

MINUTES

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3 The State Board of Elections Board meeting was held on Tuesday, December 28,
4 2011. The meeting was held in the State Capitol, House Room Two in Richmond,
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles
6 Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer, Secretary; Justin Riemer,
7 Deputy Secretary; Joshua Lief, Senior Assistant Attorney General and SBE Counsel;
8 Martha Brissette, Policy Analyst; and Matthew Abell, Assistant Election Services
9 Manager. Chairman Judd called the meeting to order at 10:00AM.

10 The first order of business was the Secretary's Report delivered by Secretary
11 Palmer. The Secretary's Report is an agenda item for each Board meeting describing
12 recent developments at SBE. Secretary Palmer reported the Help America Vote Act
13 (HAVA) State Planning Committee met in December. Secretary Palmer stated the
14 meeting was productive and future usage of HAVA funds were discussed with additional
15 comments arriving from stakeholders. The plan will be released to the community and
16 Board Members as a package in the next couple weeks. Secretary Palmer stated this
17 information and input would create a blueprint on the utilization of the remaining HAVA
18 funds.

19 Secretary Palmer announced staff additions and changes at the State Board of
20 Elections. Secretary Palmer announced that Gary Fox will be joining SBE as the Voting
21 Systems Coordinator. Secretary Palmer stated this position will hold the responsibility of
22 reviewing the current voting equipment and maintaining the certification process at the
23 statewide level as well as evaluating future updates to voting equipment and procedures.
24 Secretary Palmer noted this position will become essential as the Commonwealth
25 transitions from DREs. Secretary Palmer announced that Eugene Burton, who has been a
26 long term employee at the State Board of Elections, has been promoted to the Electronic
27 Pollbook Coordinator. Secretary Palmer offered congratulations to both individuals.

28 The next order of business was to conduct the Republican Presidential Primary
29 Ballot Order Drawing for the March 6, 2012 Primary. Matthew Abell, Election
30 Administration Lead, explained the process to the Board. Mr. Abell noted that § 24.2-545
31 establishes that the State Party Chairman after reviewing the documents filed by the

32 primary candidates will certify the names of qualified candidates to the State Board. Mr.
33 Abell certified that Pat Mullins, Chair of the Republican Party, has certified the names of
34 two qualified candidates: Governor Mitt Romney and Representative Ron Paul.
35 Chairman Judd announced there is a lawsuit filed which is relevant to Republican
36 Primary. Chairman Judd asked that Joshua Lief brief the Board. Mr. Lief informed the
37 Board Members there is a case filed by Governor Rick Perry challenging the Virginia
38 system for being placed on the presidential ballot against the State Board of Elections.
39 Chairman Judd confirmed with each Board Member they were not served in the
40 Governor Perry lawsuit. When determining ballot order, Vice-Chair Bowers drew the
41 name of Representative Ron Paul and then Secretary Palmer drew the second name of
42 Governor Mitt Romney. Chairman Judd motioned the Republican Primary ballot will be
43 printed with the name of Ron Paul listed first and Mitt Romney listed second. Secretary
44 Palmer seconded the motion and the Board unanimously approved the motion. Chairman
45 Judd asked if there were any other comments.

46 Chris Piper, Election Service Manager, informed the Board that SBE was notified
47 by the Democratic Party that only one candidate qualified for their primary which means
48 that no Democratic Primary will be held on March 6, 2012.

49 The next order of business was to approve the Republican Presidential Primary
50 Pledge Forms. Martha Brissette, SBE Policy Analyst, asked Board Members to approve
51 the use of Republican Presidential Primary Pledge forms requested in a letter to SBE on
52 December 6, 2011. Martha Brissette identified differences between the forms presented
53 for approval. Martha Brissette provided the background on these forms stating that since
54 1999 under Virginia Code § 24.2-545(A), dealing with presidential primaries, the law has
55 authorized the parties to utilize loyalty pledges. Ms. Brissette noted that a loyalty pledge
56 was utilized in the Presidential Primary in 2000, that there was no Republican Primary in
57 2004, and in 2008 the Republican Party withdrew the requirement. Chairman Judd
58 opened the discussion to the Board. Vice-Chair Bowers inquired if the pledge forms
59 would be given to voters as they entered the polling place. Martha Brissette
60 acknowledged they would and absentee voters would have their pledge forms included in
61 their mailer with instructions to return them along with their voted ballot. Chairman Judd
62 inquired what would be the procedure if the voter refused to sign. Ms. Brissette informed

63 the Board the vote would not be counted. Martha Brissette further noted the Code allows
64 this requirement to be imposed and the Board is required to approve the forms. Vice-
65 Chair Bowers inquired as to where the requirement was in the Code that the voter is not
66 eligible to vote if they do not sign the pledge form. Mr. Lief informed the Board there has
67 been a Court of Appeals ruling on Virginia's open primary law and it was held to be
68 unconstitutional. Mr. Lief informed the Board Members it is the constitutional right of
69 the party to conduct a "closed primary" under Virginia § 24.2-545. Co-Chair Bowers
70 asked why in 2008 the request was drawn back. Chairman Judd asked if there were any
71 members of the audience that would like to comment.

72 Robin Lind, Secretary of the Goochland Electoral Board, inquired of the Board
73 Members if there had been a formal, timely request for the Republican Primary Pledge
74 Form by the Chairman of the Republican Party. Secretary Palmer stated that a timely
75 request had been received by the Board Members. Robin Lind inquired who will be
76 financially responsible for the cost of the additional paperwork. Secretary Palmer noted
77 the financial responsibility for the production and processing of the pledge forms is
78 unclear. Secretary Palmer notes SBE is preparing the forms and assisting the localities
79 and there is an appropriation for reimbursement of expenses for the Presidential Primary
80 Pledge. Secretary Palmer added SBE is discussing reimbursement with the GOP.
81 Secretary Palmer noted localities will be reimbursed for their expenses related to the
82 pledge. Robin Lind asked about the portion of the Code that states "the requirements
83 applicable to a party's primary shall be determined at least 90 days prior to the primary
84 date." He inquired if the meeting fell within those 90 days. Ms. Brissette stated that the
85 deadline related to the date of the request. Mr. Lief stated SBE was within the window of
86 approving the Presidential Primary Pledge. Chairman Judd inquired of Secretary Palmer
87 if the approval of the Presidential Primary Pledge should be based on securing financial
88 support from the party. Secretary Palmer stated the party was non-committal. Sec. Palmer
89 said that, without minimizing the cost, it will hopefully not rise to the level of going
90 beyond the reimbursement. Justin Riemer, Deputy Secretary, announced to the Board
91 Members that he did review the letter sent by the Republican Party and the date of their
92 request was timely.

93 Secretary Palmer moved to adopt the Presidential Primary Pledge Forms for use
94 during the March 6, 2012 Primary. Vice-Chair Bowers seconded the motion and Board
95 unanimously approved the motion. Chairman Judd asked if there was any other business
96 to come before the Board.

97 Secretary Palmer informed the Board SBE will be preparing for the mailing of
98 absentee ballot for the primary by sending surveys to the general registrar community for
99 certification of ballot mailing dates and their readiness. Chairman Judd asked if there was
100 any other business to come before the Board. With there being none, Chairman Judd
101 moved to adjourn. Vice-Chair Bowers seconded the motion and Board unanimously
102 approved the motion. The Board shall reconvene on January 23, 2012 for the next Board
103 Meeting. The State Board of Elections Board Meeting adjourned at approximately
104 10:25AM.

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Chair

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Vice-Chair

Secretary