

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Thursday, July 11, 2019, State Board of Elections meeting was held in the Martha Brissette Conference Room of the Washington Building in Richmond, Virginia. In attendance: Robert Brink, Chairman, John O’Bannon, Vice Chairman, and Jamilah LeCruise, Secretary, represented the State Board of Elections (“the Board”). Christopher E. “Chris” Piper, Commissioner, Jessica Bowman, Deputy Commissioner, represented the Department of Elections (“ELECT”). Flora Hezel represented the Office of the Attorney General, and Heather Hays Lockerman represented the Office of the Attorney General (“OAG”) participated electronically. Chairman Brink called the meeting to order at 2:00 P.M.

The first item on the agenda was the Petition Appeal for Jasmine Moawad, presented by Samantha Buckley, Policy Analyst. Ms. Buckley explained to the Board that a candidate disqualified due to an insufficient number of qualified petition signatures can appeal the disqualification. One of the requirements to appeal petition signatures is to provide ELECT with a list of rejected signatures to be reviewed. If a candidate does not provide a sufficient number of rejected signatures for reconsideration to ELECT by the deadline, the candidate disqualification is final. Ms. Buckley explained that ELECT provides a letter to inform the candidate of the disqualification, the reason for the disqualification and instructions on how to appeal the disqualification.

Ms. Buckley informed the Board that Ms. Moawad did not provide the list of rejected signatures to be reviewed, so the disqualification is final, and no appeal will be heard.

The next item on the agenda was the Petition Appeal for Elliot Harding presented by Samantha Buckley, Policy Analyst. Ms. Buckley stated that Mr. Harding is appealing his disqualification due to an insufficient number of qualified petition signatures. *Please refer to the July 11, 2019 Memorandum: Appeal of Insufficient Petition Signatures by Elliot Harding located in the Working Papers.* She explained that Mr. Harding has 247/250 validated signatures, which means that his signatures are deficient by three. If the Board qualifies three signatures, the qualifications to place his name on the November 2019 ballot for Senate of Virginia, 25th district will be satisfied.

29 Ms. Buckley presented the first signature for the Board to consider. Vice Chair O'Bannon
30 *motion to validate this signature and count this signature towards the candidate's total number*
31 *of petition signatures due to the reasoning provided by the candidate.* Chairman Brink seconded
32 the motion, and the motion passed unanimously.

33 Ms. Buckley presented the second signature for the Board to consider. A registration
34 deadline was in effect due to the June 11, 2019 primary election. If the candidate was gathering
35 petitions in a locality without a primary, no registration deadline would apply and the signer's
36 voter registration application would have been processed and the signature counted. Secretary
37 LeCruise *moved to validate this signature and count this signature towards the candidate's total*
38 *number of petition signatures due to the reasoning provided by the candidate.* Vice Chair
39 O'Bannon seconded the motion, and the motion passed unanimously.

40 Ms. Buckley presented the third signature for the Board to consider. Vice Chair
41 O'Bannon *moved to validate this signature and count this signature towards the candidate's*
42 *total number of petition signatures due to the reasoning provided by the candidate.* Secretary
43 LeCruise seconded the motion, and the motion passed unanimously.

44 The next item on the agenda was the Determination of Candidate Qualification presented
45 by Dave Nichols, Elections Service Manager. Mr. Nichols stated that two candidate qualification
46 issues would be presented to the Board for consideration. *Please refer to the July 11, 2019*
47 *Memorandum: Determination of Candidate Qualification located in the Working Papers.*

48 Mr. Nichols informed the Board that a local General Registrar contacted ELECT about
49 the lack of a Republican candidate for the House of Delegates 30th District. Mr. Nichols stated
50 that after review, ELECT determined that a Party Certification of Non-Primary Candidate form
51 (ELECT-511) for Republican candidate for the House of Delegates 30th District had not been
52 received. Further, ELECT confirmed it had not received any candidate paperwork, either the
53 Certificate of Candidate Qualification (SBE-501) or Statement of Economic Interest (SOEI)
54 from any Republican candidate seeking to run for the House of Delegates 30th District.

55 Mr. Nichols informed the Board that after publicly posting a list of candidates for
56 Virginia House of Delegates, ELECT was contacted about the absence of a Democratic
57 candidate for the House of Delegates 76th District. After review, ELECT confirmed that no

58 Party Certification of Non- Primary Candidate form (ELECT-511) was received, but that both a
59 candidate qualification form (SBE-501) and SOEI was submitted. *Please refer to the July 11,*
60 *2019 Memorandum: Determination of Candidate Qualification located in the Working Papers.*

61 Chairman Brink confirmed that it was the position of both candidates that, due to an
62 internal party administrative error, ELECT did not receive the proper certification from the
63 district's legislative district chair. The Chairman asked whether the Department had received a
64 Certificate of Candidate Qualification or the Statement of Economic Interest for any Republican
65 candidate for House District 30. Mr. Nichols stated that when the General Registrar contacted
66 ELECT, the candidate had not yet provided the documents but since then the candidate has
67 submitted the documents to ELECT staff. Chairman Brink asked Mr. Nichols to explain the
68 function of the Certificate of Candidate Qualification (SBE-501). Mr. Nichols explained that the
69 Certificate of Candidate Qualification (SBE-501) is required by the Code of Virginia 24.2-501,
70 which states "[i]t shall be a requirement of candidacy for any office of the Commonwealth, or of
71 its governmental units, that a person must file a written statement under oath, on a form
72 prescribed by the State Board, that he is qualified to vote for and hold the office for which he is a
73 candidate." The SBE-501 also collects additional information about the prospective candidate,
74 including the candidate's voter registration address and information about the office sought.

75 The Commissioner explained that Virginia Code 24.2-503 grants the State Board of
76 Elections the authority to "grant an extension of any deadline for filing either or both written
77 statements and shall notify all candidates who have not filed their statements of the extension.
78 Any extension shall be granted for a fixed period of time of ten days from the date of the mailing
79 of the notice for the extension."

80 Christopher Woodfin addressed the Board on behalf of Nicholas Freitas, accompanied by
81 Chairman Jim Smith of the Madison County Republican Party and Chairman Bruce Kay, the
82 Republican Legislative District Chair for the 30th District. Mr. Woodfin said "both of the
83 gentlemen here today can contest Nick Freitas was the only candidate that filed both filling
84 forms and fee by the day requested which was March 8th. On the morning of March 9th Chairman
85 Kay sent an email to Republican party of Virginia and copied all committee members on it.
86 Where he basically said Nick Freitas was the only candidate that file for nominations and
87 therefore we are pursuant to the call he is certified as the nominee and the convention is

88 cancelled.” Mr. Woodfin added, “Then we move on to the actually filing of the form 511,
89 following that letter you will see in there two items, one is an affidavit from Mr. Kay and he is
90 available to answer questions, stating that he did email that certification form in on May 7th,
91 following the affidavit is a copy of the certification form with a handwritten note from Mr. Kay
92 that he wrote for himself when he saved it in his file that he filed it to Mr. Paul Stenbjorn.” Mr.
93 Woodfin stated that Mr. Kay was the Chairman two years ago, and followed his same process by
94 emailing it to Mr. Stenbjorn, not knowing Mr. Stenbjorn was no longer with ELECT. Mr.
95 Woodfin requested that the Board accept the SBE-501 and ELECT -511 form and allow
96 Nicholas Freitas’s name to be printed on the ballot as the Republican nominee for the 30th
97 District.

98 Chairman Brink asked Mr. Woodfin when Mr. Freitas filed the SBE-501 form. Mr.
99 Woodfin advised that he filed it the day before the Kilgore meeting. Secretary LeCruise asked
100 why was Mr. Freitas under the impression that he mailed his form in. Mr. Woodfin stated that
101 normally Mr. Freitas would mail his form in due to living in Culpeper, but this time Mr. Woodfin
102 told Mr. Freitas to hand deliver the form. Chairman Brink asked ELECT, when and how was the
103 extension granted to file. Mr. Nichols informed the Board that the extension was granted on June
104 14th. He informed the Board that on June 14th ELECT sent out a memo along with an extension
105 letter from the Commissioner to all candidates that had not filed the Statement of Economic
106 Interest form or the SBE-501 form. Chairman Brink asked Mr. Nichols about the steps taken to
107 provide notice to candidates of the filing requirements. Mr. Nichols stated that in past years
108 ELECT has created a candidate bulletin, containing what and when the information needed to be
109 filed. He informed the Board that this year ELECT removed the party information from the
110 candidate bulletin and created a separate party bulletin. Mr. Nichols added that ELECT also
111 provides information to the state parties of important deadlines. Commissioner Piper informed
112 the Board that ELECT is in constant contact with the state parties throughout the entire process.

113 John Burcon then addressed the Board on behalf of Mr. Clinton Jenkins. Mr. Burcon
114 requested that the Board accept the ELECT-511 form, submitted by the Chairwoman Rinaldi of
115 the Democratic nominating committee. Mr. Burcon informed the Board that on May 13th
116 Chairwoman Rinaldi emailed Leslie Williams of the Virginia Department of Election containing
117 the candidate certification for Clinton Jenkins. Mr. Burcon stated that after reviewing the email,

118 the candidate certification for Clinton Jenkins. Mr. Burcon stated that after reviewing the email,
119 he noticed that Ms. Rinaldi emailed williams.leslie@elections.virginia.gov instead of
120 leslie.williams@elections.virginia.gov. Secretary LeCruise asked Mr. Burcon, when did Ms.
121 Rinaldi realize that she sent the information to the incorrect email. Mr. Burcon stated that Ms.
122 Rinaldi was not aware of the error until July 1st.

123 At 2:37 P.M. Chairman Brink announced that the Board would go into closed session.
124 Vice Chair O'Bannon *moved that the Board go into closed session for the purpose of*
125 *consultation with legal counsel and briefings by staff members or consultants for the purpose of*
126 *receiving legal advice concerning the 76th and 30th House District nomination, as authorized by*
127 *Section 2.2-3711(A)(8) of the Code of Virginia. In accordance with Virginia Code Section 2.2-*
128 *3712(F), Flora Hezel and Heather Hays Lockerman from the Office of the Attorney General, as*
129 *well as Christopher Piper, Commissioner of Elections, and Jessica Bowman, Deputy*
130 *Commissioner of Elections will attend the closed session because their presence will reasonably*
131 *aid the Board in its consideration of the subject of the meeting. Secretary LeCruise seconded the*
132 *motion, and the motion passed unanimously.*

133 At 3:28 P.M. Secretary LeCruise *moved to reconvene in open session, and take a roll call*
134 *vote certifying that to the best of each member's knowledge (i) only such public business matters*
135 *lawfully exempted from open meeting requirements under this chapter and (ii) only such public*
136 *business matters as were identified in the motion by which the closed meeting was concerned*
137 *were heard, discussed, or considered. Vice Chair O'Bannon seconded the motion, and the*
138 *motion passed unanimously. A roll call vote was taken:*

139 Secretary LeCruise – aye

140 Vice Chair O'Bannon – aye

141 Chairman Brink – aye

142 Vice Chair O'Bannon prefaced a motion by stating that the Board had considered the
143 request that Terry Kilgore be accepted as the nominee of the Republican Party of the First House
144 of Delegates Legislative District. After consideration of the important constitutional rights
145 associated with a party's access to the ballot and the requirements imposed by Virginia Code §
146 24.2-511(A) that the District Party Chairman certify to the State Board of Elections the name of

147 the party's General Assembly candidate nominated by his party by a method other than a
148 primary and the date of such nomination, as well as the evidence that establishes that the party
149 made reasonable attempts to comply with deadlines of the submission process:

- 150 1. The affidavit of Robert B. Hines, II, Chairman of the Republican Party of the First House
151 Legislative District;
- 152 2. The affidavits of Douglas M. Pillion, Pat Davis, Jr., and Terry L. Sivert, voters in
153 Virginia's First House of Delegates Legislative District and attendees at the mass meeting
154 of the Republican Party on April 25, 2019; and
- 155 3. The affidavit of attorney J. Jasen Eige.

156 Vice Chair O'Bannon then *moved that the Board accept Terry Kilgore as the Republican*
157 *nominee for the 1st House of Delegates District and that his name be placed on the ballot for the*
158 *2019 General Election.* Secretary LeCruise seconded the motion, and the motion passed
159 unanimously.

160 Secretary LeCruise stated that the Board would vote on a motion regarding the request
161 that Clinton L. Jenkins be accepted as the nominee of the 76th House of Delegates Democratic
162 Nominating Committee. In consideration of the important constitutional rights associated with a
163 party's access to the ballot and the requirements imposed by Virginia Code § 24.2-511(A) that
164 the District Party Chairman certify to the State Board of Elections the name of the party's
165 General Assembly candidate nominated by his party by a method other than a primary and the
166 date of such nomination, as well as the evidence before us that establishes that a party made
167 reasonable attempts to comply with deadlines of the submission process:

- 168 1. The certification of Candidate executed by Leslie Rinaldi, the Chairwoman of the 76th House
169 of Delegates Nominate Committee, on May 9, 2019;
- 170 2. The email of May 13, 2019 from Rinaldi to Leslie Williams at the Department of Elections
171 submitting Clinton L. Jenkins as the Candidate for the Democratic Committee for the 76th
172 District House of Delegates;
- 173 3. Documentation that Rinaldi's May 13, 2019 email was received by the Executive Director of
174 the Virginia House Democrats and the General Registrar of the City of Suffolk; and

175 4. The affidavits of Rinaldi, Jenkins, and Randy Menefee, the Chairman of the Chesapeake
176 Democratic Committee and a member of the Democratic Nominating Committee for the 76th
177 District,

178 Secretary LeCruise then *moved that the Board accept Clinton L. Jenkins as the Democratic nominee*
179 *for the 76th House of Delegates District and that name be placed on the ballot for the 2019 General*
180 *Election as such.* Vice Chair O'Bannon seconded the motion, and the motion passed unanimously.

181 Chairman Brink stated that the Board will defer the action involving the determination of
182 candidate qualification for the 30th House of Delegate District, in order to gain additional
183 guidance from the Office of Attorney General.

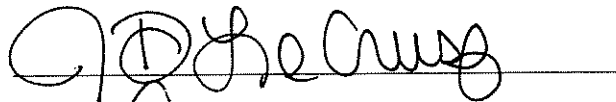
184 Chairman Brink opened the floor to public comment. Mr. Woodfin asked the Board for an
185 expected timeline for the determination to be made, and whether the Board would entertain a
186 motion to accept the ELECT-511 form for Mr. Freitas. The Chairman stated that it would be best
187 to receive guidance from the Office of the Attorney General on the interrelationship of the issues
188 between SBE-501 and ELECT-511.

189 Chairman Brink adjourned the meeting at 3:36 P.M.

190

191

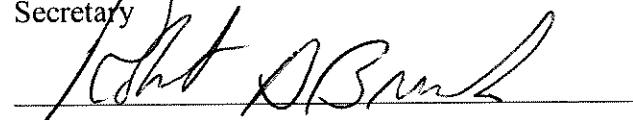
192



193

Secretary

194



195

Chairman

196

197

Vice Chairman