through election day for the next most proximate election.” be stricken;*
222 *that IVAC-20-40-90 in Section C be revised to include the phrase “for the voter photo*
223 *identification cards made after the registration deadline and registering to vote in the*
224 *next most proximate election for which the voter is eligible to vote.”; that 45 days be*
225 *stricken and that 30 days be inserted in Section C.; that the words voter photo*
226 *identification card be added before the word “application” in Section C and that the*
227 *words “or identification document is not considered valid” added to the end of the first*
228 *sentence in Section F.* Vice Chair seconded the motion and the Board unanimously
229 approved the amended motion. Secretary Palmer moved *that the Board adopt regulation*
230 *IVAC 20-40-90 voter photo identification card.* Vice Chair Bowers seconded motion.
231 Chairman Judd asked if there were additional comments and there were none. The Board
232 unanimously approved the motion.

233 The next order of business was the Experian Presentation presented by Bill
234 Butler, Senior Product Manager. Mr. Butler presented the Board Members with materials
235 related to the presentation and explained the details of the services Experian has offered
236 to Orange County, California by auditing the voter registration rolls and showing savings
237 and enhanced accuracy of voters who have moved in state or out of state. Mr. Butler
238 emphasized the need for voter rolls list maintenance. Secretary Palmer informed Mr.
239 Butler that a proposal for pilot project specific to meet Virginia needs should be prepared
240 and presented to the Board Members. Chairman Judd asked if there were any public
241 comments.

242 Marian Schneider, Staff Attorney for the Advancement Project, approached the
243 podium. Ms. Schneider commented on the need to tread carefully when using third-party
244 credit reporting data. Chairman Judd asked if there were additional public comments.

245 Therese Martin, League of Women Voters of Virginia, approached the podium.
246 Ms. Martin stated that the list of eligible identifications are inconsistent at the locality
247 level and encouraged the Board Members to have the localities describe the acceptable

248 forms of identification utilizing the same language. Ms. Martin stated that any locality
249 that utilizes a post office box for their mailing address should include a street address so
250 that voters can locate the office. Chairman Judd asked if there were additional comments.

251 Courtney Mills, Fair Elections Network, approached the podium. Ms. Mills asked:
252 “Was it communicated to the general registrars when providing IDs to voters outside
253 their locality, that they are to compare signatures on the photo voter ID application to the
254 voter registration forms? Secretary Palmer replied: “No, and the registrar would not
255 have access to the signature to make the comparison.” Chairman Judd asked if there were
256 additional comments.

257 Chairman Judd moved *that the tabled agenda item regarding proposed*
258 *Amendments to Regulations on Photo Voter Identification Cards presented by Myron*
259 *McClees., SBE Policy Analyst be readdressed.* Vice Chair Bowers seconded the motion
260 and the Board unanimously approved the motion. Secretary Palmer stated that the
261 proposed regulation provides the definition of “permanent satellite location” means an
262 office managed and operated under the control of the general registrar for the locality that
263 is consistently operational throughout the year and is not the principle office of the
264 general registrar. Offices of other agencies where registration takes place pursuant to
265 *Virginia Code § 24.2-412(B)* are not considered permanent satellite locations. Secretary
266 Palmer stated that the definition of “valid” for all purposes related to voter identification
267 shall mean documents containing the name and photograph of the voter appearing to be
268 genuinely issued by the agency or issuing entity appearing upon the document where the
269 bearer of the document reasonably appears to be the person whose photograph is
270 contained thereon. Other data contained on the document, including but not limited to
271 expiration date, shall not be considered in determining the validity of the document.
272 Secretary Palmer stated this language was proposed by SBE Staff. Secretary Palmer
273 moved *that the cited definitions of “permanent satellite location” and “valid” be*
274 *incorporated into IVAC 20-20-10.* Vice Chair Bowers seconded the motion and
275 Chairman Judd asked if there were comments and there were none. The Board
276 unanimously approved the motion.

277 Chairman Judd asked if there were comments for the Good of the Order. Deputy
278 Cortés expressed gratitude to Ms. Susan Lee, Election Uniformity Manager; Mr. Matt

279 Davis, Information Technology Manager and their teams for their efforts in preparing for
280 the photo identification program ready for implementation.

281 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
282 motion and without further comment the Board voted to adjourn. The meeting was
283 adjourned at approximately 12:30PM.

284 The Board shall reconvene on June 24, 2014 at 4:00PM in the General Assembly
285 Building, Room C.

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Secretary

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Chair

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Vice Chair

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