★ VIRGINIA ★
STATE BOARD of ELECTIONS

BOARD MEETING

Tuesday, March 1, 2022

Martha Brissette Conference Room

Washington Building

Richmond, VA

Video and Teleconference

Videoconference:

https://covaconf.webex.com/covaconf/j.php?MTID=m17da9bd88b2f7761f71f29702b1a08a3

Meeting password: 2ePB4P3HmbP

Teleconference:

1-517-466-2023 US Toll

1-866-692-4530 US Toll-Free

Access Code: 2439 487 4658

1:00 P.M.

STATE BOARD OF ELECTIONS
AGENDA

***DATE*: Tuesday, March 1, 2022**
***LOCATION:* 1100 Bank St.**
Washington Bldg – Room B-27
Richmond, VA 23219
TELECONFERENCE:
+1-517-466-2023 US Toll
+1-866-692-4530 US Toll Free
Access code: 2439 487 4658
VIDEO CONFERENCE:
https://covaconf.webex.com/covaconf/j.php?MTID=m17da9bd88b2f7761f71f29702b1a08a3
Password: 2ePB4P3HmbP
***TIME*: 1:00 P.M.**

I. CALL TO ORDER — *Robert Brink, Chairman*

II. APPROVAL OF MINUTES — *Jamilah LeCruise, Secretary*

A. January 18, 2022

III. COMMISSIONER'S REPORT — *Christopher E. Piper, Commissioner*

IV. STAND BY YOUR AD — *Tammy Alexander, Campaign Finance Compliance and Training Specialist*

1. **Campbell County Republican Committee**
2. **Friends of Ann M Parker - CC-21-00815**
3. **David Phillips for School Board - CC-21-00779**
4. **Gillett for Board of Supervisors - CC-21-01071**
5. **D, Michael Barber d/b/a Barber for Mayor - CC-21-00544**
6. **Elect Robert Babyok - CC-21-00440**
7. **Friends of Monica Gary - CC-21-00329**
8. **Friends of William Andrew Reese - CC-21-00775**
9. **Gillespie 4 Berkeley - CC-16-00403**
10. **Keith F. Marshall for District 3 Board of Supervisors - CC-21-00756**
11. **Koontz2021.com - CC-21-00450**
12. **Leecy Fink For School Board – CC-21-01020**
13. **Marie March for Delegate – CC-21-00261**
14. **Sam Carter for Bboard of Supervisors – CC-21-00661**
15. **Sandra K Garner Coleman – CC-21-01053**

16. **Supporters for Alyssa Halstead – CC-21-00793**
17. **Youngkin for Governor, Inc. - CC-21-00082**

V. DELEGATION OF AUTHORITY 24.2-307

Ashley Coles
ELECT Policy Analyst

VI. SPLIT PRECINCT WAIVER REQUEST

Ashley Coles
ELECT Policy Analyst

1. **Albemarle County**
2. **Caroline County**
3. **Henrico County**
4. **Chesapeake City**
5. **Southampton County**

VII. PRESENTATION OF RISK LIMITING AUDIT REPORT

Karen Hoyt-Stewart
Locality Security Program Manager

VIII. UNISYN VOTING SOLUTIONS VERSION 2.2 CERTIFICATION

Karen Hoyt-Stewart
Locality Security Program Manager

IX. PUBLIC COMMENT

X. CLOSED SESSION

XI. ADJOURNMENT

NOTE: https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=34694

Re. Entrance to the Washington Building
All members of the public will be required to show his/her driver's license, passport or other government issued ID to enter the Washington Building. Each person will go through the x-ray machine and follow the Expect the Check rules.

All State employees must have on his/her state ID badge on at all times while in the building. Each employee will go through the x-ray machine and follow the Expect the Check rules.

Re. Face Mask
A face mask is required to enter the building if you have NOT been fully vaccinated. A face mask is NOT required if you are fully vaccinated.

Re. public comment
Public comment will first be heard from those persons participating in person as per the sign-up list. Next, we will hear from the persons who requested to speak via chat on the WebEx. Last, we will hear from persons who provided their name and phone number to FOIA@elections.virginia.gov.

Re. limitation on individual participation in public comment
Due to the large number of persons who may wish to speak, we encourage you to be as brief as possible, with a maximum of THREE minutes per person. We also ask that you be prepared to approach the podium or unmute yourself if you hear your name announced as the next participant.

Re. How to Participate in Public Comment
If you are a member of the public and wish to participate, you must sign up in order to be recognized to speak. Please note the following:
If you are attending in person, please ensure your name is on the sign-up list at the front door.
If you are participating virtually using WebEx, sign up using the chat feature, located on the bottom right part of the WebEx application, to add your participant name.
If you are participating virtually using a phone and cannot access WebEx's chat feature, please send an email with your name and your phone number to FOIA@elections.virginia.gov. You will need to provide your first and last name and the phone number you've used to call in.

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes

BOARD WORKING PAPERS
Secretary LeCruise

The State Board of Elections ("the Board") meeting was held on Tuesday, January 18, 2022, in the Martha Brissette Conference Room of the Washington Building in Richmond, Virginia. The meeting also offered public participation through electronic communication so the remote public could view and hear the meeting. In attendance: Robert Brink, Chairman, John O'Bannon, Vice Chairman, Jamilah LeCruise, Secretary, Angela Chiang, and Delegate Donald Merricks, represented the State Board of Elections ("the Board"). Christopher E. "Chris" Piper, Commissioner, represented the Department of Elections ("ELECT"), Carol Lewis and Joshua Leif represented the Office of the Attorney General ("OAG"). Chairman Brink called the meeting to order at 1:00 P.M.

The first item of business was the approval of minutes presented by Secretary LeCruise. Ms. Chiang *moved that the Board approve the amended minutes from the December 13, 2021 Board Meeting*. Chairman Brink seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next item of business was the Commissioner's Report, presented by Commissioner Piper. Commissioner Piper advised the Board that he would be excusing himself to attend the Senate Privileges and Elections Meeting and Rachel Lawless would be representing him in his absence. The Commissioner informed the Board that the Supreme Court of Virginia adopted state legislative and congressional lines. Commissioner Piper advised the Board that ELECT has

a strong team working with the Registrars to implement the new lines. The Commissioner stated that there had been many improvements in the past 10 years, including utilizing Geographic Information Services (GIS) to ensure voters are placed correctly.

Commissioner Piper stated that Virginia is establishing a statewide voter registration system to replace the existing Voter Election Registration Information System ("VERIS"). The Commissioner informed the Board that high school students across the Commonwealth are participating in a contest to create a name for the new system. Commissioner Piper advised the Board that ELECT has received numerous entries for the name change. The students have until February 18, 2022, to submit entries; the winner will be announced in March.

The Commissioner advised the Board that there are over 110 bills related to elections filed in the 2022 Legislative Session. Commissioner Piper expressed his appreciation to the Policy Team; Samantha Buckley, Danny Davenport, Ashley Coles, Rachel Lawless, Franchelle Tyson, Dave Nichols and the entire ELECT staff. The Commissioner introduced James "Jim" Burfoot, System Support Analyst with Information Technology Support team, and Tamara Kidd, Manager, Enterprise Project Management Division. Commissioner Piper informed the Board that Daniel Persico, the Former Chief Information Officer ("CIO"), has moved on from the agency, and Cassandra Harris has stepped in as the Interim CIO. The Commissioner introduced Max Burkmiller, William & Mary Government student, and Joshua Lief, Section Chief with the OAG.

Commissioner Piper stated that former Governor Northam had reappointed Chairman Brink and Vice Chair O'Bannon for the 2022 year. The Commissioner informed the Board that they would need to elect a Secretary for the 2022 year. Chairman Brink opened the floor for Secretary Nominations. Vice Chair O'Bannon moved to elect Jamilah LeCruise to be Secretary of the State Board of Elections for 2022. No other nominations were presented. A roll call vote

was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next item of business was the Post Elections Report, presented by Commissioner Piper. Commissioner Piper expressed a special appreciation to Rachel Lawless, Conrad Faett, and the Elections Administration team. The Commissioner informed the Board that this is the fourth Post Election Report that has been produced by ELECT. *This report is in the Working Papers for the January 18, 2022 Meeting.*

The next item of business was the Voting Rights Act Section 203: Minority Language Requirement, presented by Samantha Buckley, ELECT Policy Analyst. *This memo is in the Working Papers for the January 18, 2022 Meeting*. Secretary LeCruise moved *that the State Board of Elections designate the following Virginia localities as covered localities pursuant to Va. Code § 24.2-128. Manassas City, Manassas Park City, and Prince William County will be required to provide any English language voting or election materials, as defined by Va. Code § 24.2-128, in the Spanish language.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next item of business was the Risk Limiting Audit Report, presented by Karen Hoyt Stewart, Locality Security Program Manager and Rachel Lawless, Confidential Policy Advisor.

The next item of business was the Certification of House of Delegates 89th Districts Special Elections, presented by Paul Saunders, Elections Administration Supervisor. *This memo is in the Working Papers for the January 18, 2022 Meeting*. Secretary LeCruise stated after reviewing the Abstract of Votes Cast in the January 11, 2022, Special Election for Member, House of Delegates District 89, I *move that the Board certify the results as presented and declare the winner.* Ms. Chiang seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next item of business was the Stand by Your Ad hearings, presented by Tammy Alexander, Campaign Finance Compliance and Training Specialist. The first complaint was against the Campbell County Republican Committee. Mrs. Alexander informed the Board that one complaint was submitted for one advertisement with an incomplete disclosure. She advised the Board that this is a first time violation within 14 days prior to the Election. Delegate Merricks moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Campbell County Republican Committee in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $50*

civil penalty. Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Friends of Ann Parker. Mrs. Alexander informed the Board that one complaint was submitted for one flyer with an incomplete disclosure. She advised the Board that this is a first time violation within 14 days prior to the Election. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Ann M. Parker in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $50 civil penalty.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against David Phillips for School Board. Mrs. Alexander informed the Board that one complaint was submitted for two advertisements with incorrect disclosures. She advised the Board that this is a first time violation and within the 14 days prior to the Election. Vice Chair O'Bannon moved *subject to the Board's authority under the Code of*

Virginia §24.2-955.3, to find David Phillips in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to two print media advertisements, and assess a $100 civil penalty. Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Gillett for the Board of Supervisors. Mrs. Alexander informed the Board that two complaints were submitted for three yard signs with no disclosure. She advised the Board that this is a first time violation, not within the 14 days of the Election. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Denise Gillett in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to two print media advertisements, and assess a $50 civil penalty.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against D. Michael Barber d/b/a Barber for Mayor. Mrs.

Alexander informed the Board that one complaint was submitted for one newspaper advertisement without a disclosure. She stated that the Virginia Media, Inc. Newspaper provided a letter stating that the disclosure was on the original ad but was left off when it was reimaged for the paper. Mrs. Alexander advised the Board that this was a first time violation within the 14 days of the Election. Dr. Barber addressed the Board.

Delegate Merricks moved *to dismiss the complaint.* Ms. Chiang seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Elect Robert Babyok. Mrs. Alexander informed the Board that two complaints were submitted for one digital sign, two flyers, and one yard sign without disclosures. She advised the Board that this was a first time violation, and 3 out of 4 submitted documents were within the 14 days prior to the Election. Mr. Babyok addressed the Board. Vice Chair O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Robert Babyok in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to four print media advertisements, and assess a $175 civil penalty.* Secretary LeCruise seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Friends of Monica Gary. Mrs. Alexander informed the Board that one complaint was submitted for two car magnets, one website, and a GoFundMe account with no disclosures. She informed the Board that this is a first time violation, not within the 14 days prior to the Election. Ms. Gary addressed the Board. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Monica Gary in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to four print media advertisements, and assess a $100 civil penalty.* Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Friends of William Andrew Reese. Mrs. Alexander informed the Board that one complaint was submitted for one flyer and one sign. She advised the Board that this is a first time violation, not within the 14 days prior to the Election. Dr. Reese addressed the Board. Vice Chair O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find William Andrew Reese in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to two print media advertisements, and assess a $25 civil penalty.* Secretary LeCruise seconded the motion and the motion passed

unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Gillespie 4 Berkeley. Mrs. Alexander informed the Board that one complaint was submitted for one mailer with no disclosure. She informed the Board that this was a first time violation. Ms. Gillespie addressed the Board. Delegate Merricks moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find April Gillespie in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $25 civil penalty.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Keith F. Marshall for the 3rd District Board of Supervisors. Mrs. Alexander informed the Board that one complaint was submitted for two signs without a disclosure. She advised the Board that this was a first time violation. Vice Chair O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Keith Marshall in violation of §24.32-956 Stand By Your Ad print media disclosure*

requirements with regard to two print media advertisements, and assess a $50 civil penalty. Secretary LeCruise seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Koontz2021.com. Mrs. Alexander informed the Board that one complaint was submitted for two advertisements with no disclosures. She advised the Board that this was a first time violation. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find John Koontz in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to two print media advertisements, and assess a $50 civil penalty.* Ms. Chiang seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Leecy Fink for School Board. Mrs. Alexander informed the Board that one complaint was submitted for two signs without a disclosure. She informed the Board that this was a first time violation. Ms. Fink addressed the Board. Ms. Chiang moved

subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Leecy Fink in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $50 civil penalty. Secretary LeCruise seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Marie March for Delegate. Mrs. Alexander informed the Board that one complaint was submitted for one email without a disclosure. She advised the Board that this was a first time violation. Aaron Evans addressed the Board. Ms. Chiang moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Marie March in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $100 civil penalty.* Secretary LeCruise seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Sam Carter for the Board of Supervisors. Mrs. Alexander informed the Board that one complaint was submitted for four signs, one palm card, and one t-

shirt with an inadequate disclosure. She informed the Board that this was a first time violation. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Sam Carter in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to six print media advertisements, and assess a $125 civil penalty.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Sandra K. Garner Coleman. Mrs. Alexander informed the Board that one complaint was submitted for one sample ballot. She advised the Board that this was a first time violation. Ms. Garner Coleman addressed the Board. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Sandra K Garner-Coleman in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to one print media advertisement, and assess a $25 civil penalty.* Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Supporters for Alyssa Halstead. Mrs. Alexander informed the Board that two complaints were submitted for five signs with no disclosures. She advised the Board that this was a first time violation. Ms. Halstead addressed the Board. Secretary LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Alyssa Halstead in violation of §24.32-956 Stand By Your Ad print media disclosure requirements with regard to five print media advertisements, and assess a $125 civil penalty.* Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

The next complaint was against Youngkin for Governor, Inc. Mrs. Alexander informed the Board that one complaint was submitted for one obscured candidate image and one missing the spoken disclosure statement. She advised the Board that this was a first time violation. Vice Chair O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Glenn Youngkin in violation of §24.32-957.1 Stand By Your Ad television disclosure requirements with regard to two television advertisements, and assess a $2000 civil penalty.* Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

Chairman Brink opened the floor to public comment. Ms. Elizabeth Block addressed the Board. Vice Chairman O'Bannon stated that a formal complaint from the City of Richmond Electoral Board allegations which were referred to the OAG by letter in June of 2021, got a response dated December 13th stating, "A complete investigation has not identified any conduct that could support criminal charges at this time" pursuant to Virginia Code 24.2-104.1. The Vice Chair stated that he is concerned with whether the investigation included consideration of civil charges; after discussion Chairman Brink noted that he will reach out to the OAG to receive clarifications on the charges considered.

At 3:35 P.M., Secretary LeCruise moved *pursuant to Virginia Code Section 2.2-3711(A)(8), I move that the Board go into closed session for the purpose of discussing allegations relating to the conduct of the Sussex County electoral board and the State Board of Elections' responsibilities to supervise and coordinate the work of local electoral boards under Virginia Code section 24.2-103. In accordance with Section 2.2-3712(F), Christopher Piper, Commissioner of Elections, Rachel Lawless, Confidential Policy Advisor of Elections, and Carol Lewis of the Office of the Attorney General will attend the closed session because their presence will reasonably aid the Board in its consideration of the subject of the meeting.* Vice Chair O'Bannon seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

At 3:52 P.M., Vice Chair moved *to reconvene in open session, and take a roll call vote certifying that to the best of each member's knowledge (i) only such public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was concerned were heard, discussed, or considered.* Secretary LeCruise seconded the motion and the motion passed unanimously. A roll vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

Vice Chair O'Bannon moved *that the Chairman of the State Board of Elections generate a letter in response to the concerns in Sussex County regarding the Electoral Board.* Delegate Merricks seconded the motion and the motion passed unanimously. A roll call vote was taken:

Chairman Brink – Aye

Vice Chair O'Bannon – Aye

Secretary LeCruise – Aye

Ms. Chiang – Aye

Delegate Merricks – Aye

Secretary LeCruise *moved to adjourn the meeting.* Delegate Merricks seconded the

motion and the motion passed unanimously.

The meeting adjourned at 3:55 P.M.

_____
Chairman

_____
Vice-Chairman

_____
Secretary

_____
Board Member

_____
Board Member

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STATE BOARD of ELECTIONS

Commissioner's Report

BOARD WORKING PAPERS
Christopher Piper
Commissioner

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STATE BOARD *of* ELECTIONS

Stand By Your Ad

BOARD WORKING PAPERS
Tammy Alexander
Campaign Finance Compliance Training Specialist

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Delegation of Authority 24.2-307

BOARD WORKING PAPERS
Ashley Coles
ELECT Policy Analyst

★ VIRGINIA ★
DEPARTMENT of ELECTIONS

Memorandum

To: Chairman Brink, Vice-Chair O'Bannon, Secretary LeCruise, Delegate Merricks, and Ms. Chiang
From: Ashley Coles, Policy Analyst
Date: March 1, 2022
Re: Amendment to § 24.2-307; Delegations of Authority 2021

Suggested Motion
"I move that the Board approve the proposed Amendment to the Delegations of Authority 2021 relating to § 24.2-307 of the Code of Virginia."

Delegations Background
The State Board of Elections ("Board') is authorized to prescribe standard forms for voter registration and elections, and to supervise, coordinate, and adopt regulations governing the work of local electoral boards, registrars, and officers of election. The Department of Elections ("Department") is authorized to establish and maintain a statewide automated voter registration system to include procedures for ascertaining current addresses of registrants; to require cancellation of records for registrants no longer qualified; to provide electronic application for voter registration and absentee ballots; and to provide electronic delivery of absentee ballots to eligible military and overseas voters. The Department conducts the Board's administrative and programmatic operations and discharges the Board's duties consistent with delegated authority.

Relevant History
The General Assembly passed SB 740 during the 2020 General Assembly session. The bill amended Va. Code § 24.2-307 with the goal of eliminating split precincts. However, localities can apply to the Board for a waiver under certain circumstances.

On March 31, 2021, the Board delegated the authority to grant these waivers to the Department. The Department anticipated a significant number of waiver requests from localities, due to delays in redistricting.

Attachments and References

- Amended Delegations of Authority 2021 Chapter 3
- Waiver to Administer a Split Precinct
- SOP – Split Precinct Waivers
- Va. Code § 24.2-307

Recommendation of Staff
Staff recommends the Board adopt the amendment Delegations of Authority 2021 as presented.

Virginia State Board of Elections: Delegation of Authority 2021: Chapter 3				
Code §	**Code Responsibility**	**Authority B=Board D=ELECT**	**Date**	**Comments**
24.2-307	If a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, it shall apply to the State Board for a waiver to administer a split precinct. The State Board may grant the waiver or direct the governing body to establish a precinct with less than the minimum number of registered voters as permitted by § 24.2-309.	~~D~~ B	~~3/21/2021~~ 03/1/2022	
24.2-309	The **State Board** shall make regulations setting procedures by which elections may be conducted in precincts in which all voters do not have the same choice of candidates at a general election.	B	10/29/19	
24.2-309.2	If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-264, and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.	D	10/29/19	
24.2-310	C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The **State Board** shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.	D	10/29/19	
24.2-310	D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board.	D	10/29/19	
24.2-310	F. Any local government, local electoral board, or the **State Board** may make monetary grants to any non-governmental entity furnishing facilities under the provisions of 24.2-307 or 24.2-308 for use as a polling place. Such grants shall be	D	10/29/19	

	made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board or the State board to appropriate funds to any non-governmental entity.			

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: _____ Date: _____

Contact Name/Title: _____ Phone Number: _____

Email Address: _____

Date the Governing Body's Meeting Occurred: _____

Supporting Documentation (Please Attach):

☐ Governing Body's Resolution

☐ Governing Body's Meeting Minutes

Any Previous Waiver Requests Submitted? ☐Yes ☐ No

If Yes, When? _____

Was it Granted? ☐ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.

**You may add additional pages/rows if more space is required.*

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Fax: (804) 371-0194

★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Standard Operating Procedure

Waiver Requests for Split Precincts

Effective date 2/17/2022
Authored by: A. Coles

1100 Bank Street
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Richmond, VA 23219-3947
elections.virginia.gov

Toll Free: (800) 552-9745
TDD: (800) 260-3466
info@elections.virginia.gov

Introduction:

Background and Purpose

The Code of Virginia authorizes the State Board of Elections to grant a waiver to administer a split precinct, if the governing body of a locality is unable to establish a precinct with the minimum number of registered voters without splitting the precinct (§24.2-307). This document outlines the processes by which the Virginia Department of Elections (ELECT) staff receive and document requests, and offers templates for providing responses to localities.

Waiver Authority

Waivers must be requested by the governing body of a locality (§24.2-307). This is often accomplished by a formal resolution passed by the governing body or by documenting the approval to request a waiver in the governing body's signed meeting minutes. These documents may be submitted to ELECT by the general registrar of the locality along with the *SBE-307 Split Precinct Waiver* form on FormsWarehouse. A locality may only administer a split precinct for elections held in the year the waiver is granted; therefore, a new waiver is required each calendar year.

Personnel:

Dependencies

What other people, processes, functions or data do we rely on as part of the procedure?

- ELECT liaisons shall receive requests for a split precinct waiver. They shall then forward any waiver requests and associated documentation to the Policy Analyst responsible for districts, precincts, and polling places.
- The ELECT staff member responsible for organizing the Board's Working Papers (BWP), shall ensure all requests are included in the BWP for the next applicable State Board meeting. These documents shall be provided to the appropriate staff member by the Policy Analyst.
- A representative from each locality shall be responsible for answering any additional questions presented by the State Board during the meeting the waiver request is addressed. If no representative is present (either in-person or virtually), the Board may make a decision without additional input from the locality or may defer the decision to a later meeting.
- Members of the State Board of Elections are responsible for approving or denying requests for a waiver to administer a split precinct.
- The policy analyst shall confirm in writing the State Board's approval or denial of the locality's waiver request to the general registrar no more than 3 days following the State Board's meeting.

Responsibility

Who is required to be familiar with and/or follow the SOP?

- ELECT liaisons receiving waiver requests
- ELECT Administrative Program Specialist, or other staff, responsible for the BWP
- Policy Analysts
- Director of Operations
- Members of the State Board

Who authorizes and approves changes to the SOP?

- Policy Analyst assigned to districts, precincts, and polling places; Policy Analyst's acting supervisor; Election Services Manager; and the Director of Operations

Systems, Inputs, Outputs, and Deliverables:

Data inputs	1. The locality's information 2. Documentation confirming the governing body's approval
Systems utilized	3. VA Code §24.2-307 4. SBE-307 Split Precinct Waiver on FormsWarehouse 5. Town Hall 6. Tracking template for waiver requests
Outputs/Deliverables	7. Board Working Papers and meeting minutes 8. Written correspondence of the State Board's decision

Reference:

Waiver Authority	§24.2-307. If a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, it shall apply to the State Board for a waiver to administer a split precinct. The State Board may grant the waiver or direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by §24.2-309.

Eligible Localities	• Localities with approval from their governing body; and • Localities with precincts that do not meet the minimum number of registered voters as indicated in §24.2-307
Delegation Authority	This authority shall be retained by the State Board. See Delegations of Authority on Town Hall.

Process Flow: WAIVER REQUEST

Waivers

1. **ELECT receives a request for a waiver to administer a split precinct** by email or mail. ELECT staff send any such request to the Policy Analyst who serves as the subject matter expert for districts, precincts, and polling places.
2. The Policy Analyst reviews the waiver request and documents the following information using the Template for Waiver Requests:
    a. **Name of locality submitting request**
    b. **Precinct(s)/District(s) Impacted**
    c. **Date in which the request was made**
    d. **Final decision by the State Board (once applicable)**
    e. **Date correspondence was provided to the locality (once applicable)**
3. The Policy Analyst reviews the documentation to ensure the **governing body of the locality approved applying for a waiver.**
4. Once reviewed, all documentation is provided to the ELECT staff member responsible for organizing the Board's Working Papers for the next appropriate State Board meeting.
5. The Policy Analyst presents the waiver requests to the State Board for review.
    a. **Localities are responsible for answering any applicable questions regarding their request.**
6. The State Board decides the following:
    a. To approve the waiver request and permit the locality to administer a split precinct for **elections held in the calendar year the request is made**;
    b. To deny the request
        i. Requests shall be denied if a precinct has **more than the minimum number of registered voters required**.
        ii. The State Board may direct the governing body to **establish a precinct with fewer than the minimum number of registered voters** as permitted by § 24.2-309; or
    c. Defer the request to a later meeting.
7. The Policy Analyst provides correspondence to the general registrar of the State Board's decision no later than 3 days following the meeting as provided in the Templates section.

Template Messages

Notice of WAIVER APPROVAL

Dear _____:

Thank you for submitting a request for a waiver to administer a split precinct. The Code of Virginia §24.2-307 authorizes the State Board with authority to grant a waiver "if a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts." Any decision made by the State Board is final.

On [insert date the State Board granted waiver], the State Board approved your request for a waiver. Your locality may administer a split precinct for the elections held in the **current** calendar year, [insert year]. To administer a split precinct for any election held in [insert the subsequent calendar year] or later, your locality **must request a new waiver from the State Board**.

Notice of WAIVER DENIAL (Precinct meets the minimum requirement)

Dear _____:

Thank you for submitting a request for a waiver to administer a split precinct. The Code of Virginia §24.2-307 authorizes the State Board with authority to grant a waiver "if a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts." It also authorizes the State Board with authority to "direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by § 24.2-309." Any decision made by the State Board is final.

On [insert date the State Board denied], the State Board denied your request for a waiver. Your locality is able to establish a precinct with the minimum number of registered voters required. Your request indicated [insert applicable number] voters would be assigned to this precinct. The minimum number required for a [insert whether it's a county or city] is [insert 100 or 500 as applicable]. Therefore, your locality is ineligible for a waiver.

Notice of WAIVER DENIAL (Precinct does not meet the minimum requirement)

Dear _____:

Thank you for submitting a request for a waiver to administer a split precinct. The Code of Virginia §24.2-307 authorizes the State Board with authority to grant a waiver "if a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts." It also authorizes the State Board with authority to "direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by § 24.2-309." Any decision made by the State Board is final.

On [insert date the State Board denied], the State Board denied your request for a waiver. Your locality is directed to establish a precinct with fewer than the minimum number of registered voters as permitted by §24.2-309.

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Split Precinct Waiver Request

BOARD WORKING PAPERS
Ashley Coles
ELECT Policy Analyst

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: Albemarle County Date: 2/17/2022

Contact Name/Title: Jake Washburne / Registrar Phone Number: 434-566-1533

Email Address: rwashburne@albemarle.org

Date the Governing Body's Meeting Occurred: 2/16/2022

Supporting Documentation (Please Attach):

☑ Governing Body's Resolution

☐ Governing Body's Meeting Minutes

Any Previous Waiver Requests Submitted? ☑ Yes ☐ No

If Yes, When? June, 2021

Was it Granted? ☑ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.
602	Free Union/White Hall	Small Sliver of 7th Congressional District, w/ 110 residents (approx 60-70 reg'd voters) is in this precinct. All rest of precinct is in 5th Congressional District.

*You may add additional pages/rows if more space is required.

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RESOLUTION TO REQUEST PERMISSION TO ADMINISTER SPLIT PRECINCTS

WHEREAS, Virginia Code § 24.2-307 mandates that "[e]ach precinct shall be wholly contained within a single congressional district . . . used for the election of one or more members of the governing body or school board for the county or city"; and

WHEREAS, there is a portion of the current Free Union precinct in the White Hall magisterial district that state-level redistricting has placed into the U.S. House of Representatives' 7th district, while the rest of Albemarle County is in the 5th district; and

WHEREAS, that portion, having fewer than 100 registered voters, is not eligible to be its own precinct under state law; and

WHEREAS, Albemarle County (the "County") must therefore, under any of the alternate redistricting maps now being considered by the Board, split the Free Union precinct between the U.S. House of Representatives' 5th and 7th districts; and

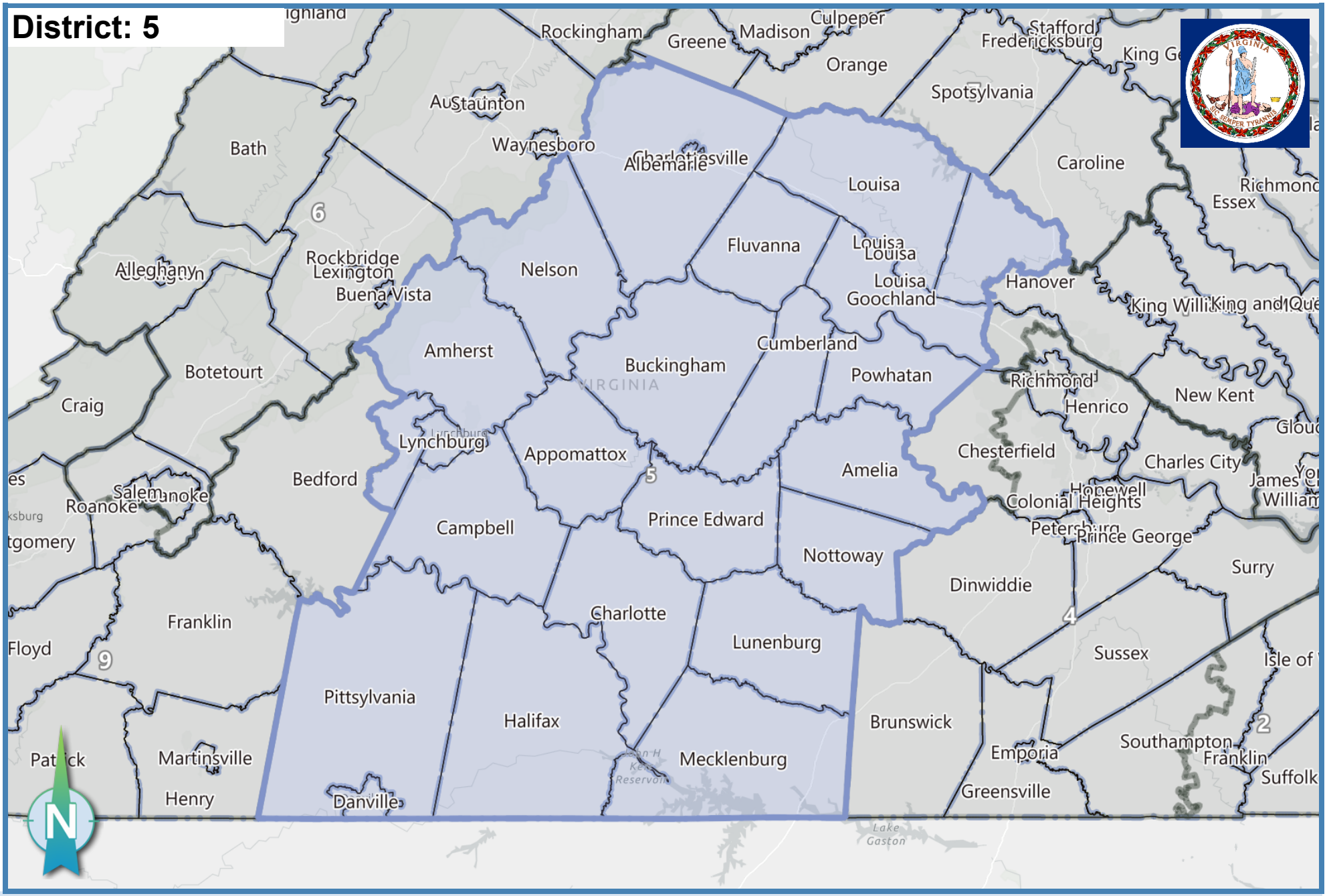
WHEREAS, Virginia Code § 24.2-307 requires the Board apply for a waiver from the State Board of Elections to administer a split precinct.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors authorizes the General Registrar to submit, on the Board's behalf, a request for a waiver from the State Board of Elections pursuant to Virginia Code § 24.2-307 to administer the Free Union precinct as a split precinct for elections held in 2022 onward.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true and correct copy of a Resolution duly adopted by the Board of Supervisors of Albemarle County by a vote of six to zero, as recorded below, at a meeting held on February 16, 2022.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Andrews	Y	___
Mr. Gallaway	Y	___
Ms. LaPisto-Kirtley	Y	___
Ms. Mallek	Y	___
Ms. McKeel	Y	___
Ms. Price	Y	___

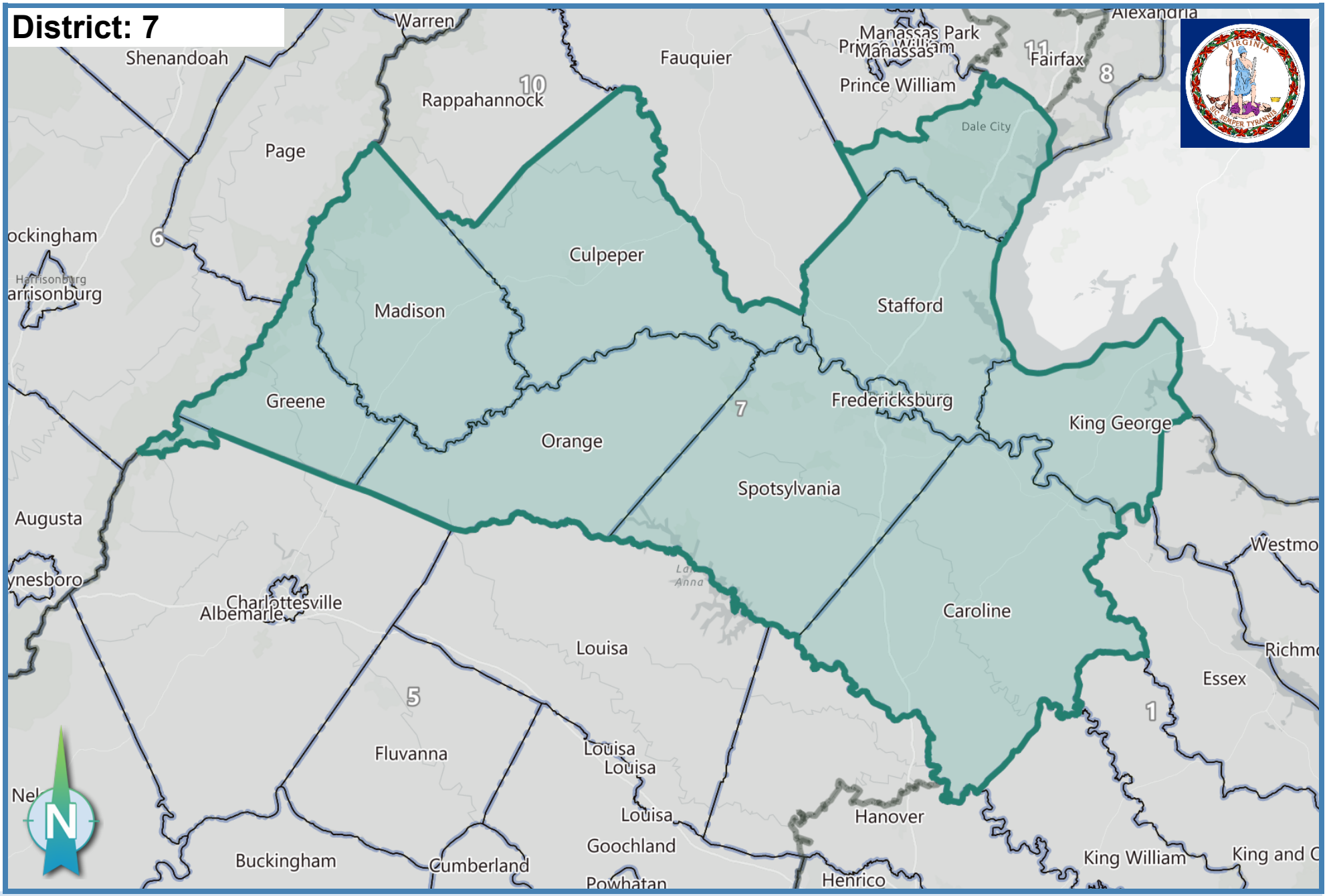


Ideal Population: 784,672 Deviation: 0.00 % Total Population: **784,672**

Based on: 2020 Census Geography, 2020 PL94-171

Map Date: 12/22/2021 11:28:09 AM Plan Last Edited on: 12/22/2021 10:32:30 AM

EDGE 2020 Professional Redistricting



Ideal Population: 784,672 Deviation: 0.00 % Total Population: **784,672**

Based on: 2020 Census Geography, 2020 PL94-171

Map Date: 12/22/2021 11:28:09 AM Plan Last Edited on: 12/22/2021 10:32:30 AM

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: Caroline Date: February 14, 2022

Contact Name/Title: Kathy McVay, General Registrar/DOE Phone Number: 804-633-9083

Email Address: kmcvay@vote.carolinecountyva.gov

Date the Governing Body's Meeting Occurred: February 8, 2022 Caroline Board of Supervisors

Supporting Documentation (Please Attach):

☒ Governing Body's Resolution: Caroline Board of Supervisors

☒ Governing Body's Meeting Minutes: Caroline Electoral Board

Any Previous Waiver Requests Submitted? ☐Yes ☒ No

If Yes, When?

Was it Granted? ☐ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.
303	Wright's Chapel/Port Royal	Costs and small number of voters projected

**You may add additional pages/rows if more space is required.*

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Caroline County, Virginia
Board of Supervisors

Jeffrey S. Black
Western Caroline District

Clayton T. Forehand
Madison District

Nancy L. Long
Port Royal District

Jeffery M. Sili
Bowling Green District

Floyd W. Thomas
Mattaponi District

Reginald L. Underwood
Reedy Church District

Charles M. Culley, Jr.
County Administrator

Caroline County, VA
All-America City
2009

R6/22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF CAROLINE COUNTY, VIRGINIA REQUESTING A WAIVER FROM THE VIRGINIA BOARD OF ELECTIONS ALLOWING IT TO CONDUCT ALL 2022 ELECTIONS WITH SPLIT PRECINCTS

WHEREAS, Virginia Code §24.2-307 requires that all voting precincts be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city; and

WHEREAS, as a result of the new law, the creation of a new precinct at Wright's Chapel United Methodist Church is required for the Port Royal District to serve voters who will now be located in the 66th House of Delegates District. The remainder of the Port Royal District (Woodford and Port Royal Precincts) will be located in the 67th House of Delegates District; and

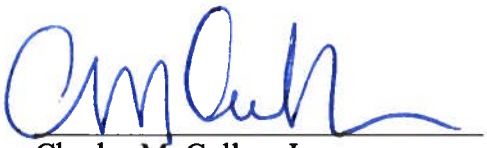
WHEREAS, the Caroline County Electoral Board believes the creation of a new precinct at Wright's Chapel United Methodist Church will be costly to set up and staff (estimated cost of $10,000) and would serve only a small number of voters. The total population impacted by the new precinct is estimated to be 800, with a voting age population of approximately 577; and

WHEREAS, at its February 8, 2022 meeting, the Caroline County Board of Supervisors voted unanimously to authorize and request that the Caroline County Director of Elections and General Registrar apply to the Virginia Department of Elections for a 2022 waiver.

NOW, THEREFORE BE IT RESOLVED that the Caroline County Board of

Supervisors hereby formally requests that the Virginia Department of Elections grant a waiver to permit the County to conduct all 2022 elections with a split precinct in the Port Royal District as set forth above.

Adopted this 8th day of February 2022.



Charles M. Culley, Jr.
Clerk to the Board

CAROLINE ELECTORAL BOARD
MEETING MINUTES
FEBRUARY 1, 2022
10:00 A.M.
212 NORTH MAIN STREET
BOWLING GREEN, VA

MEMBERS PRESENT: Chairman John Nunnally, Gloria Taylor, and Cheryl Johnson.
MEMBERS ABSENT:
OTHERS PRESENT: Kathy McVay, General Registrar

The Chairman called the meeting to order at 10:00 a.m. and determined that a quorum was present.

Minutes – December 14, 2021: On Motion by Taylor, seconded by Johnson, the Board voted to approve the minutes as written: Voting Aye: Nunnally, Taylor, and Johnson.

Registrar's Report:

Selection of EPB Vendor: The Registrar stated that three vendors had presented their equipment to the Board for consideration at a prior meeting. There was discussion regarding each vendor. On Motion by Johnson, seconded by Taylor, the Board decided to contract with Dem Tech for the purchase of new EPB equipment. Voting Aye: Taylor, and Johnson. Voting Nay: Nunnally.

Split Precinct Waiver: The Registrar stated that the proposed precinct districting for Caroline included the creation of a new Precinct 303 – Wright Chapel on all three proposals. The precinct was being created because the district is located in a different house district than the rest of Port Royal District. The new precinct would be needed to avoid a split precinct. The Board discussed that the new precinct would only serve a small number of voters and would be very costly to set up and staff. On Motion by Johnson, seconded by Taylor, the Board decided to request that Caroline County Board of Supervisors consider requesting a waiver for creating a new precinct from the State Board of Election due to the small number of voters served and the cost associated with creating a new precinct. Voting Aye: Nunnally, Taylor, and Johnson.

June Primary Training: The Registrar asked for dates for training for Officers of Election so that she could schedule the community center. The dates of June 6th and 7th at 1 pm were selected. The Board discussed the training agenda.

New Business:

Organization Meeting: On Motion by Johnson, seconded by Taylor, the Board voted to appoint John Nunnally as chairman for 2022: Voting Aye: Nunnally, Taylor, and Johnson. On Motion by Nunnally, seconded Johnson, the Board voted to appoint Gloria Taylor as vice-chairman for 2022:

Voting Aye: Nunnally, Taylor, and Johnson. On Motion by Nunnally, seconded by Taylor, the Board voted to appoint Cheryl Johnson as secretary for 2022: Voting Aye: Nunnally, Taylor, and Johnson.

Appointment of Officers of Election: The Registrar provided the Board with a list of officers of election for a 3- year term of March 1, 2022 to February 28, 2025. On Motion by Taylor, seconded by Johnson, the Board voted to approve the list of officers of election as presented for a three term of March 1, 2022 to February 28, 2025: Voting Aye: Nunnally, Taylor, and Johnson.

CLOSED SESSION: On Motion by Johnson, seconded by Taylor, the Board voted to go into Closed Session in accordance with State Code §2.2-3711-A 19 to discuss security matters. Voting Aye: Nunnally, Taylor, and Johnson.

OPEN SESSION: On Motion by Johnson seconded by Taylor, the Board voted to go into Open Session. Voting Aye: Nunnally, Taylor, and Johnson.

CERTIFICATION: On motion by Taylor, seconded by Johnson, the Board voted to certify that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened, were discussed or considered:

Nunnally.....Aye
Johnson.....Aye
Taylor.....Aye

Security Policies: On Motion by Johnson, seconded by Taylor, the Board approved six security policies as presented. Voting Aye: Nunnally, Taylor, and Johnson.

Adjournment: The meeting was adjourned at 11:30 a.m. Voting Aye: Nunnally, Taylor, and Johnson.

_____Secretary

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: Henrico County Date: February 16, 2022

Contact Name/Title: Mark J Coakley/Registrar Phone Number: 804.501.4345

Email Address: coa@henrico.us

Date the Governing Body's Meeting Occurred: February 8, 2022

Supporting Documentation (Please Attach):

☒ Governing Body's Resolution

☒ Governing Body's Meeting Minutes

Any Previous Waiver Requests Submitted? ☐Yes ☐ No

If Yes, When? _____

Was it Granted? ☐ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.
105	**Hermitage/ House 59 & 80**	**House 59 has 43 voters. House 80 has 3,661 voters**
214	**Hungary/ House 59 & 80**	**House 59 has 70 voters. House 80 has 1,865 voters.**

**You may add additional pages/rows if more space is required.*

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RESOLUTION — Request for Waiver to Administer Two Split Voting Precincts Created by the 2021 Reapportionment of the Commonwealth's Election Districts

This Board paper would authorize and direct the General Registrar to apply to the State Board of Elections for a waiver to administer two split precincts created by the 2021 reapportionment of the Commonwealth's election districts. A waiver must be requested if a governing body is unable to correct the split precincts with new precincts containing at least 100 registered voters.

The two split precincts are:

	Reg. Voters	Reg. Voters in House 59	Reg. Voters in House 80
Hermitage Precinct	3,704	43	3,661
Hungary Precinct	1,935	70	1,865

For both precincts, the number of registered voters in House of Delegates District 59 is less than 100, and the affected areas cannot be merged into adjacent precincts without creating new splits between election districts. Accordingly, a waiver is necessary to administer the two split precincts.

The Electoral Board requested approval of this Board paper at its meeting on January 28, 2022.

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
MINUTE

Agenda Item No. 5822

Agenda Title: RESOLUTION — Request for Waiver to Administer Two Split Voting Precincts Created by the 2021 Reapportionment of the Commonwealth's Election Districts

For Clerk's Use Only:
Date: 2/8/2022
(✓) Approved
( ) Denied
( ) Amended
( ) Deferred to:

BOARD OF SUPERVISORS ACTION

Moved by (1) Branin Seconded by (1) O'Bannon
(2) (2)

REMARKS:

APPROVED

	YES	NO	OTHER
Branin, T.	✓		
Nelson, T.	✓		
O'Bannon, P.	✓		
Schmitt, D.	✓		
Thornton, F.	✓		

WHEREAS, pursuant to Section 24.2-307 of the Code of Virginia, the Board of Supervisors is required to fix any voting precincts split by the Commonwealth's decennial reapportionment of Congressional, Senate, and House of Delegates districts; and,

WHEREAS, the Board must apply to the State Board of Elections for a waiver to administer any split precinct for which it is unable to create a precinct with at least 100 registered voters; and,

WHEREAS, the Hermitage and Hungary precincts are split between House of Delegates Districts 59 and 80 under the Commonwealth's 2021 reapportionment plan, and the County's Registrar reports that new precincts containing at least 100 registered voters cannot be created to fix these split precincts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors requests the State Board of Elections, or its designee, to grant the Board a waiver to administer the Hermitage and Hungary precincts as split precincts in each year in which the splits remain and authorizes and directs the General Registrar to complete all required paperwork to obtain the necessary waiver in each year in which the splits remain.

COMMENT: The Electoral Board requested approval of this Board paper at its meeting on January 28, 2022.

By Agency Head _____ By County Manager _____

Certified:
A Copy Teste: _____
Clerk, Board of Supervisors

Copy to: _____

Date: _____

Commonwealth of Virginia

Coles, Ashley <ashley.coles@elections.virginia.gov>

Fwd: Waiver

4 messages

Ellis, Garry <garry.ellis@elections.virginia.gov> Thu, Feb 24, 2022 at 10:56 AM
To: Ashley Coles <ashley.coles@elections.virginia.gov>

Hi Ashley,

I'm forwarding this waiver request for appropriate action..

Thanks

Garry

---------- Forwarded message ---------
From: **Lynn Burgess** <lburgess@southamptoncounty.org>
Date: Thu, Feb 24, 2022 at 10:26 AM
Subject: Waiver
To: Ellis, Garry (ELECT) <Garry.Ellis@elections.virginia.gov>

Greetings Gary,

In order to move forward in a timely manner for a possible June 21, 2022 Congressional Primary I have taken steps to proceed with Congressional and State redistricting setup in VERIS. Southampton County will not have the local ordinance complete by the March 21, 2022 deadline set in place for my office.

Southampton County is now going to be split Congressionally using the new Supreme Court of Virginia ordered lines. This new congressional line will create one split precinct using the existing precincts for the Primary. Southampton County is requesting a Waiver to Administer a Split Precinct for the June 21, 2022 Primary. This issue will be resolved once the local redistricting is completed.

Your guidance and assistance in this matter is greatly appreciated. I have attached a copy of the resolution which was passed Tuesday, February 22, 2022. Board of Supervisor minutes are not available at this time. I await notification of the date and time it will be presented to the State Board of Elections.

Thank You for Your Service,
Lynn Burgess

Lynn H. Burgess
Director of Elections, Southampton County/Registrar
Southampton County
lburgess@southamptoncounty.org
(757) 653-9280

--
Garry E. Ellis
Registrar Liaison Supervisor, CGRV
Certified Virginia Registered Election Official [VREO VA-196]
Virginia Department of Elections
1100 Bank St
Richmond, VA 23219
garry.ellis@elections.virginia.gov

BOARD OF SUPERVISORS
SOUTHAMPTON COUNTY, VIRGINIA

RESOLUTION 0222-15A

At a meeting of the Board of Supervisors of Southampton County, Virginia, on Tuesday, February 22, 2022 at 6:00 p.m. in the Southampton County Office Center:

PRESENT
The Honorable Alan W. Edwards, Chairman
The Honorable William Hart Gillette, Vice Chairman
The Honorable Christopher D. Cornwell, Sr.
The Honorable Carl J. Faison
The Honorable Lynda T. Updike
The Honorable Robert T. White

ABSENT
The Honorable Dallas O. Jones

IN RE: RESOLUTION IN SUPPORT OF SPLIT PRECINCT WAIVER

Motion by Supervisor Gillette:

WHEREAS, it is necessary for the Southampton County Director of Elections to move forward with the Southampton County Congressional and State Election Districts; and

WHEREAS, the Supreme Court of Virginia has ordered new lines as to Congressional and State Election Districts; and

WHEREAS, the Southampton County Director of Elections must move forward in a timely manner because of the possibility of a June 21, 2022 Congressional Primary and this requires that the Southampton County Director of Elections promulgate the changes for Congressional and State Districts for Southampton County as ordered by the Supreme Court of Virginia; and

WHEREAS, the changes as ordered by the Supreme Court of Virginia, under Southampton County's now existing election lines will create a split in the Newsoms District; and

WHEREAS, §24.02-307 of the 1950 Code of Virginia, as amended, mandates that split districts must be eliminated in any Congressional District, Senate District, House of Delegates District and Election District used for the election of one or more members of the governing body or School Board for the county or city unless a waiver is granted by the State Board of Elections; and

WHEREAS, in order to apply for a waiver as to a split district, it is necessary that the Board of Supervisors of Southampton County pass a resolution in support of said waiver and that said resolution be received at least two (2) weeks prior to the next scheduled State Board of Elections meeting.

NOW, THEREFORE, be it resolved by the Southampton County Board of Supervisors that the Southampton County Board of Supervisors supports a waiver which would allow the Director of Elections of Southampton County to administer a split precinct; and

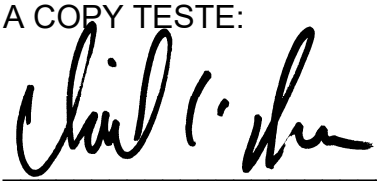
BE IT FURTHER RESOLVED that the Southampton County Board of Supervisors hereby supports the Application for Waiver to be filed by the Southampton County Director of Elections.

Seconded by Supervisor White.

VOTING ON THE ITEM: YES – Supervisor(s) Edwards, Gillette, Cornwell, Faison, Updike and White

NO – None

A COPY TESTE:



Michael W. Johnson, County Administrator/
Clerk, Southampton County Board of Supervisors

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: Southampton County ____175_____ Date: February 23, 2022_____

Contact Name/Title: Lynn H. Burgess, Director of Elections, Southampton_ Phone Number: 757-653-9280_

Email Address: lburgess@southamptoncounty.org _____

Date the Governing Body's Meeting Occurred: February 22, 2022_____

Supporting Documentation (Please Attach):

☒ Governing Body's Resolution

☐ Governing Body's Meeting Minutes

Any Previous Waiver Requests Submitted? ☐Yes ☒ No

If Yes, When? _____

Was it Granted? ☐ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.
702	Newsoms	Southampton County is now going to be split Congressionally using the new Supreme Court of Virginia ordered lines. In order to move forward in a timely manner for a possible June Primary need to proceed with Congressional and State updates. The local ordinance will not be completed in time for the March 21, 2022 deadline set in place for my office. This issue will be resolved once local redistricting is completed. There are 1028 voters in the Newsoms Precinct.

**You may add additional pages/rows if more space is required.*

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Waiver to Administer a Split Precinct

Pursuant to Virginia Code § 24.2-307, split precincts must be eliminated in any congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city, unless a waiver is granted by the State Board.

A locality may only administer a split precinct for elections held in the year the waiver is granted (i.e. you must request a new waiver each year), and the governing body of the locality must approve to apply for a waiver to administer a split precinct.

Please type the information below. **Requests must be received at least two (2) weeks before the next scheduled State Board meeting to be heard at that meeting.**

Locality: Chesapeake Date: 02/24/2022

Contact Name/Title: Mary Lynn Pinkerman/General Registrar Phone Number: 757-277-9797

Email Address:
mlpinkerman@cityofchesapeake.net

Date the Governing Body's Meeting Occurred: 02/22/2022

Supporting Documentation (Please Attach):

☒ Governing Body's Resolution

☐ Governing Body's Meeting Minutes

Any Previous Waiver Requests Submitted? ☐Yes ☒ No

If Yes, When? _____

Was it Granted? ☐ Yes ☐ No

Precinct #	Precinct Name/District	Please explain the reason for the waiver request and include the number of voters impacted.
0054	Pughsville	Split Congressional, Senate, and House cannot be healed as it sits on the Suffolk city line – approximately 175 voters

**You may add additional pages/rows if more space is required.*

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Washington Building - First Floor
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info@elections.virginia.gov

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Fax: (804) 371-0194

22-O-019

AN ORDINANCE APPROVING CHANGES TO CERTAIN VOTING PRECINCT BOUNDARY LINES TO RESOLVE CONGRESSIONAL PRECINCT SPLITS DUE TO REDISTRICTING, NAMELY, THE BOUNDARY LINE BETWEEN PRECINCT 0005 – CRESTWOOD AND PRECINCT 0039 – LAKE DRUMMOND, THE BOUNDARY LINE BETWEEN PRECINCT 0019 – JOLLIFF AND PRECINCT 0028 – SUNRAY I, THE BOUNDARY LINE BETWEEN PRECINCT 0045 – SUNRAY II AND PRECINCT 0011 – GENEVA PARK, AND THE BOUNDARY LINE BETWEEN PRECINCT 0045 – SUNRAY II AND PRECINCT 0048 – JOLLIFF MIDDLE SCHOOL; APPROVING THE DIVISION OF PRECINCT 0053 – FAIRWAYS, TO CREATE A NEW PRECINCT 0066 – FAIRWAYS II; APPROVING SUBMISSION OF AN APPLICATION FOR A CERTIFICATION OF NO OBJECTION FROM THE OFFICE OF CIVIL RIGHTS OF THE ATTORNEY GENERAL OF VIRGINIA, AND AUTHORIZING THE CHESAPEAKE ELECTORAL BOARD AND GENERAL REGISTRAR TO APPLY FOR A WAIVER TO ADMINISTER A SPLIT PRECINCT IN PRECINCT 0054 – PUGHSVILLE FROM THE DEPARTMENT OF ELECTIONS DUE TO REDISTRICTING.

WHEREAS, the Final Order establishing voting districts for the Senate of Virginia, the House of Delegates of Virginia, and Virginia's Representatives to the United States House of Representatives and approving and adopting the Final Redistricting Maps was entered by the Supreme Court of Virginia on December 28, 2021. The Virginia Department of Elections provided general registrars with the required information to effect changes necessitated by the redistricting on February 1, 2022. Upon approval by the City Council, an application will be submitted to the Office of the Attorney General of Virginia for preclearance. All changes must be made in the Virginia Election and Registration System by March 21, 2022, in preparation for the beginning of early voting on April 22, 2022, for the June primaries; and

WHEREAS, with the passage of House Bill 1890 and Senate Bill 1395, the Virginia Voting Rights Act, by the General Assembly, there are additional steps to change polling places or precinct boundary lines in certain circumstances, including, but not limited to, changes to boundaries related to redistricting. Pursuant to Virginia Code Section 24.2-129, any such change is considered a covered practice and must either be precleared through the Office of the Attorney General of Virginia or meet specific public comment requirements. To

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satisfy preclearance requirements in lieu of the required public comment period and public hearing mandated in Virginia Code Section 24.2-129, the City Council may request a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia; and

WHEREAS, Virginia Code Section 24.2-307 states that there shall be no precinct not wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city (hereafter, a "split precinct" or "congressional split"), unless a waiver is granted by the State Board of Elections; and

WHEREAS, due to the foregoing time restraints, the Chesapeake Electoral Board and General Registrar are only requesting changes to voting precinct boundaries that are necessary to avoid split precincts and update the registration system with the district changes; and

WHEREAS, the Chesapeake Electoral Board met on February 4, 2022, and approved changes to the following precinct boundaries to resolve congressional splits due to redistricting:

A. The boundary line between Precinct 0005 – Crestwood and Precinct 0039 – Lake Drummond;
B. The boundary line between Precinct 0019 – Jolliff and Precinct 0028 – Sunray I;
C. The boundary line between Precinct 0045 – Sunray II and Precinct 0011 – Geneva Park;
D. The boundary line between Precinct 0045 – Sunray II and Precinct 0048 – Jolliff Middle School;
E. Using the congressional lines drawn by the Court as boundaries, separate Precinct 0053 – Fairways into two separate precincts (Precinct 0053 – Fairways, and Precinct 0066 – Fairways II); and

WHEREAS, the splits in Precinct 0054 – Pughsville cannot be resolved as the boundary line is the Suffolk and Chesapeake city line. Virginia Code Section 24.2-307 does not allow the two sections to be separated (as is being proposed herein for the Fairways

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Precinct), as there are not enough voters to meet the minimum requirement to create a new precinct. Therefore, the Chesapeake Electoral Board and General Registrar are seeking authorization to apply to the Virginia Department of Elections for a waiver to administer a split precinct.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Chesapeake, Virginia as follows:

1. That the boundary line between Precinct 0005 – Crestwood and Precinct 0039 – Lake Drummond, shall be changed as described below, to resolve congressional splits due to redistricting, subject to receipt of a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

   a. Precinct 0005 – Crestwood. The voting place for all voters who reside within the following boundaries shall vote at Crestwood Middle School, 1420 Great Bridge Boulevard, Chesapeake, Virginia 23320:

      Beginning at the intersection of the center line of South Military Highway and the center line of Interstate 464 Expressway; thence along the center line of Interstate 464 Expressway in a southerly direction to its intersection with the center line of Dominion Boulevard, North; thence along the center line of Dominion Boulevard, North in a southwesterly direction to its intersection with the center line of Mains Creek; thence along the center line of Mains Creek in a northwesterly direction, thence an easterly direction to its intersection with the center line of Bainbridge Boulevard; thence along the center line of Bainbridge Boulevard in a northerly direction to its intersection with the center line of Booker Street; thence along the center line of Booker Street in an easterly direction to its intersection with the center line of Laura Street; thence along the center line of Laura Street in a northerly direction to its intersection with the center line of Dunn Street; thence along the center line of Dunn Street in a westerly direction to its intersection with the center line of Pile Avenue; thence along the centerline of Pile Avenue in a southerly direction to its intersection with the center line of Carver Street; thence along the center line of Carver Street in a westerly direction to its intersection with the center line of Bainbridge Boulevard; thence along the center line of Bainbridge Boulevard in a northerly direction to its intersection with the center line of Precon Drive; thence along the center line of Precon Drive in a westerly direction to its intersection with the center line of Norfolk and

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Portsmouth Beltline; thence along the center line of Norfolk and Portsmouth Beltline in a southerly direction to its intersection with the center line of Interstate 64; thence along the center line of Interstate 64 in a westerly direction to its intersection with the Southern Branch of the Elizabeth River; thence along the center line of the Southern Branch of the Elizabeth River in a northerly direction to its intersection with the center line of the Norfolk Southern Railroad; thence along the center line of the Norfolk Southern Railroad in an easterly direction to its intersection with the center line of South Military Highway; thence along the center line of South Military Highway in an easterly direction to its intersection with the center line of Interstate 464 Expressway, the point of beginning.

b. Precinct 0039 – Lake Drummond. The voting place for all voters who reside within the following boundaries shall vote at Lake Drummond Masonic Lodge #178, 509 George Washington Highway, North, Chesapeake, Virginia 23323:

Beginning at the intersection of the center line of Moses Grandy Trail and the center line of George Washington Highway, North; thence along the center line of George Washington Highway, North in a northerly direction to its intersection with the center line of Interstate 64; thence along the center line of Interstate 64 in an easterly direction to its intersection with the center line of the Norfolk and Portsmouth Beltline; thence along the center line of the Norfolk and Portsmouth Beltline in a northerly direction to its intersection with the center line of Precon Drive; thence along the center line of Precon Drive in an easterly direction to its intersection with the center line of Bainbridge Boulevard; thence along the center line of Bainbridge Boulevard in a southerly direction to its intersection with the center line of Carver Street; thence along the center line of Carver Street in an easterly direction to its intersection with the center line of Pile Avenue; thence along the center line of Pile Avenue in a northerly direction to its intersection with the center line of Dunn Street; thence along the center line of Dunn Street in an easterly direction to its intersection with the center line of Laura Street; thence along the center line of Laura Street in a southerly direction to its intersection with the center line of Booker Street; thence along the center line of Booker Street in a westerly direction to its intersection with Bainbridge Boulevard; thence along the center line of Bainbridge Boulevard in a southerly direction to its intersection with the center line of Mains Creek; thence along the center line of Mains Creek in a westerly direction, then a southeasterly direction to its intersection with the center line of Dominion Boulevard, North; thence along the center line of Dominion Boulevard, North in a southwesterly direction to its intersection with the center line of the Southern Branch of the Elizabeth River; thence along the center line of the Southern Branch of the Elizabeth River in a northerly direction to its intersection with the center line of the Deep Creek Canal; thence along the center line of the Deep Creek Canal in a southwesterly direction to its intersection with the Trailsend Lane ingress/egress; thence along the center line of the Trailsend Lane ingress/egress in a southerly direction to its intersection with the center line

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of Shipyard Road; thence along the center line of Shipyard Road in a westerly direction to its intersection with the center line of Wallace Lane; thence along the center line of Wallace Lane in a southerly direction to the center line of Moses Grandy Trail; thence along the center line of Moses Grandy Trail in a westerly direction to its intersection with the center line of George Washington Highway, North, the point of beginning.

2. That the boundary line between Precinct 0019 – Jolliff and Precinct 0028 – Sunray I, shall be changed as described below, to resolve congressional splits due to redistricting, subject to receipt of a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

   a. Precinct 0019 – Jolliff. The voting place for all voters who reside within the following boundaries shall vote at Alexander Baptist Church, 4316 Pamela Court, Chesapeake, Virginia 23321:

      Beginning at the intersection of the center line of Portsmouth Boulevard and the center line of the Chesapeake – Suffolk city line; thence along the center line of the Chesapeake – Suffolk city line in a southerly direction to its intersection with the northern boundary of the Hampton Roads Executive Airport (KPVG); thence along the northern boundary of the Hampton Roads Executive Airport (KPVG) in a northeasterly direction, then a southeasterly direction to its intersection with the center line of West Military Highway; thence along the center line of West Military Highway in a northeasterly direction to its intersection with Jolliff Road; thence along the center line of Jolliff Road in a northwesterly direction to its intersection with the center line of Portsmouth Boulevard; thence along the center line of Portsmouth Boulevard in a westerly direction to its intersection with the center line of the Chesapeake – Suffolk city line, the point of beginning.

   b. Precinct 0028 – Sunray I. The voting place for all voters who reside within the following boundaries shall vote at Sunray Community Center, 353 Hertz Road, Chesapeake, Virginia 23321:

      Beginning at the intersection of the center line of the Chesapeake – Suffolk city line and the center line of West Military Highway; thence along the center line of the Chesapeake – Suffolk city line in a northerly direction to its intersection with the northern boundary of the Hampton Roads Executive Airport (KPVG); thence along the northern boundary of the Hampton Roads Executive Airport

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(KPVG) in a northeasterly direction, then a southeasterly direction to its intersection with the center line of West Military Highway; thence along the center line of West Military Highway in a northeasterly direction to its intersection with the center line of Jolliff Road; thence along the center line of Jolliff Road in a southerly direction to its intersection with the center line of West Military Highway; thence along the center line of West Military Highway in a southerly direction to its intersection with the center line of Interstate 664 Expressway Ramp, North; thence along the center line of Interstate 664 Expressway Ramp, North in an easterly direction to its intersection with the center line of Ridgeway Avenue; thence along the center line of Ridgeway Avenue in a southwesterly direction to its intersection with the center line of Interstate 664 Expressway, South; thence along the center line of Interstate 664 Expressway, South in a westerly direction to its intersection with the center line of CSX Railroad; thence along the center line of CSX Railroad in a southwesterly direction to its intersection with the center line of South Military Highway; thence along the center line of South Military Highway in a southeasterly direction to its intersection with the center line of the Old Norfolk & Western Railroad right-of-way; thence along the center line of the Old Norfolk & Western Railroad right-of-way in a westerly direction to its intersection with the center line of Homestead Road; thence along the center line of Homestead Road in a southwesterly direction to its intersection with the center line of East Road; thence along the center line of East Road in a southeasterly direction to its intersection with the center line of Biernot Avenue; thence along the center line of Biernot Avenue in a southerly direction to its intersection with the center line of Peach Road; thence along the center line of Peach Road in a southwesterly direction to its intersection with the center line of Homestead Road; thence along the center line of Homestead Road in a northerly direction, then a northeasterly direction to its intersection with the center line of Sunray Avenue; thence along the center line of Sunray Avenue in a westerly direction to its intersection with the center line of Compaz Road; thence along the center line of Compaz Road in a southerly direction to its intersection with the center line of Danberry Street; thence along the center line of Danberry Street in a westerly direction to its intersection with the center line of Truitt Road; thence along the center line of Truitt Road in a southerly direction to its intersection with the center line of Apple Road; thence along the center line of Apple Road in an easterly direction to its intersection with the center line of a right-of-way; thence along the center line of the right-of-way in a southerly direction to its intersection with the center line of the Norfolk Southern Railroad; thence along the center line of the Norfolk Southern Railroad in a westerly direction to its intersection with the center line of the Chesapeake – Suffolk city line in a northerly direction to its intersection with West Military Highway, the point of beginning.

3. That the boundary line between Precinct 0045 – Sunray II and Precinct 0011 – Geneva Park, shall be changed as described below, to resolve congressional splits due to

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redistricting, subject to receipt of a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

a. Precinct 0045 – Sunray II. The voting place for all voters who reside within the following boundaries shall vote at St. Mary's Catholic Church, 540 Homestead Road, Chesapeake, Virginia 23321:

Beginning at the intersection of the center line of Interstate 64 Expressway, East and the center line of South Military Highway; thence along the center line of South Military Highway in an easterly direction to its intersection with the center line of Butler Street; thence along the center line of Butler Street in a southerly direction to its intersection with the center line of Conrad Avenue; thence along the center line of Conrad Avenue in a westerly direction, then a southwesterly direction to its intersection with the center line of Old George Washington Highway, North; thence along the center line of Old George Washington Highway, North in a southerly direction to its intersection with the center line of George Drive; thence along the center line of George Drive in an easterly direction to its intersection with the center line of Custis Avenue; thence along the center line of Custis Avenue in a southerly direction to its intersection with the center line of Martha Drive; thence along the center line of Martha Drive in a westerly direction to its intersection with the center line of Old George Washington Highway, North; thence along the center line of Old George Washington Highway, North to its intersection with the center line of Dandridge Way; thence from the intersection of the center line of Old George Washington Highway, North and the center line of Dandridge Way in a southerly direction across the Norfolk Southern Railroad to the center line of the northern terminus of Fenway Avenue; thence along the center line of Fenway Avenue in a southern direction to its intersection with the center line of Trade Street; thence along the center line of Trade Street in a westerly direction to its intersection with George Washington Highway, North; thence along the center line of George Washington Highway, North in a southerly direction to its intersection with the center line of Interstate 64 Expressway; thence along the center line of Interstate 64 Expressway in a northwesterly direction to its intersection with the center line of the Norfolk Southern Railroad; thence along the center line of the Norfolk Southern Railroad in a southwesterly direction to its intersection with the center line of a 50-foot right-of-way; thence along the center line of the 50-foot right-of-way in a northerly direction to its intersection with the center line of Apple Road; thence along the center line of Apple Road in a westerly direction to its intersection with the center line of Truitt Road; thence along the center line of Truitt Road in a northerly direction to its intersection with the center line of Danberry Street; thence along the center line of Danberry Street in an easterly direction to its intersection with the center line of Compaz Road; thence along the center line of Compaz Road in a northerly direction to its intersection with the center line of Sunray Avenue; thence along the center line of

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Sunray Avenue in an easterly direction to its intersection with the center line of Homestead Road; thence along the center line of Homestead Road in a southwesterly direction, then a southerly direction to its intersection with the center line of Peach Road; thence along the center line of Peach Road in an easterly direction to its intersection with the center line of Biernot Avenue; thence along the center line of Biernot Avenue in a northerly direction to its intersection with the center line of East Road; thence along the center line of East Road in a northwesterly direction to its intersection with the center line of Homestead Road; thence along the center line of Homestead Road in a northeastern direction to its intersection with the Old Norfolk & Western Railroad right-of-way; thence along the center line of the Old Norfolk & Western Railroad right-of-way in a northeasterly direction to its intersection with the center line of South Military Highway; thence along the center line of South Military Highway in a northwesterly direction to its intersection with the center line of the CSX Railroad; thence along the center line of the CSX Railroad in a northeasterly direction to its intersection with the center line of Interstate 664 Expressway Ramp, North; thence along the center line of Interstate 664 Expressway Ramp, North in an easterly direction to its intersection with the center line of Ridgeway Avenue; thence along the center line of Ridgeway Avenue in a southwesterly direction to its intersection with the center line of Interstate 664 Expressway Ramp, South; thence along the center line of Interstate 664 Expressway Ramp, South in a northeasterly direction to its intersection with the center line of Interstate 664 Expressway Ramp, North; thence along the center line of Interstate 664 Expressway Ramp, North in a southeasterly direction to its intersection with the center line of Interstate 264 Expressway Ramp, West; thence along the center line of Interstate 264 Expressway Ramp, West in a southerly direction to its intersection with Rotunda Avenue; thence along the center line of Rotunda Avenue in an easterly direction to its intersection with the center line of Interstate 64 Expressway, East; thence along the center line of Interstate 64 Expressway, East in a southwesterly direction to its intersection with the center line of South Military Highway, the point of beginning.

b. Precinct 0011 – Geneva Park. The voting place for all voters who reside within the following boundaries shall vote at G. A. Treakle Elementary School, 2500 Gilmerton Road, Chesapeake, Virginia 23323:

Beginning at the intersection of the center line of St. Julian Creek and the center line of the Southern Branch of the Elizabeth River; thence along the center line of St. Julian Creek in a northwesterly direction, then a southwesterly direction to its intersection with the center line of Old Deep Creek Boulevard; thence along the center line of Old Deep Creek Boulevard in a southerly direction to its intersection with the center line of Gilmerton Road; thence along the center line of Gilmerton Road in a southeasterly direction to its intersection with the center line of George Washington Highway, North; thence along the center line of George

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Washington Highway, North in a southwesterly direction to its intersection with the center line of South Military Highway; thence along the center line of South Military Highway in an easterly direction to its intersection with the center line of Butler Street; thence along the center line of Butler Street in a southerly direction to its intersection with the center line of Conrad Avenue; thence along the center line of Conrad Avenue in a westerly direction, then southwesterly direction to its intersection with the center line of Old George Washington Highway, North; thence along the center line of Old George Washington Highway, North in a southerly direction to its intersection with the center line of George Drive; thence along the center line of George Drive in an easterly direction to its intersection with the center line of Custis Avenue; thence along the center line of Custis Avenue in a southerly direction to its intersection with the center line of Martha Drive; thence along the center line of Martha Drive in a westerly direction to its intersection with Old George Washington Highway, North; thence along the center line of Old George Washington Highway, North in a southerly direction to its intersection with the Norfolk Southern Railroad; thence along the center line of the Norfolk Southern Rail road in a northeasterly direction to a point due north of the western terminus of Faulk Street; thence from the point due north of the western terminus of Faulk Street in a southeasterly direction to the center line of the western terminus of Faulk Street; thence along the center line of Faulk Street in a northeasterly direction, then a southeasterly direction to its intersection with the center line of Shell Road; thence along the center line of Shell Road in a northeasterly direction to its intersection with the center line of the Norfolk Southern Railroad; thence along the Norfolk Southern Railroad in a northeasterly direction to its intersection with the center line of the Southern Branch of the Elizabeth River; thence along the center line of the Southern Branch of the Elizabeth River in a northwesterly direction to its intersection with the center line of St. Julian Creek, the point of beginning.

4. That the boundary line between Precinct 0045 – Sunray II and Precinct 0048 – Jolliff Middle School, shall be changed as described below, to resolve congressional splits due to redistricting, subject to receipt of a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

   a. Precinct 0045 – Sunray II. The voting place and new boundaries for Precinct 0045 – Sunray II are described in section 3.a above.

   b. Precinct 0048 – Jolliff Middle School. The voting place for all voters who reside within the following boundaries shall vote at Jolliff Middle School, 1021 Jolliff Road, Chesapeake, Virginia 23321:

City Attorney's Office
City of Chesapeake
Municipal Center
306 Cedar Road
Chesapeake, Virginia
23322
(757) 382-6586
Fax: (757) 382-8749

Beginning at the intersection of the center line of the Western Branch of the Elizabeth River and the center line of the Chesapeake – Portsmouth city line; thence along the center line of the Chesapeake – Portsmouth city line in a southeasterly direction, then a northeasterly direction to its intersection with the center line of Cavalier Boulevard; thence along the center line of Cavalier Boulevard in a southerly direction, then a southeasterly direction to its intersection with the center line of South Military Highway; thence along the center line of South Military Highway in an easterly direction to its intersection with the center line of Interstate 64 Expressway, East; thence along the center line of Interstate 64 Expressway, East in a northwesterly direction to its intersection with the center line of Rotunda Avenue; thence along the center line of Rotunda Avenue in a westerly direction to its intersection with the center line of Interstate 264 Expressway Ramp, West; thence along the center line of Interstate 264 Expressway Ramp, West in a northerly direction to its intersection with the center line of Interstate 664 Expressway Ramp, North; thence along the center line of Interstate 664 Expressway Ramp, North in a northwesterly direction to its intersection with the center line of the Interstate 664 Expressway, South; thence along the center line of the Interstate 664 Expressway, South in a westerly direction to its intersection with the center line of Ridgeway Avenue; thence along the center line of Ridgeway Avenue in a northeasterly direction to its intersection with the center line of Interstate 664 Expressway, North; thence along the center line of Interstate 664 Expressway, North in a westerly direction to its intersection with the center line of West Military Highway; thence along the center line of West Military Highway in a northerly direction to its intersection with the center line of Jolliff Road; thence along the center line of Jolliff Road in a northwesterly direction to its intersection with the center line of Goose Creek; thence along the center line of Goose Creek in a northeasterly direction, then a southeasterly direction to its intersection with the center line of the Western Branch of the Elizabeth River; thence along the center line of the Western Branch of the Elizabeth River in a northeasterly direction to its intersection with the center line of the Chesapeake – Portsmouth city line, the point of beginning.

5. Using the congressional lines drawn by the Court as boundaries, Precinct 0053 – Fairways shall be divided into two separate precincts (to be known as Precinct 0053 – Fairways, and Precinct 0066 – Fairways II), as described below, subject to receipt of a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

City Attorney's Office
City of Chesapeake
Municipal Center
306 Cedar Road
Chesapeake, Virginia
23322
(757) 382-6586
Fax: (757) 382-8749

a. Precinct 0053 – Fairways. The voting place for all voters who reside within the following boundaries shall vote at Greenbrier Intermediate School, 1701 River Birch Run, North, Chesapeake, Virginia 23320:

Beginning at the intersection of the center line of Volvo Parkway and the center line of Kempsville Road; thence along the center line of Volvo Parkway in a northwesterly direction to its intersection with the center line of Fairways Reach; thence along the center line of Fairways Reach in a southerly direction to its intersection with the center line of Fairway Drive; thence along the center line of Fairway Drive in a southwesterly direction to its intersection with the center line of Cross Creek Quay; thence along the center line of Cross Creek Quay in a northwesterly direction to the center line of Greenbrier Parkway; thence along the centerline of Greenbrier Parkway in a northerly direction to its intersection with the center line of a 120-foot power easement; thence along the center line of the 120-foot power easement in an easterly direction to its intersection with the center line of Fairways Reach; thence along the center line of Fairways Reach in a northerly direction to its intersection with the center line of Volvo Parkway; thence along the center line of Volvo parkway in a northwesterly direction to its intersection with the center line of Eden Way, North; thence along the center line of Eden Way, North in a northerly direction to the center line of an 80-foot drainage easement; thence along the 80-foot drainage easement in an easterly direction, then a northeasterly direction to an impoundment easement; thence along the impoundment easement in an easterly direction to the fairway at Greenbrier Country Club; thence along the fairway at Greenbrier Country Club in a southeasterly direction to its intersection with the Chesapeake – Virginia Beach city line; thence along the Chesapeake – Virginia Beach city line in a southeasterly direction to its intersection with Kempsville Road; thence along the center line of Kempsville Road in a southerly direction to its intersection with Volvo Parkway, the point of beginning.

b. Precinct 0066 – Fairways II. The voting place for all voters who reside within the following boundaries shall vote at Greenbrier Primary School, 1551 Eden Way, South, Chesapeake, Virginia 23320:

Beginning at the intersection of the center line of Eden Way, North and the center line of Volvo Parkway; thence along the center line of Volvo Parkway in a southeasterly direction to its intersection with the center line of Fairways Reach; thence along the center line of Fairways Reach in a southerly direction to its intersection with the center line of a 120-foot power easement; thence along the center line of the 120-foot power easement in a southwesterly direction to its intersection with the center line of Greenbrier Parkway; thence along the center line of Greenbrier Parkway in a southerly direction to its intersection with the

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center line of Cross Creek Quay; thence along the center line of Cross Creek Quay in a southeasterly direction to its intersection with the center line of Fairway Drive; thence along the center line of Fairway Drive in a southwesterly direction to its intersection with the center line of Greenbrier Parkway; thence along the center line of Greenbrier Parkway in a northerly direction to the center line of an 80-foot drainage easement; thence along the 80-foot drainage easement in an easterly direction to its intersection with the center line of Eden Way, North; thence along the center line of Eden Way, North in a southerly direction to its intersection with the center line of Volvo Parkway, the point of beginning.

6. That the splits created in Precinct 0054 – Pughsville cannot be resolved as the boundary line is the Suffolk – Chesapeake city line. Virginia Code Section 24.2-307 does not allow the two sections to be separated, as there are not enough voters to meet the minimum requirement to create a new precinct. Therefore, the Chesapeake Electoral Board and General Registrar are **AUTHORIZED** to apply for a waiver to administer a split precinct from the State Department of Elections due to redistricting.
7. That due to time constraints to create the changes necessitated by redistricting, the Chesapeake Electoral Board and General Registrar are **AUTHORIZED** to submit an application for a Certification of No Objection from the Office of Civil Rights of the Attorney General of Virginia.

Pursuant to Section 3.07 of the City Charter, an emergency is deemed to exist to protect the City from imminent liability, and this ordinance shall become effective upon its adoption.

ADOPTED by the Council of the City of Chesapeake, Virginia, this 22nd day of February, 2022.

City Attorney's Office
City of Chesapeake
Municipal Center
306 Cedar Road
Chesapeake, Virginia
23322
(757) 382-6586
Fax: (757) 382-8749

APPROVED:

Mayor

ATTEST:

Clerk of the Council

APPROVED AS TO FORM:

Deputy City Attorney

City Attorney's Office
City of Chesapeake
Municipal Center
306 Cedar Road
Chesapeake, Virginia
23322
(757) 382-6586
Fax: (757) 382-8749

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Presentation of Risk Limiting Audit

BOARD WORKING PAPERS
Karen Hoyt-Stewart
Locality Security Program Manager

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Memorandum

To:	Chairman Brink, Vice Chair O'Bannon, Secretary LeCruise, Delegate Merricks and Chiang
From:	Karen Hoyt-Stewart, Locality Security Program Manager and Rachel A. Lawless, Confidential Policy Advisor
Date:	March 1, 2022
Re:	2022 Risk Limiting Audits

On Thursday, January 27th Virginia Department of Elections (ELECT) announced the successful completion of two Risk-Limiting Audits (RLA). The audits of the House of Delegates District 13th and District 75th confirmed the results of both races with over 99% confidence.

RESULTS AND FINDINGS

The audits confirmed that the original count of the votes accurately reflected the winners in Virginia for both the 13 and 75 Districts of the House of Delegates. The risk limit for the audit was met for both races with results falling significantly below the 10% risk limit.

In the 75 District of the House of Delegates contest, 1,696 votes were sampled. Of those votes, Otto Wachsmann received 926; Roselyn Tyler received 767. This resulted in a .00256293556% chance that the outcome of the 75 District race was inaccurate, meaning that election officials are over 99.743% confident in the reported outcome.

Similarly, the 13th District of the House of Delegates contest, sampled 4,520 votes. Of those votes, Stone received 689; Roem received 822. This resulted in a .002854934% chance that the outcome of the 13th District race was inaccurate, meaning that election officials are over 99.715% confident in the reported outcome of the election.

2022

2022 Risk-Limiting Audit Report

MARCH 1, 2022

VITA PROGRAM

EXECUTIVE SUMMARY

Pursuant to §24.2-671.1 of the Code of Virginia, the Virginia Department of Elections is required to coordinate a post-election risk-limiting audit annually of ballot scanner machines in the Commonwealth.[1] The 2022 Risk-Limiting Audit (RLA) took place during the month of January and audited contests in House of Delegate District 13 and House of Delegate District 75. The Virginia Department of Elections (ELECT) announced the successful completion of the audits on January 27, 2022. The results confirmed with over 99% confidence that the machines accurately reported the winners of the two contest.

In addition to facilitating the audit each year, §24.2-671.1 also requires ELECT to submit a report to the State Board of Elections (SBE) that details the results of the audit and provides analysis of any detected discrepancies.[2] The following report gives a comprehensive overview of the history, practice, and process of risk-limiting audits in the Commonwealth to both provide these essential details as well as promote transparency, knowledge and confidence in Virginia elections and the RLA process.

BRIEF INTRODUCTION TO RISK-LIMITING AUDITS

A risk-limiting audit (RLA) is a type of post-election audit that utilizes statistical methods and a manual review of paper ballots to check that the voting equipment accurately reported the correct outcome of a race. While RLAs do not guarantee that every vote was counted correctly, they provide strong statistical evidence that the declared winner of a contest actually received more votes.

RLAs provide a more cost effective and efficient alternative to other forms of post-election audits by reducing the total number of paper ballots needed to confirm election results. In order to conduct an RLA, a voting system must be in place that produces paper ballots. RLAs analyze a random sample of hand-counted ballots to confirm election results. If the margin of an election is wide, less votes are audited; if the margin is narrow, more votes will be audited until enough evidence can confirm the results of the contest. [3] The margin of an election also determines the *risk-limit* of the audit. A *risk-limit* is the maximum chance that the audit will fail to correct an incorrectly reported outcome. For example, a 10% risk-limit means that there is as a 90% chance that the audit will correct an incorrect outcome.

There are two main types of risk-limiting audits: *ballot-comparison* and *ballot-polling audits*. *Ballot-comparison* audits manually examine randomly selected paper ballots and compares the results to the voting system's interpretation of the same ballot. *Ballot-polling audits* manually review a random sample of ballots to determine if the overall outcome of an election was correctly reported. Ballot polling requires more ballots to be audited, although it is simpler to complete; while ballot comparisons, audit fewer ballots and require more data. Calculations for

[1] Code of Va., §24.2-671.1¸ https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/
[2] Code of Va., §24.2-671.1, https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/
[3] Risk-Limiting Audits, Postelection Audits, A Summary, https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx

both ballot-polling and ballot-comparison audits are meant to be simple and can be independently verified by the public, allowing for more transparency in the auditing process.[4]

While RLAs may be conducted without software, technology helps manage the data and performs the statistical calculations necessary to confirm the results of the audit. Software programs provide an objective tool for collecting local ballot manifests, estimating the sample size, selecting ballots for audit, recording discrepancies in audited ballots, as well as determining the scope of the audit.[5]

RISK-LIMITING AUDITS IN VIRGINIA

Throughout the United States, risk-limiting audits are attracting attention and gaining in popularity with election administrators nationwide. The Brennan Center for Social Justice called RLA's the "gold standard" of post-election audits.[6] Several states have administrative pilot programs, while others have instituted statutory pilot programs. Along with Colorado and Rhode Island, Virginia is one of three states that has adopted a statutory requirement to coordinate risk-limiting audits annually, making Virginia a national leader in this type of post-election audit. [7]

History of RLA in Virginia

In 2017, the Virginia General Assembly passed legislation that amended the Code of Virginia to include risk-limiting audits of ballot scanner machines in use in the Commonwealth (*to reference the full text please see appendix*.) [8] Pursuant to code § 24.2-671.1, the changes went into effect on July 1st, 2018 and stipulated that:

- The localities shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period.
- The audit will have no impact on the election results.
- No audit will be conducted until after an election has been certified and the period to initiate a recount has expired.
- Audits will be conducted by the local electoral boards and general registrars in accordance with guidelines established by ELECT.
- Candidates and political parties may have representation observe the audits.[9]

[4] A Gentle Introduction to Risk-Limiting Audits, Mark Lindeman and Phillip B. Stark, IEEE Security and Privacy, Special Issue on Electronic Voting, 012, https://www.stat.berkeley.edu/~stark/Preprints/gentle12.pdf
[5] National Conference of State Legislatures, Risk-Limiting Audits, https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx
[6] Brennan Center for Justice, Post-Election Audits, Post-Election Audits | Brennan Center for Justice
[7] National Conference of State Legislatures, Risk-Limiting Audits, https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx
[8] Code of Virginia, 24.2-671.1 Audits of ballot scanner machines, https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/
[9] Code of Virginia

Over the past three years, Virginia held twelve Risk-Limiting Audit pilots with forty-two localities participating and one successful statewide audit that confirmed the results of the 2020 Presidential and Senate elections.

2022 Risk-Limiting Audit of the 2021 General Election

The 2021 Risk-Limiting Audit of the 2020 General Election demonstrated that Virginia's voting systems provided accurate results statewide in races that garnered national attention including contest for both the Presidential and United States Senate. With House of Delegate races occurring in nearly every locality, the 2021 General Election provided ELECT with an opportunity to take a deep-dive into smaller contests; therefore, bolstering confidence in Virginia's elections at all levels.

DESIGN

Considerations

When evaluating which races to audit, ELECT staff selected contests that had both Democratic and Republican winners and that also represented various geographical regions in the Commonwealth. Additionally, the following considerations were taken into account:

- **The margin of the race**: Contest with margins greater than 2% are the best candidates for Risk-Limiting Audits, since they require the least amount of ballots to be reviewed.
- **Number of ballots in the race**: Contest with few votes, may be better candidates for hand recounts. If the number of ballots to be sampled exceeds 15% of the total number of ballots cast then a full hand-recount is also recommended.
- **Past RLAs:** While all localities participated in the 2021 Statewide Risk-limiting Audit by creating and uploading ballot manifests, eleven localities were not selected into the random sample and therefore did not have to retrieve any ballots for the statewide audit. Those localities were: Bath County, Greensville County, Lunenburg County, Richmond County, Dickenson, Highland, Prince Edward, Emporia City, Floyd County, Lexington City, and Radford City. Contests in these localities were prioritized to allow for those localities to participate in the full-auditing process.

Based on this criteria, ELECT reviewed all 100 contests for the Virginia House of Delegates and selected multiple races that would make the best candidates for this year's RLA. Using a tool developed by the University of California Berkeley, ELECT was able to estimate the sample size of any potential audit by plugging in the total votes cast along with the votes received by candidates from both major political parties. While the sample size was not exact, it was a useful tool that informed the selection process.[10]

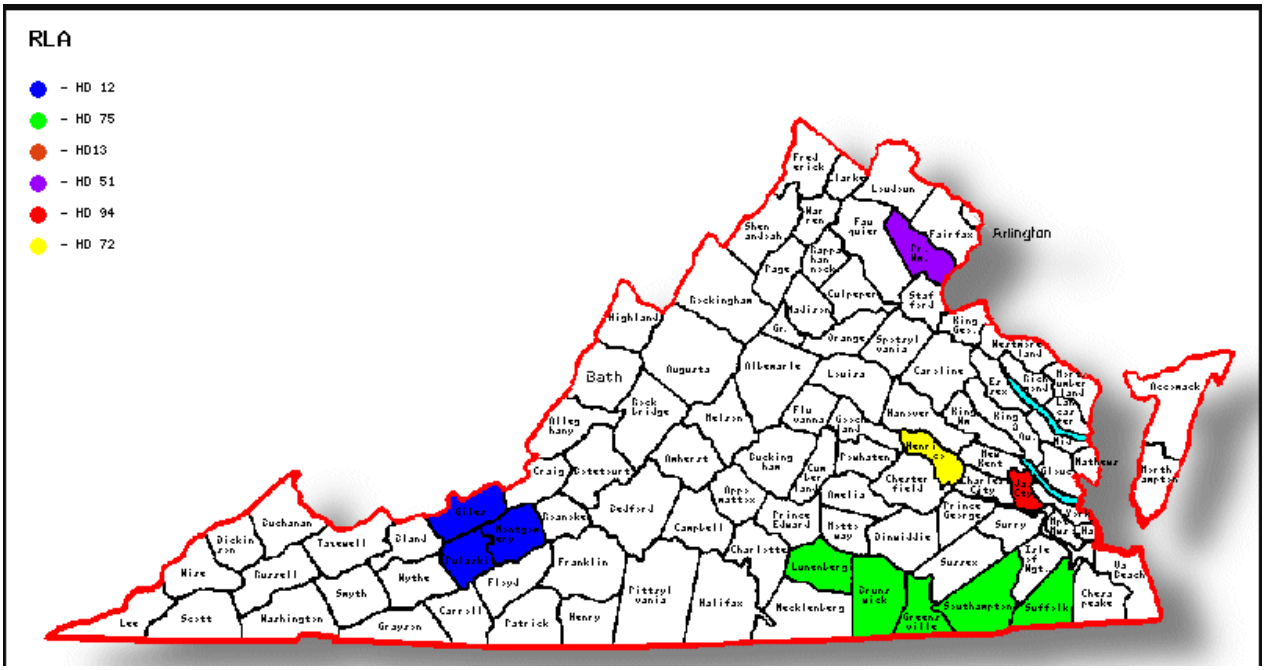
Potential Races

After analyzing all contest for the Virginia House of Delegates, ELECT provided the State Board of Elections with five House of Delegates races to be considered for a risk-limiting audit in 2022

[10] Tools for Ballot Polling Risk-Limiting Audits, University of California Berkeley, https://www.stat.berkeley.edu/~stark/Vote/ballotPollTools.htm

(for additional analysis, please see appendix.) Races were broken up into the following categories and represented in the graphic below:

- 2021 RLA Follow-Up
- Northern Virginia
- Hampton Roads
- Central Virginia



[11]

The districts/contests were:

House District 12 – Chris Hurst and Jason Ballard

House District 13 – Danica Roem and Christopher Stone

House District 51 – Tim Cox and Briana Sewell

House District 75 – Otto Wachsman and Roslyn Tyler

House District 94 – Shelly Simonds and Ross Harper

2022 Contest Selection

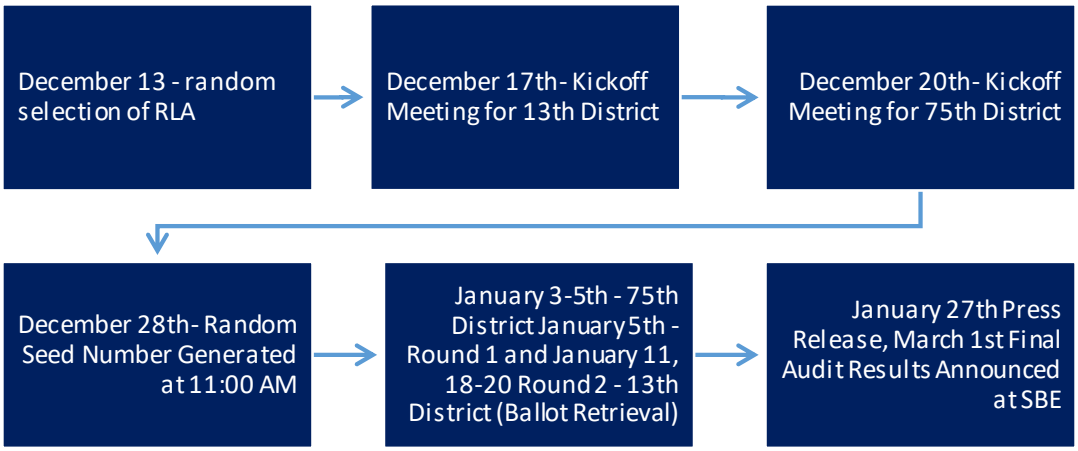
During the December 13, 2021 State Board of Elections meeting, the SBE randomly selected two districts for the 2022 Risk-Limiting audits. Potential contest were placed into a bowl and then the winners were chosen with Ms. Chang and Delegate Merricks participating. House of Delegate Districts 13 and 75 were selected.

[11] Do It Yourself Maps, Virginia, http://diymaps.net/va.htm

ADMINISTERING THE AUDIT

Overview

The following is an illustrated timeline of the 2022 audit:



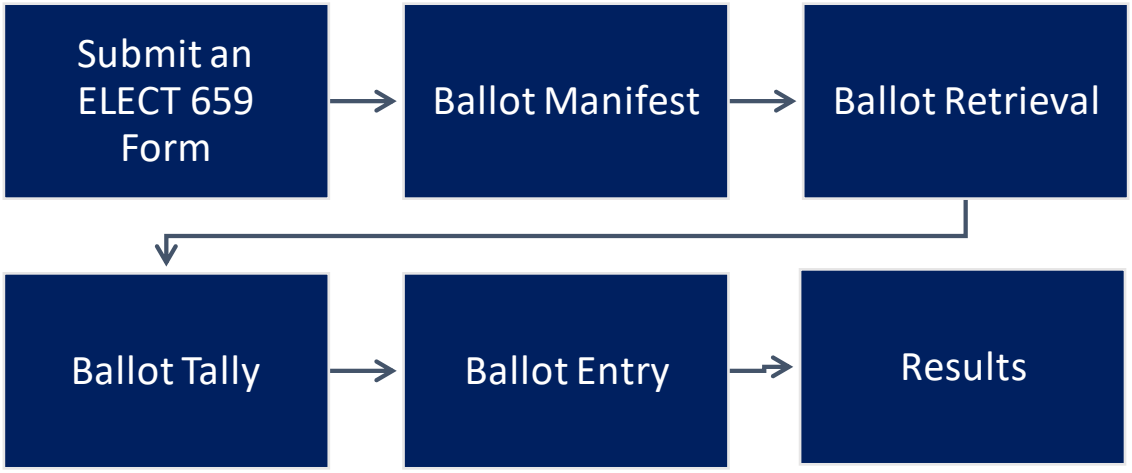
Administrative Process

ELECT and localities used Arlo, an open-source audit software created by VotingWorks, a non-profit, nonpartisan organization, to perform all the statistical calculations and manage the data for the audit.[12] Arlo estimated that a sample size of 1,696 ballots would be officially required for the 75 House of Delegates District and 636 ballots would be officially required for the 13 House of Delegates District to conduct the first round of the audit. The *risk-limit* for the audit was set at 10%, a *risk-limit* is the largest probability that the audit will fail to correct an incorrect outcome; this RLA was conducted using the *ballot polling method*.

To prepare for the audit, ELECT hosted two-planning calls in December to coordinate and advise localities. On December 28, ELECT conducted a live drawing to generate the *random seed number*, which would be used by Arlo, to arbitrarily select ballots to be reviewed for each audit.[13] Localities then created a ballot manifest, which accounts for every ballot stored in a locality, and recruited a number of non-partisan audit boards, composed of two registered voters in their localities, to retrieve and hand tally the list of ballots provided by the RLA software. Additionally, registrars planned to host a public meeting on the day of the audit.

The following steps were taken by ELECT and General Registrars to conduct the audit; for a more detailed overview of the administrative process please refer to the RLA Manual found on ELECT's website:[14]

[12] VotingWorks, VotingWorks
[13] RLA Random Seed Number Generator, Department of Elections Youtube Channel, https://www.youtube.com/watch?v=Jw1DaJGxvxQ
[14] Virginia Department of Elections, Risk-Limiting Audit Manual, RLA-Manual_Final.pdf (virginia.gov)



Submit an ELECT 659: Prior to the audit, localities were required to submit an ELECT-659 form. An ELECT-659 is a request to Inspect Sealed Election Materials sent to ELECT for signature authorization to present to the Clerk of the Circuit Courts to access ballots from the 2021 November General Election.[15] A copy of this form is listed in the appendix.

Create a Ballot Manifest: Registrars created a *ballot manifest*. A *ballot manifest* is a two column spreadsheet that includes a list of the "Batch Name" (column A) and the "Number of Ballots" (column B). All types of ballots are included (in person, mail-in, provisional, etc.) in the manifest. The ballot manifest creates an inventory of every ballot in a locality.

Batch Name	Number of Ballots
Pct 101	75
Pct102	112

Upload the Ballot Manifest: Once the ballot manifest was created, localities saved the manifest as a csv file and uploaded the spreadsheet into Arlo, VotingWorks' audit software. General registrars/Director of Elections were automatically enrolled in the open-source software to complete the audit.

Generating a Random Seed Number & Ballot Selection: ELECT and VotingWorks held a virtual public meeting to generate the random seed number. The number was generated by rolling a ten-sided die five-times each to create the 20 digit number. The random seed number was entered into the audit system software to generate the list of ballots needed to be examined by each locality.

Ballot Retrieval Lists: Localities received a list of ballots to review directly from Arlo. The lists included which batches to open and which ballot to audit. See below:

Batch Name	Ballot Number
Pct 101	17
Pct 102	88

[15] Virginia Department of Elections, Memo RE: Statewide Risk Limiting Audit, February 8th, 2021

The ballot number reflects the numerical order of a specific ballot. In order to locate ballot number 17, a member of the audit board must count, starting at the top of the stack of ballots, each stored ballot until they reach the 17 ballot in the batch.

Ballot Retrieval Process: Localities hosted a public meeting, where ballots were retrieved, tallied and uploaded into Arlo. An Audit Board retrieved each specified ballot and recorded the results for the office on a tally sheet. The Audit Board inputs the results of the tally sheet into the audit software and submits their results.

Public Announcement of Results: A press release was sent out from Commissioner Christopher Piper announcing the results of both the 13 and 75 District audits on January 27, 2022. Additionally, the results were announced for the 75 District at the January 18 State Board Meeting. The results of the 13 District audit were announced at the State Board of Elections public meeting held on Tuesday, March 1st, 2022.

RESULTS AND FINDINGS

The audits confirmed that the original count of the votes accurately reflected the winners in Virginia for both the 13 and 75 Districts of the House of Delegates. The risk limit for the audit was met for both races with results falling significantly below the 10%.

In the 75 District of the House of Delegates contest, 1,696 votes were sampled. Of those votes, Otto Wachsmann received 926; Roselyn Tyler received 767. This resulted in a **.00256293556%** chance that the outcome of the 75 District race was inaccurate, meaning that election officials are over **99.743%** confident in the reported outcome.

Similarly, the 13 District of the House of Delegates contest, sampled 4,520 votes. Of those votes, Stone received 689; Roem received 822. This resulted in a **.002854934%** chance that the outcome of the 13 District race was inaccurate, meaning that election officials are over **99.715%** confident in the reported outcome of the election. [16]

Discrepancies

In the 13 District, while 4,520 ballots were pulled, some of the ballots retrieved did not include votes for that contest. Within Prince William County, there are eight House of Delegate Districts (02, 13, 31, 40, 50, 51, 52, and 87.) The first round of ballot retrieval did not contain enough ballots with the 13 District House Race to meet the risk limit; therefore, the 13 District had to conduct a second round of ballot retrieval. This was caused by two factors:

> **Undervotes:** With the Governor's race at the top, it is not uncommon for many people to only vote in the Governor's race and not the House of Delegates. This is commonly referred to as an *undervote*.

[16] Results of Risk-Limiting Audit of Nov. 3, 2020 General Election in Virginia, https://www.elections.virginia.gov/rla-results_nov-3-2020/

Ballot Storage: In larger localities that contain multiple House of Delegates Districts, ballots from several districts may be grouped and stored together. Therefore, when localities upload their ballot manifest, they are including ballots for races that are not being audited and increasing the *population* size of the audit without factoring that into the *sample*.

In order to proceed with a second round, Manassas Park City and Prince William County had to host another public meeting to complete the audit. During the second round, Manassas Park City had to retrieve an additional 177 ballots. This round was held on January 11 and was completed within a few hours. Prince William County had to retrieve an additional 3,707 ballots. Prince William County completed the second round in three days January 18, 19, and 20. In order to accomplish the second round, Prince William County recruited 18 audit boards with the goal of retrieving 1,200 ballots per day. They also purchased two commercial quality scales and borrowed four scales from neighboring Fairfax and Loudoun Counties (two from each) to assist in expediting the process.

KEY TAKEAWAYS

Unlike during a statewide audit, RLAs of smaller races require more time and investment from localities. On average, one audit board can review approximately twenty-five ballots per hour. Sampling more ballots will either increase the amount of time necessary to complete the audit or increase the amount of volunteers required to successfully complete the audit. While the number of localities in each House District reduces the potential work load of each locality in an audit, it increases the logistical challenges and involves a great deal more coordination between localities. Audits involving multiple localities should take place concurrently, since *all* participating localities must upload their results in order to perform the statistical calculations required to complete the audit.

House Districts that encompass just one locality will need to increase the number of their audit boards to complete their audit in a reasonable amount of time. *Audit boards* consist of two people that will work as a team to record the results of each ballot. In most of the House of Delegate Districts profiled for the 2022 RLA, it was unlikely that the *ballot retrieval* portion of the audit would conclude in one day. ELECT and localities should plan for audits that take place over multiple-days. ELECT should work with localities to ensure that they have the appropriate volunteers and staff available to complete the audits. Audits that last multiple days could impose financial and logistical burdens on localities.

When evaluating contests for risk-limiting audits, the impact of district splits within the localities needs to be factored into the analysis. When the target contest is just one of eight House of Delegate races within a locality, as we saw with House District 13, all the votes cast in the election for that locality must be part of the initial analysis at the beginning. This is important because early voting and absentee ballots are not being sorted by precinct but instead go into a Central Absentee Precinct (CAP), which often bundles all the House of Delegates races in a locality into one group for ballot storage purposes.

CONCLUSION

The House of Delegates District 13 and 75 audits confirmed with over 99% confidence that the results of the 2021 General Election were accurately reported. The results reflect the hard work of election administrators and further exemplifies the integrity and validity of the 2021 November General Election. RLA's are an important tool in reassuring the public that every vote counts and provide an excellent check on the democratic process. ELECT remains a leader nationally in the administering of risk-limiting audits and intends to build on the success of these audits in the years to come to ensure safe, secure, fair, and free elections in the Commonwealth.

Appendix

i. § 24.2-671.1. Audits of ballot scanner machines.

A. The Department of Elections shall coordinate a post-election Risk-Limiting Audit annually of ballot scanner machines in use in the Commonwealth. The localities selected for the audit shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period. The purpose of the audits shall be to study the accuracy of ballot scanner machines.

B. No audit conducted pursuant to this section shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit shall have no effect on the election results.

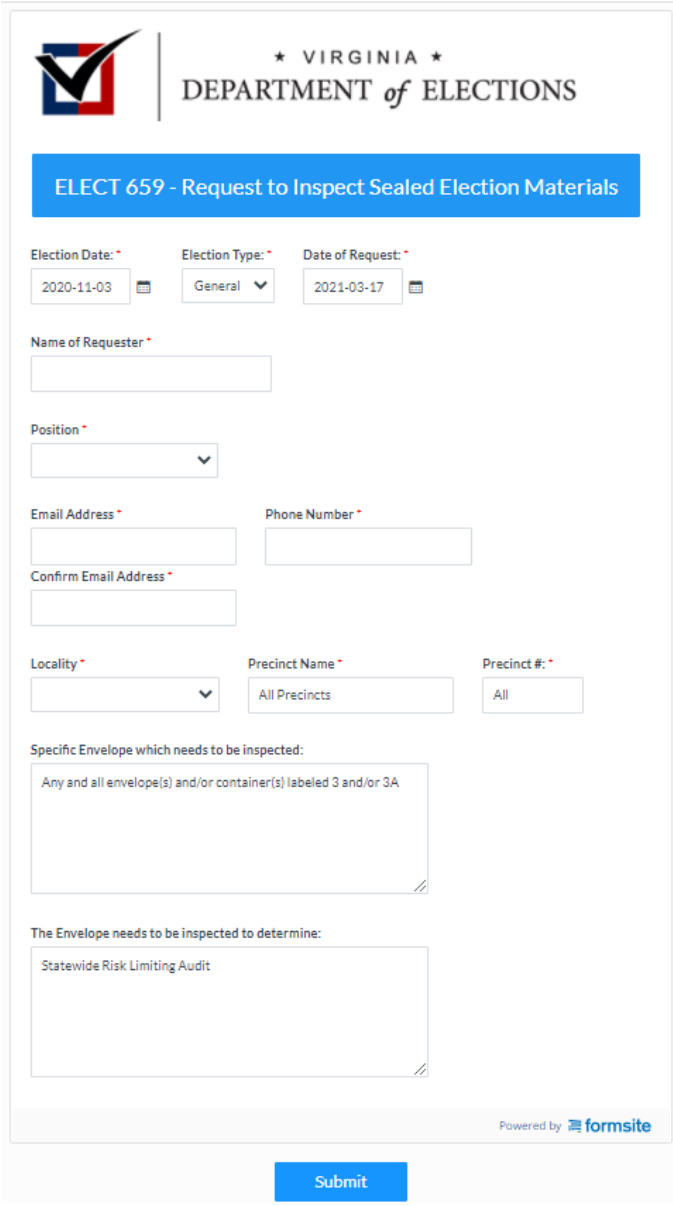
C. All audits conducted pursuant to this section shall be performed by the local electoral boards and general registrars in accordance with the procedures prescribed by the Department. The procedures established by the Department shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. The local electoral boards shall report the results of the audit of the ballot scanner machines in their jurisdiction to the Department. At the conclusion of each audit, the Department shall submit a report to the State Board. The report shall include a comparison of the audited election results and the initial tally for each machine audited and an analysis of any detected discrepancies.

2008, c. 565; 2014, cc. 540, 576; 2017, c. 367.[17]

[17] Code of Virginia, § 24.2-671.1,https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/

ii. ELECT 659-Request to Inspect Sealed Election Materials



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

ELECT 659 - Request to Inspect Sealed Election Materials

Election Date: * 2020-11-03
Election Type: * General
Date of Request: * 2021-03-17

Name of Requester *

Position *

Email Address *
Phone Number *
Confirm Email Address *

Locality *
Precinct Name * All Precincts
Precinct #: * All

Specific Envelope which needs to be inspected:
Any and all envelope(s) and/or container(s) labeled 3 and/or 3A

The Envelope needs to be inspected to determine:
Statewide Risk Limiting Audit

Powered by formsite

Submit

iii. 2022 RLA's: Potential Races

Locality	Contest	Date	Outcome	Analysis
Giles, Montgomery, Pulaski Counties and Radford City	House of Delegates – 12th District	November 2rd, 2021	**Total: 25,183** Delegate Chris Hurst; 11,224 Jason Ballard; 13,871 W/I:88 Margin 10.51%	To reach a 90% risk limit, the sample would have to include at a minimum 423 ballots.
Prince William County, Manassas Park City	House of Delegates 13th District	November 2nd, 2021	**Total: 28,782** Christopher Stone; 13,125 Danica Roem; 15,604 W/I: 53 Margin 8.61%	To reach a 90% risk limit, the sample would have to include at a minimum 636 ballots. *Total ballots for localities were: PWC; MPC:
Prince William County	House of Delegates 51st District	November 2nd , 2021	**Total; 35,647** Tim Cox; 16,566 Brianna Sewell; 19,038 W/I: 43 Margin 6.94%	To reach a 90% risk limit, the sample would have to include at a minimum 970 ballots
Brunswick, Emporia City, Franklin City, Greensville, Lunenburg, Southampton, Sussex	House of Delegates 75th District	November 2nd, 2021	**Total: 27,585** Otto Wachsmann; 14,487 Delegate Roslyn Tyler; 13,061	To reach a 90% risk limit, the sample would have to include at a minimum 1,740 ballots.

			W/I: 37 Margin 5.17%	
Newport News City	House of Delegates 94th District	November 2nd, 2021	**Total: 24,513** Delegate Shelly Simonds; 13,725 Russ Harper; 10,734 W/I: 54 Margin 12.2%	To reach a 90% risk limit, the sample would have to include at a minimum 316 ballots.
				Any locality with a split in House of Delegates Districts may have stored their ballots within the same batch. The ballot manifest may therefore include ballots from other races. The sample has the potential to pull ballots that may not have the race on them further complicated the RLA process.

iv. Glossary of Terms

Incorrect outcome means an electoral outcome that differs from the outcome that would be found by a full manual tabulation of the votes on all ballots validly cast in the election.

Post-election audit means a process conducted after an election to confirm the accurate reporting of the results of the election

Pre-certification audit means a post-election audit conducted prior to the state certification of the election results.

Risk-Limiting Audit of an election is a post-election, pre-certification audit with a pre-specified minimum probability of requiring a full hand tabulation of votes on all ballots validly cast in an election contest if the outcome reported by the voting system is incorrect. It involves hand-to-eye examination of printed ballots until there is strong statistical evidence that the reported election outcome is correct, or in the absence of such evidence, escalates to a full manual count of ballots to determine the election outcome.

The Risk limit of a Risk-Limiting Audit is the largest probability that the audit will fail to correct an election outcome that is incorrect.

Ballot Manifest is a two column spreadsheet created by localities that includes a list of the "Batch Name" (column A) and the "Number of Ballots" (column B). All types of ballots are included (in person, mail-in, provisional, etc.) in the manifest. The ballot manifest creates an inventory of every ballot cast in a locality.

Random Seed Number A random number sequence that is created and used to generate the ballots selected for auditing.

Ballot-Polling Audit a type of RLA in which individual paper ballots are randomly selected to confirm that the overall results of an election were correctly reported.

Ballot-Comparison Audit a type of RLA in which individual paper ballots are randomly selected, the voter intent is manually interpreted and compared with the voting system's interpretation of the same ballot, as reflected in the cast vote records.

v. Arlo Results

Contest Name	Sample Size	Risk Limit Met?	P-Value	Audited Votes
House of Delegates 75th District	1,696	Yes	.002854934	Wachsmann: 926 Tyler: 767
House of Delegates 13th District	4,520	After round 2 Yes	1st Round 0.303112361 2nd Round .002562936	Stone: 689 Roem: 922

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Unisyn Voting Solutions Version 2.2 Certification

BOARD WORKING PAPERS
Karen Hoyt-Stewart
Locality Security Program Manager

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To:	Chairman Brink, Vice Chair O'Bannon, Secretary LeCruise, Delegate Merricks and Ms. Chiang
From:	Karen Hoyt-Stewart, Locality Security Program Manager
Date:	March 1, 2022
Re:	Unisyn Voting Solutions 2.2 Certification

Suggested motion for Board Member to make:

I move that the Board certify the use of Unisyn Voting Solutions voting system –version 2.2 in elections in the Commonwealth of Virginia, pursuant to the State Certification of Voting Systems: *Requirements and Procedures*.

Applicable Code Section: § 24.2- Chapter 6 - 629
Attachments:

Your Board materials include the following:

- Unisyn Voting Solutions 2.2 - Certification letter provided by SLI Compliance
- Loudoun County February 11, 2022 - Mock Election correspondence
- Virginia State Certification of Voting Systems: *Requirements and Procedures*

Background:

Following the steps prescribed in the Virginia State Certification of Voting Systems: Requirements and Procedures, Unisyn initiated the certification evaluation to the Department of Elections on January 18, 2022. Unisyn provided their Technical Data Package and Corporate Information (required under step 2 of the Requirements and Procedures). Both of these submissions were deemed complete and in sufficient detail to warrant step 3, the Preliminary Review. During the preliminary review, the state designated evaluation agent conducted a preliminary analysis of the TDP and other materials provided and prepared test assertions. Unisyn provided the certification fee and the testing/evaluation was conducted on February 8 through February 10, 2022 at the ELECT facilities in Virginia. Additional a virtual meeting was held on February 16, 2021 to verify the Canon scanner functionality. In addition, the system was successfully tested in a Mock Election in Loudoun County on February 11, 2022. The Unisyn voting system presented for certification under 2.2 successfully completed Virginia Voting Systems State Certification requirements.

Loudoun County
VIRGINIA
WHERE TRADITION MEETS INNOVATION

DATE: February 14, 2022

TO: Virginia Department of Elections

FROM: Richard Keech, Deputy Director of Elections

SUBJECT: Mock Election for Unisyn Certification

On Friday, February 11, 2022, representatives from Election Services Online (ESO) and Unisyn conducted a mock election using the FreedomVote Scan (FVS) – 2.2, Freedom Vote Tablet – B (FVT-B) – 2.2, and OVCS – Mini (M160) – 2.2. Loudoun County staff participated and observed the mock election. The results were confirmed to be consistent with the ballots marked and used in the mock election using each piece of equipment.

Voting System Certification Standard

January 2020
Version 2.0

Change History

Version	Brief Description of Change	Date	Author
1.0	Adoption by the State Board of Elections Primary changes were to improve clarity, security-related requirements, and document format; moving information that would likely change over time to appendicies	09/17/2019	ELECT
2.0	Adoption by State Board of Elections Primary changes were in alignment with feedback and addition of Appendices I, & J	11/18/2019	ELECT

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Chapter 1: Introduction

1.1. Purpose of Procedures

These procedures have been developed and issued as part of a continuing effort to improve the administration of elections in the Commonwealth of Virginia. They provide a formal and organized process for vendors to follow when seeking state certification for a new voting system or for improvements/modifications to a previously certified voting system in Virginia. To this end the procedures are designed to:

1. Ensure conformity with Virginia election laws relating to the acquisition and use of voting systems
2. Evaluate and certify voting systems marketed by vendors for use in Virginia
3. Evaluate and re-certify additional capabilities and changes in the method of operation for voting systems previously certified for use in Virginia
4. Standardize decertification and recertification of voting systems
5. Ensure that all voting systems operate properly and are installed and tested in compliance with the State Board of Elections' (SBE) procedures
6. Ensure accurate report of all election results from jurisdictions that use each certified system.

1.2. Specific Requirements

1. Compliance with the requirements contained in the latest version of the Voluntary Voting System Guidelines (VVSG) which are currently accepted for testing and certification by the U.S. Election Assistance Commission (EAC), or prior version if within the EAC transition period.
2. The voting system must comply with the provisions in the Code of Virginia relating to voting equipment (Article 3, Chapter 6 of Title 24.2)
3. The voting system must comply with any applicable regulations or policies issued by the SBE or ELECT
4. The vendor must ensure that the voting system can accommodate an interactive visual and non-visual presentation of information to voters, and alternative languages when required. (See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a) and Virginia Code Section 24.2-626.1).

1.3. Decertification

ELECT reserves the right to reexamine any previously certified voting system for any reason at any time. Any voting system that does not pass certification testing will be decertified. A voting system that has been decertified by the SBE cannot be used for elections held in the Commonwealth of Virginia, and cannot be purchased by localities to conduct elections.

In addition, the SBE reserves the right to decertify the voting systems if the vendor does not comply with the following requirements:

1. Notify ELECT of any incident, anomaly or security-related breach experienced in an election jurisdiction, within 24 hours of knowledge
2. Report to ELECT within 30 calendar days of knowledge of any changes to Corporate Information including:
    a. Business entity and structure
    b. Parent and subsidiary companies
    c. Capital or equity structure
    d. Control; identity of any individual, entity, partnership, or organization owning a controlling interest
    e. Investment by any individual, entity, partnership, or organization in an amount that exceeds 5% of the vendor's net cash flow from the prior reporting year
    f. Location of manufacturing facilities; including names of the third-party vendor(s) employed to fabricate and/or assemble any component part of the voting and/or tabulating system being submitted for certification, along with the location of all of their facilities with manufacturing capability
    g. Third-party vendors
    h. Good Standing status
    i. Credit rating
3. Submit any modifications to a previously certified voting system to ELECT for review within 30 calendar days from modification; see Appendix H for appropriate reporting process
4. If the operating system or any component has reached and/or will reach the Last Date of Mainstream Support within 18 months, as defined in Appendix H, send an upgrade plan with target date(s) to ELECT:
    a. ELECT must receive the upgrade plan at least 12 months before the Last Date of Mainstream Support
    b. The Last Date of Mainstream Support cannot include any type of Extended Support, as defined in Appendix H

c. The voting system may still automatically be decertified as defined in Appendix H

5. Update all software with the latest patching and vulnerability updates in alignment with Appendix E.

NOTE: The SBE reserves the right to require recertification when new VVSG guidelines or changes to regulations and/or standards occur.

1.4. Recertification

See Appendix F for ELECT's guidelines on when voting system must go through recertification.

Chapter 2: Basis for Certification

The Code of Virginia requires a voting system to be in compliance with the Federal and State Certification Standards.

Federal Compliance Testing demonstrates that the voting system adheres to all requirements set in the most up-to-date version of the VVSG by the EAC. The primary evidence of compliance is the certification of the system by the EAC. Federal compliance may also be demonstrated through testing conducted by a federally certified Voting System Test Lab (VSTL) to the applicable VVSG. Meeting the requirements contained in the VVSG will substantiate compliance with the voting system requirements contained in Section 301 of the Help America Vote Act of 2002 (HAVA).

State certification testing will evaluate that the voting system complies with all applicable requirements of the Code of Virginia and SBE and ELECT regulations and policies.

The voting system must demonstrate accuracy, reliability, security, usability, and accessibility throughout all testing phases.

2.1. Federal Compliance Testing

Federal Compliance Testing is performed to demonstrate compliance with the latest version of the VVSG currently accepted for testing and certification by the EAC, or prior version if within the EAC transition period. EAC certification serves as prima facie evidence of compliance; federal compliance may also be demonstrated through testing conducted by a federally certified VSTL to the applicable VVSG. ELECT will make the final decision on compliance based on all available information. If there is evidence of a material non-compliance, ELECT will work with the vendor to resolve the issue.

To support a review of Federal Compliance Testing, the following documents shall be provided to ELECT:

1. A full copy of the Technical Data Package (TDP) submitted for Federal compliance testing
2. A copy of the Test Plan, and Test Report used by the VSTL in performing EAC certification testing; or results of testing conducted by a federally certified VSTL to the applicable VVSG
3. A release to the VSTL to respond to any requests for information from the Commonwealth of Virginia
4. A release to other states which have decertified the system or prior versions of the system, to respond to any requests for information from the Commonwealth of Virginia

5. Any additional information ELECT believes is necessary to determine compliance with the applicable VVSG or Commonwealth of Virginia Voting System Certification Standards.

2.1.1. Voting System Hardware, Firmware, Infrastructure or Component Elements

All equipment used in a voting system shall be examined to determine its suitability for election use according to the appropriate procedures contained in this document. Equipment to be tested shall be identical in form and function with production units. Engineering or development prototypes are not acceptable. See Appendix G for hardware guidelines.

Any modification to existing hardware, firmware, infrastructure or other components will invalidate the prior certification by the SBE unless ELECT can review and provide an assurance to the SBE that the change does not affect the accuracy, reliability, security, usability, or accessibility of the system. See Appendix J for the De Minimis Change Guideline that is applicable for hardware.

2.1.2. Voting System Software Elements

Voting system software shall be examined and tested to ensure that it adheres to the performance standards specified in the latest version of the VVSG currently accepted for testing and certification by the EAC, or prior version if within the EAC transition period.

Any modification to existing software will invalidate the prior certification by the SBE, unless ELECT can review and provide an assurance to the SBE that the change does not affect the accuracy, reliability, security, usability, or accessibility of the system. See Appendix J for the De Minimis Change Guideline that is applicable for software.

2.2. State Certification Testing

State certification testing will evaluate the design and performance of a voting system seeking certification to ensure that it complies with all applicable requirements in the Code of Virginia and SBE and ELECT regulations and policies. ELECT will examine the essential system functions, operational procedures, user guides, documents, and reviews from product users. Hash testing will be conducted to confirm that the application software is identical to the certified versions of federal compliance testing.

ELECT will evaluate the user experience with the current and prior versions of the voting system and certification reports from other states. In addition, the security and reliability analysis of the product model will be reviewed to determine the usability of the voting system for Virginia Elections.

State Certification Testing will examine all system operations and procedures, not limited to:

1. Define ballot formats for primary elections, general elections, and special elections including all voting options defined by the Code of Virginia

2. Install applications and election-specific programs and data in the ballot counting device
3. Count ballots
4. Prepare to perform and conduct the Logic and Accuracy tests
5. Obtain voting data and audit data reports
6. Support recount or election audits
7. Address compliance with physical and language accessibility requirements
8. Display an appropriate message on the review screen if a voter does not follow the ballot instruction; allow the voter to override the warning messages for overvote, undervote, blank ballot, or invalid Write-in to cast voter's ballot
9. Create a Cast Vote Record (CVR) for each vote for all elections
10. Integrate CVRs in a readable format
11. Does not have a built-in function for wireless connections or communications
12. Comply with the encryption requirement(s) as stated in Appendix D
13. Comply with the password protection requirement(s) as stated in Appendix D
14. Harden the voting system using the vendor's procedures and specifications
15. Comply with the requirements for Write-in image and format.

Chapter 3: Review and Approval Process

3.1. Summary of Process

The State certification is limited to the final products that have been used in a full production environment and available for immediate installation. The certification review process goes through six phases. At the end of each phase, ELECT will evaluate the results to determine the certification status.

Six Phases of the Certification Review Process:

1. Certification Request from Vendor
2. Preliminary Review
3. Technical Data Package
4. Certification Test Report from VSTL
5. On-Site Testing in Mock Election
6. Approval by the SBE.

3.2. Certification Review Process

Phase 1: Certification Request from Vendor

A vendor will request a certification either for a specific voting system, software, firmware, hardware, and/or modification to an existing certified voting system. This request should include the following information:

1. Voting System Certification Application Form, signed by a company officer; see Appendix I

NOTE: This should clearly identify the specific voting system to be evaluated for certification, and:

   a. Each voting system or version of a voting system requires a separate request for certification
   b. Each component of the hardware, firmware, software, and other components must be identified by version number

2. Copies of documents substantiating completion of federal compliance testing, including whether the proposed voting system has been certified under the latest version of the VVSG currently accepted for certification by the EAC or tested by a federally certified VSTL, or prior version if within the EAC transition period
3. Whether the proposed voting system has ever been denied certification or had certification withdrawn in any state, or by the EAC
4. Eight copies of a brief overview description of the voting system
   a. Typical marketing brochures are usually sufficient for the description

5. A list of all states where the proposed voting system version is currently used
6. The vendor, VSTL and ELECT will review a statement of work that will results in the VSTL providing an estimate for the cost of testing. Testing will take place at the headquarters of the VSTL to limit the cost of testing. ELECT will give an estimate for their own staff to travel as well. Once this is agreed to, a check or money order for the non-refundable fee for an voting system certification request and applicable fees for modifications to a previously certified voting system, as applicable, will be paid.
    a. All fees must be collected before the certification will be granted
        i. Make checks or money order payable to Treasurer of Virginia
7. TDP must clearly identify all items:
    a. If the TDP is incomplete or the items in the package are not clearly identified, the entire package could be returned to the vendor
    b. Upon the receipt of the corrected TDP from the vendor, the evaluation of the voting system will be rescheduled
8. Corporate Information must clearly identify all items:
    a. If the Corporate Information is incomplete or the items in the package are not clearly identified, the entire package could be returned to the vendor
    b. The evaluation process will be rescheduled after the corrected package is received.

NOTE: The request package with the items above should be sent to the location indicated in Appendix B.

Technical Data Package

The TDP must contain the following items if they were not included in the TDP submitted:

1. *Hardware Schematic Diagrams*: Schematic diagrams of all hardware
2. *Hardware Theory of Operations*: Documentation describing the theory of operation of the hardware, not limited to power cords and backup battery
3. *Software System Design*: Documentation describing the logical design of the software
    a. This documentation should clearly indicate the various modules of the software, such as:
        i. The list of functions
        ii. System flowchart
        iii. Its interrelationships with each other
        iv. The list of data formats that the voting system can import and export
    b. Clearly specify the operating system and version with:
        i. The Last Date of Mainstream Support, as defined in Appendix H

ii. The latest operating system version, security patches available, SHA256 hash value, and modification

4. *Software Deviations:* Include any exception(s) to the Security Content Automation Protocol (SCAP) checklist; document the reason why there is an exception and the mitigating controls/tools in place to secure the system
5. *Software Source Code:* A source code evaluation conducted in accordance with Software Design and Coding Standards of the most current version of the VVSG approved after March 1, 2015
6. *Definition of Marked Oval*: Define the system thresholds used to declare a readable mark in an oval to be read by the scanner
7. *Independent Third-Party Application Penetration Analysis Report*: An accredited application penetration test conducted, within the past 12 months, to analyze the system for potential vulnerabilities according to current industry standards. Potential vulnerabilities may result from poor or improper system configuration, known or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test must involve active exploitation of security vulnerabilities of the voting system, whether or not the vulnerabilities can be mitigated through compensating controls. Pursuant to Virginia Code § 24.2-625.1, the Penetration Analysis Report is confidential and excluded from inspection and copying under the Virginia Freedom of Information Act. If a penetration test has been conducted in another state within 12 months on the same version of the voting system, then that may be submitted to fulfill this requirement.
8. *Customer Maintenance, Repair & Troubleshooting Manual*: Documentation that is normally supplied to the customer for use by the person(s) who will provide maintenance, repair and troubleshooting of the system
9. *Operations Manual:* Documentation that is normally supplied to the customer for use by the person(s) who will operate the system. At a minimum, the manual should include the maximum volume and speed of the scanner, the maximum capacity of container bin, ballot box, storage units, electronic storage device, and instructions for the proper and safe operation of the system to prevent injury or damage to any individual or the hardware, including fire and electrical hazards.
10. *User Guide and Documents:* The vendor should provide the following:
    a. Quick reference guide with detailed instructions for a precinct election officer to set up, use, and shut down the voting system
    b. ADA compliant training material that:
        i. May be in written or video form

ii. Must be in a format suitable for use at a polling place as a simple "how-to" guide(s)

c. Clear model of voting system architecture with the following documentations:
   i. End-User Documentation
   ii. System-Level and Administrator-Level Documentation
   iii. Developer Documentation
d. Failsafe voting system data recovery procedures
   i. For example: Recovery procedures for retrieving duplicated (contingency recovery) information from a different location within the device (or another device if networked capability is allowed and certified) in the event that access to the primary storage area is not possible for some unforeseen reason
e. A list of customers who are using or have previously used the voting system
   i. The description of any known incidents or anomalies involving the functioning of the voting system, including how those incidents or anomalies were resolved with customer and date
f. If the operating system or any component (hardware and/or software) has reached and/or will reach the Last Date of Mainstream Support within 18 months, as defined in Appendix H, send an upgrade plan with target date(s) to ELECT; the Last Date of Mainstream Support cannot include any type of Extended Support, as defined in Appendix H.

11. *Recommended Security Practices:* CIS Security Best Practices, not limited to:
    a. System Security Architecture
    b. System Event Logging
    c. System Security Specification
    d. Security Content Automation Protocol (SCAP)
    e. Cryptography
    f. Equipment and Data Security
    g. Network and Data Transmission Security
    h. Access control
    i. Authentication procedure
    j. Software
    k. Physical Security
12. *Standard Contract, Product Support, and Service Level Agreement (SLA):* Customer and Technical Support hours and contact information. SLA should specify the

escalation timeline and procedures with contact information. Vendor's capacity to provide, not limited to:

a. On-Site Support and Technical Support within SLA on:
    i. Election Day (defined as the start of the in-person absentee voting period up to and including Election Day)
    ii. Within 60 days before Election Day
b. Resolution to outstanding issue(s), repair, maintenance, and service requests within 30 days

13. *Maintenance Services, Pricing, and Financing Options*: A list of maintenance services with price. Terms for replacing a component or voting equipment. Available financing options for purchase or lease
14. *Warranty:* The vendor should provide a list of warranty specifications to include the following:
    a. The period and extent of the warranty
    b. Repair or Replacement
        i. The circumstances under which equipment is replaced rather than repaired
        ii. The method by which a user requests such replacement
    c. Warranty coverage and costs
    d. Technical documentation of all hardware and software that is used to certify that the individual component will perform in the manner and for the specified time
15. *Software License Agreement*
16. *Test Data and Software:* Vendor's internal quality assurance procedure, internal or external test data and reports, ballot decks, and software that can be used to demonstrate the various functions of the voting system. Vendor should also verify that the versions of the applications submitted are identical to the versions that have undergone federal compliance testing; for example, hash testing tools
17. *Non-Disclosure Agreement*: If applicable.

NOTE: If the voting system is certified, ELECT will retain the TDP as long as the voting system is marketed or used in the Commonwealth of Virginia.

Corporate Information

Corporate Information must contain the following items:

1. History and description of the business including the year established, products and services offered, areas served, branch offices, subsidiary and parent companies, capital and equity structure, identity of any individual, entity, partnership, or organization owning a controlling interest, and the identity of any investor whose investments have an aggregate value that exceeds more than 5% of the vendor's net cash flow in any reporting year
2. Management and staff organization, number of full-time and part-time employees by category, and resumes of key employees who will assist Virginia localities in acquiring the system if it is authorized for use
3. Certified financial statements for current and past three (3) fiscal years
    a. If the vendor is not the manufacturer of the voting system, then submit the certified financial statements of the manufacturer for the past three (3) fiscal years
4. Bank Comfort Letter from the vendor's primary financial institution
    a. If the vendor uses more than one financial institution, multiple Comfort Letters must be submitted
5. Certificate of Good Standing issued within 2 months
6. Credit rating issued within 2 months
7. If publicly traded, indexes rating of the business debt
8. Gross sales in voting products and services for the past three (3) fiscal years and the percent of the vendor's total sales
9. The location of all facilities with manufacturing capability; including names of the third-party vendor(s) that are employed to fabricate and/or assemble any component part of the voting and/or tabulating system being submitted for certification, along with the location of all of their facilities with manufacturing capability
10. The location and servicing capability of each facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility
11. Quality assurance process used in the manufacturing and servicing of the voting system
12. Configuration management process used with the voting system.

NOTE: If the voting system is certified, ELECT will retain the Corporate Information as long as the voting system is marketed or used in Virginia. ELECT will sign a statement of confidentially for corporate information only.

Proprietary Information

Prior to or upon submission of its certification request, the vendor shall identify any information in its request and/or accompanying materials that it believes should be treated as confidential and proprietary. Furthermore, the vendor must state the reasons why such information should be treated as confidential and proprietary.

"Identify" means that the information must be clearly marked with a justification as to why the information should be treated as confidential and proprietary information. A vendor shall not designate as proprietary information (a) the entire certification request or (b) any portion of the certification request that does not contain trade secrets or proprietary information.

ELECT cannot guarantee the extent to which any material provided will be exempt from disclosure in litigation or otherwise. ELECT, however, agrees to provide the vendor with five (5) days' notice prior to disclosing such material to third parties so that the vendor has the opportunity to seek relief from a court prior to the disclosure of such materials by ELECT.

Phase 2: Preliminary Review

The Voting Technology Coordinator or designee will review the TDP, Corporate Information and other materials provided, and notify the vendor of any deficiencies. Certification of the voting system will not proceed beyond this phase until the TDP and Corporate Information are complete.

The Voting Technology Coordinator or designee will conduct a preliminary analysis of the Technical Data Package with VSTL. The Voting Technology Coordinator or designee will also review the Corporate Information and other materials to prepare an Evaluation Proposal, which includes:

1. Components of the voting system to be certified
2. Financial stability and sustainability of the vendor to maintain product support and contractual agreement for the voting system
3. Preliminary analysis of TDP

Phase 3: Technical Data Package to Voting System Test Laboratory (VSTL)

In addition, the vendor should submit the TDP to the Voting Technology Coordinator, who shall provide the TDP to the VSTL following review.

Phase 4: Certification Test Report from VSTL

VSTL will work directly with the vendor and ELECT designee to complete all test assertions and test cases and the Certification Test Report will be sent to ELECT upon completion.

Phase 5: On-Site Testing in Mock Election

ELECT will coordinate with the local jurisdiction to test the voting system at two polling places. With the vendor present, the Electoral Board members from the local jurisdiction along with ELECT will oversee the test use of the system in a mock election.

Phase 6: Approval by the SBE

Based on the report from the VSTL, the results from the On-Site Testing in Election and other information in their possession, the SBE will decide whether the voting system will be certified for use in the Commonwealth of Virginia. The decision will be sent to the vendor.

3.3. Incomplete Certification Process

If the certification process is terminated, the vendor will forfeit all fees received by ELECT. Any certification process terminated under this provision must be re-initiated from Phase 1. The vendor is responsible to pay all outstanding balance due to ELECT before ELECT accepts subsequent requests from the vendor.

ELECT reserves the right to terminate the certification process when:

1. Vendor does not respond to a request from ELECT within 90 days
2. ELECT issues any concerns regarding the certification
3. The Vendor withdraws from the process
4. The system fails the VSTL certification test
5. The test lab cannot conduct the certification testing with the equipment on-hand.

Appendices

A – Glossary

The following terms are defined in the United States Election Assistance Commission (EAC), the Code of Virginia and Virginia General Registrars and Electoral Boards (GREB) Handbook.

ADA – Americans with Disability Act (ADA) of 1990 broadly protects the rights of individuals with disabilities in employment, access to State and local government services, places of public accommodation, transportation, and other important areas of American life. The ADA also requires newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.

Anomaly – Any event related to the security or functioning of the voting system that is out of the ordinary regardless of whether it is exceptional or not; a deviation from the norm.

Cast Vote Record (CVR) – Permanent record of all votes produced by a single voter.

De Minimis Change – A minimum change to a certified voting system's hardware, software, TDP, or data. The nature of changes will not materially alter the system's reliability, functionality, capability, or operation. Under no circumstance shall a change be considered De Minimis Change, if it has reasonable and identifiable potential to impact the system's performance and compliance with the applicable Voting Standard. Reference: EAC Testing & Certification Program Manual version 2.0 and Notices of Clarification.

Department of Elections (ELECT) – ELECT conducts the SBE's administrative and programmatic operations and discharges the board's duties consistent with delegated authority.

Election Assistance Commission (EAC) – The Help America Vote Act (HAVA) directs the U.S. Election Assistance Commission (EAC) to provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories. HAVA also introduces different terminology for these functions. Under the EAC process, test labs are "accredited" and voting systems are "certified." The term "standards" has been replaced with the term "*Guidelines*." As prescribed by HAVA, the EAC process was initially based on the 2002 Voting Systems Standards and will transition to the latest standards issued.

Help America Vote Act of 2002 (HAVA) – The Help America Vote Act (HAVA) of 2002 made reforms to America's voting process by establishing minimum standards for states regarding election administration. Title III of HAVA contains standards regarding voting systems, provisional voting and voting information, computerized statewide voter registration list, and

requirements for first-time voters who register by mail. HAVA standards are critical to the operation of an election.

Incident – Any event related to the security or functioning of the voting system that may have caused or caused an interruption to the Check-in and/or Reporting process.

Logic and Accuracy Testing – Logic and accuracy testing is an integral part of preparing for an election. Each machine (not a sampling of machines) that will be used in an election must be tested prior to that election to ensure it is has been programmed correctly and is functioning properly. The logic and accuracy test will also uncover any ballot printing or coding issues that may affect accurate and complete tabulation. Each machine should be tested with a sufficient number of ballots or votes to substantiate that each machine recorded the correct number of votes for each candidate. An electoral board member, general registrar, or a designated representative, must be present during this process and must certify the results from each machine. Form ELECT-633 must be submitted electronically to the Department of Elections after logic and accuracy testing is complete.

State Board of Elections (SBE) – The State Board of Elections is authorized to supervise, coordinate, and adopt regulations governing the work of local electoral boards, registrars, and officers of election; to provide electronic application for voter registration and delivery of absentee ballots to eligible military and overseas voters; to establish and maintain a statewide automated voter registration system to include procedures for ascertaining current addresses of registrants; to prescribe standard forms for registration, transfer and identification of voters; and to require cancellation of records for registrants no longer qualified. Code of Virginia, Title 24.2, Chapters 1, 4 and 4.1.

Voting System – The total combination of mechanical, electromechanical, and electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment, that is used to define ballots, cast and count votes, report or display election results, recount votes and maintain and produce any audit trail information.

Voting System Test Laboratory (VSTL) – Test labs that are accredited to perform conformance testing of voting systems will use SBE approved voting system certification standard to guide the development of test plans, the testing of systems, and the preparation of test reports and recommendations for granting state certification.

B – Contacts

The Department of Elections

The certification request package should be sent to:

Virginia Department of Elections
ATTN: Voting System Certification
1100 Bank Street, 1st Floor
Richmond, Virginia 23219-3497

All other inquiries should be sent to:
Email: info@elections.virginia.gov

C – Acceptance Test

As required by the Code of Virginia §24.2-629 (E) and the procurement process, the local jurisdiction with the assistance of state officials or consultants will conduct the Acceptance Test.

The local jurisdiction will examine that the purchased or leased system to be installed is identical to the certified system and that the installed equipment and/or software are fully functional and compliant with the administrative and statutory requirements of the jurisdiction. The local jurisdiction could also perform a hash testing of application software, as well as, send a letter to ELECT as required by the procurement process, to confirm that the versions of all software and model(s) of equipment received are identical to the certified system.

As part of the acceptance test the vendor will demonstrate the system's ability to execute its designed functionality as presented and tested during certification, including:

1. Process simulated ballots for each precinct or polling place in the jurisdiction
2. Display an appropriate message on the review screen if a voter does not follow the ballot instruction.
    a. Able to override the warning messages for overvote, undervote or blank ballot to cast the ballot
3. Handle Write-in votes
4. Create a Cast Vote Record (CVR) per each vote
5. Produce an input to or generate a final report of the election, and interim reports as required
6. Generate system status and error messages
7. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements
8. Produce an audit log

Validation of Certification

It is the responsibility of both the vendor and the local jurisdiction to ensure that a voting system that is supplied or purchased for use in the Commonwealth of Virginia has been certified by the SBE. The vendor is required to submit any modifications to a previously certified voting system to ELECT for review.

If any question arises involving the certification of a voting system in use in Virginia, ELECT shall verify the voting system in use is identical to the voting system that was submitted for certification. Any unauthorized modifications to a certified system may result in decertification by the SBE or bar the vendor from receiving certification of voting systems in the future with the Commonwealth of Virginia.

D – Test Assertions

The following test assertions will be executed by the ELECT designated VSTL.

General Requirements	
Statutory Requirement	*Test Assertions*
§ 24.2-626.1. Acquisition and use of accessible voting devices. *1. Provide for at least one voting system equipped for individuals with disabilities at each polling place, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.* *2. Provide alternative language accessibility when required by § 203 of the Voting Rights Act of 1965 (52 U.S.C. § 10503).*	I – The voting system must support audio ballots. II – Using the voting system, an individual voting by audio ballot does not require assistance by marking the ballot. III – The voting system must support multiple languages; including, English, Spanish, Vietnamese and allow future additions and support of other languages.
§ 24.2-629 (1). State Board approval process of electronic voting systems. *It shall provide clear instructions for voters on how to mark or select their choice and cast that vote.*	I – Must be able to alter instructions on the voting system's electronically displayed ballots and audio ballots.
§ 24.2-629 (3). State Board approval process of electronic voting systems. *It shall be capable of processing ballots for all parties holding a primary election on the same day, but programmable in such a way that an individual ballot cast by a voter is limited to the party primary election in which the voter chooses to participate.*	I - The voting system must support multiple ballot styles on a single tabulator in a primary election. II – All voting systems must provide a voter-verifiable audit trail, a permanent paper record of each vote.
§ 24.2-629 (5). State Board approval process of electronic voting systems. *It shall enable the voter to cast votes for as many persons for an office as lawfully permitted, but no*	I – The voting system can present an accurate ballot based on a voter's geopolitical subdivision based on the districts, regions, cities or other boundaries defined by the Commonwealth of Virginia.

General Requirements	
more. It shall prevent the voter from casting a vote for the same person more than once for the same office. However, ballot scanner machines shall not be required to prevent a voter from voting for a greater number of candidates than he is lawfully entitled to.	II – The voting system presents the voter only with candidates and contests that they are lawfully permitted to vote for.
	III – The voting system allows for the selection of multiple candidates or contest options. The voting system restricts the voter to select only a certain number of candidates or options in each contest. The voting system allows the voter to select a different number of candidates or options in each contest on the ballot.
§ 24.2-629 (7). State Board approval process of electronic voting systems. *It shall provide the voter with an opportunity to correct any error before a ballot is cast.*	I – For electronically displayed ballots, the voting system must provide the voter with a screen to review their selected choices prior to submitting the ballot.
	II - For electronically displayed ballots, the voting system must provide the voter the ability to return to a contest or question to make corrections. The system must also allow for an audio voter to return to any contest or question.
	III – The voting system must provide a warning or alert on the review screen to the voter for an incomplete or incorrect ballot; i.e. overvotes, undervotes, blank ballot.
	IV – ADA voting system must provide a voter-verifiable audit trail, a permanent record of each vote that can be checked for accuracy by the voter before the vote is submitted.
§ 24.2-629 (8). State Board approval process of electronic voting systems. *It shall correctly register or record and accurately count all votes cast for candidates and on questions.*	I – All component and system-level reports generated by the voting system provide accurate results that can be verified against known results.

General Requirements	
§ 24.2-657. Determination of vote on voting systems. *In the presence of all persons who may be present lawfully at the time, giving full view of the voting systems or printed return sheets, the officers of election shall determine and announce the results as shown by the counters or printed return sheets, including the votes recorded for each office on the Write-in ballots, and shall also announce the vote on every question. The vote as registered shall be entered on the statement of results. When completed, the statement shall be compared with the number on the counters on the equipment or on the printed return sheets. If, on any ballot scanner, the number of persons voting in the election, or the number of votes cast for any office or on any question, totals more than the number of names on the poll books of persons voting on the machines, then the figures recorded by the machines shall be accepted as correct. A statement to that effect shall be entered by the officers of election in the space provided on the statement of results.*	II – Public and private ballot counters increment for each accepted ballot. The ballot counters do not increment for ballots rejected by the system.
	III – The voting system records how many ballots are cast as overvotes, undervotes, Write-ins, and blank ballots for each contest and question.
§ 24.2-629 (9). State Board approval process of electronic voting systems. *It shall be provided with a "protective counter," whereby any operation of the machine before or after the election will be detected.*	I – Each tabulator has a lifetime counter/ "protective counter" that cannot be reset without reloading the firmware.
	II – The "protective counter" increments correctly for each ballot accepted by the tabulator.
	III – The "protective counter" does not increment for ballots not accepted by the tabulator.
§ 24.2-629 (10). State Board approval process of electronic voting systems.	I – Each tabulator has a "public counter" which tracks the number of ballots processed and accepted for an election.

General Requirements	
It shall be provided with a counter that at all times during an election shall show how many persons have voted.	II – The "public counter" increments correctly for each ballot accepted by the tabulator.
	III – The "public counter" does not increment for ballots not accepted by the tabulator.
§ 24.2-629 (11). State Board approval process of electronic voting systems. *It shall ensure voting in absolute secrecy. Ballot scanner machines shall provide for the secrecy of the ballot and a method to conceal the voted ballot.*	I – The voter cannot be identified in any manner on a ballot.
	II – The voting system audit records contain no information on a specific voter.
	III – The voting system must provide a "privacy sleeve."
§ 24.2-629 (12). State Board approval process of electronic voting systems. *It shall be programmable to allow ballots to be separated when necessary.*	I – All Write-ins can be segregated physically with a diverter or logically separated with an electronic Write-in Report.
	II – Voting systems that centrally process ballots must physically separate Write-ins from other ballots or logically separate ballots with Write-in votes electronically.
24.2-629 (13). State Board approval process of electronic voting systems. *Ballot scanner machines shall report, if possible, the number of ballots on which a voter under voted or over voted.*	I – The voting system must alert the voter when the ballot submitted has an overvote or undervote, or the ballot is blank.
	II – The voting system must allow the voter to submit a ballot with an overvote or undervote, or a blank ballot.
	III – The voting system must count ballots cast with an undervote, overvote, or blank ballot. The system must be capable of producing a human-readable report on the number of ballots on which a voter under voted, and the number of ballots on which a voter over voted.

General Requirements	
	IV – All Write-ins are properly handled including segregation of Write-ins physically with a diverter or logically with electronic Write-in Report.
§ 24.2-637. Furniture and equipment to be at polling places. *Before the time to open the polls, each electoral board shall ensure that the general registrar has the voting and counting equipment and all necessary furniture and materials at the polling places, with counters on the voting or counting devices set at zero (000).*	I – The tabulation component of the voting system must have a public counter. Upon opening of the polls, the tabulator must print a zero-proof report and the voting system must provide a means by which the report and the counter can be reconciled.
§ 24.2-658. If machines that print returns are used, the printed inspection sheet and two copies of the printed return sheet containing the results of the election for each machine.	I – The voting system can support the ability to print multiple results tapes.
§ 24.2-802. (Effective until July 1, 2020) Procedure for recount. *The court shall permit each candidate, or petitioner and governing body or chief executive officer, to select an equal number of the officers of election to be recount officials and to count printed ballots. The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable period. The court may permit each party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team from each locality using ballot scanner machines to insert the ballots into one or more scanners. The ballot scanner machines shall be programmed to count only votes cast for parties to the recount or for or against the question in a referendum recount. Each team shall be composed of one representative of each party.*	I – The voting system can be programmed to recount a single contest.

General Requirements	
Functional	*Test Assertions*
Voting equipment must display an appropriate message if a voter does not follow the ballot instruction. Allow the voter to override the warning message to cast his/her ballot.	I – The voting system must provide written and audio instruction for electronically displayed ballots.
	II - The voting system must allow the voter to return to a contest or question to make corrections for electronically displayed ballots. The voting system must allow an audio voter to return to a contest or question to make corrections.
	III – The voting system must provide feedback to the voter for incomplete/ incorrect votes. i.e. overvotes, undervotes, blank ballot.
	IV – The voting system must allow the voter to override warning messages for incomplete/ incorrect votes. i.e. overvotes, undervotes, blank ballot.
Define ballot formats for a primary election, a general election, and special election including all voting options defined by the Code of Virginia.	For a Virginia Primary Election, the voting system must define the primary ballot as follows: • Open Primary • Two Parties • No Write-in candidates • Support split precincts • Voting for N of M contests • Support of all contests • Support for all candidates • Multi-language support (English, Spanish, Vietnamese) • Referendum/Question contests
	For a Virginia General Election, the voting system must define the general ballot as follows: 1. Partisan contests

General Requirements	
	2. Non-partisan contests 3. Write-in candidates 4. Support for split precincts 5. Voting for N of M contests 6. Support of all contests 7. Support for all candidates 8. Multi-language support (English, Spanish, Vietnamese) 9. Referendum/Question contests
The voting system must create a Cast Vote Record (CVR) defined as, a Permanent record of all votes produced by a single voter whether in electronic, paper or other form, for each ballot for all elections.	I – The voting system must produce a CVR in human-readable format.
The CVR must integrate in a readable format.	I – The voting system can export the CVR to a portable transport media. The voting system must produce a CVR in human-readable format.
The voting system must be able to perform the Logic and Accuracy Tests.	I – The voting system can be programmed for a primary, general, or special election.
	II – The voting system can process a known test deck containing valid marks, non-valid marks, undervotes, overvotes, and Write-in votes.
	III – The voting system can report accurate results from the known test deck.
	IV – The voting system provides a verifiable means that all test data are removed after the completion of the Logic and Accuracy Test from the voting system.
	V – Test ballots can be produced by a Ballot Marking Device (BMD) and can be used in the known test deck.

General Requirements	
The voting system must comply with the requirements for Write-in image and format.	I – The voting system must make a copy of the voter's Write-in vote; the copy must be as legible as the original.

Security Requirements	
Statutory	Test Assertions
§ 24.2-625.2. Wireless communications at polling places. *There shall be no wireless communications on election day, while the polls are open, between or among voting machines within the polling place or between any voting machine within the polling place and any equipment outside the polling place. For purposes of this section, the term wireless communication shall mean the ability to transfer information via electromagnetic waves without the use of electrical conductors.*	I – The voting system will not transfer information between or among voting machines wirelessly. Here, wirelessly means "via electromagnetic waves without the use of electrical conductors."
	II – The voting system will be unable to communicate wirelessly between devices inside and outside the polling place. Here, wirelessly means "via electromagnetic waves without the use of electrical conductors."
§ 24.2-634. Locking and securing after preparation. When voting equipment has been properly prepared for an election, it shall be locked against voting and sealed, or if a voting or counting machine cannot be sealed with a numbered seal, it shall be locked with a key. The equipment keys and any electronic activation devices shall be retained in the custody of the general registrar and delivered to the officers of election as provided in § 24.2-639. After the voting equipment has been delivered to the polling places, the general registrar shall provide ample protection against tampering with or damage to the equipment.	I – The tabulation component of the voting system must have the ability to be physically locked and require a key.
Functional	Test Assertions
The voting system must allow instruction to voters to be modified through administrative rights.	I – Only those with administrative rights can alter the instruction to voters.

Security Requirements	
The voting system cannot have the built-in wireless communications abilities.	I - No component of the voting system can have wireless communications hardware unless disabled in the BIOS (password protected/locked BIOS and non-default password is different for each locality). i.e. wireless network cards, Bluetooth, infrared.
The voting system must comply with the latest encryption standard.	I – All modules are cryptographic and are FIPS 140-2 v1 compliant.
	II – All stored images are digitally signed.
	III – All digital hashes use SHA256 hashing algorithm or higher.
The voting system must comply with the latest password protection standards.	I – The voting system must require for a minimum 8 character password.
The voting system must be hardened using the voting system provider's procedures and specifications.	I – The Security Content Automation Protocol (SCAP) for the voting system must be provided.
	II – The voting system can be verified to be in compliance with the SCAP checklist and all manufacturer procedures and specifications.

Audit Requirements	
Statutory	Test Assertions
§ 24.2-671.1. Audits of ballot scanner machines. *A. The Department of Elections shall coordinate a post-election risk-limiting audit annually of ballot scanner machines in use in the Commonwealth. The localities selected for the audit shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period. The purpose of the audits shall be to study the accuracy of ballot scanner machines.* *B. No audit conducted pursuant to this section shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit shall have no effect on the election results.* *C. All audits conducted pursuant to this section shall be performed by the local electoral boards and general registrars in accordance with the procedures prescribed by the Department. The procedures established by the Department shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.* *D. The local electoral boards shall report the results of the audit of the ballot scanner machines in their jurisdiction to the Department. At the conclusion of each audit, the Department shall submit a report to the State Board. The report shall include a comparison of the audited election results and the initial tally for each machine audited and an analysis of any detected discrepancies.*	I – The voting system must be capable of producing a CVR for purposes of conducting a post-election risk-limiting audit.

E – Software Patching Guidelines

All vendors must comply with the policies, guidelines, and directives regarding software patching of voting systems as adopted and modified by the EAC and the SBE from time to time.

F – Recertification Guidelines

All vendors must comply with the policies, guidelines, and directives regarding recertification of voting systems as adopted and modified by the SBE from time to time.

If there is evidence of a material non-compliance, ELECT will work with the vendor to resolve the issue, and ultimately the SBE reserves the right to decertify the voting system.

A voting system that has been decertified by the SBE cannot be used for elections held in the Commonwealth of Virginia and cannot be purchased by localities to conduct elections.

G – Hardware Guidelines

Memory devices or USB drives provided with the voting system and/or supplied to localities must follow these standards:

1. Must be fully wiped per the DoD 5220.22-M wiping standard to prevent any preloaded software from being inadvertently installed on the systems
2. Must be cryptographic and FIPS 140-2 v1 compliant
3. Must use SHA256 hashing algorithm or higher
4. Must comply with applicable Commonwealth information security standards
5. Must comply with applicable policies, guidelines, and directives as adopted and modified by the SBE from time to time.

H – Voting System Modifications & Product End of Life Planning

Voting System Modifications

The process of reporting modification will be determined by the Department of Elections based upon policies, guidelines, and directives as adopted and modified by the SBE from time to time.

Product End of Life Planning

"End of life" (EOL) is a term used with respect to product (hardware/software/component) supplied to customers, indicating that the product is in the end of its useful life (from the vendor's point of view), and a vendor stops sustaining it; i.e. vendor limits or ends support or production for the product.

Product support during EOL varies by product. Depending on the vendor, EOL may differ from end of service life, which has the added distinction that a vendor of systems or software will no longer provide maintenance, troubleshooting or other support. For example, Extended Support is the period following end of Mainstream Support.

The definitions of Last Date of Mainstream Support and Extended Support, as applicable to decertification/recertification and associated policies and procedures, will be determined by the ELECT based upon policies, guidelines, and directives as adopted and modified by the SBE from time to time. As of initial adoption of this standard by the SBE, the definitions are as follows:

Mainstream Support: The first phase of the product lifecycle; when support is complimentary
Extended Support: The phase following Mainstream Support, in which support is no longer complimentary
Last Date of Mainstream Support: The last day of Mainstream Support

Policies and procedures applicable to decertification/recertification of voting systems which contain software or hardware components that have and/or will reach the Last Date of Mainstream Support within 18 months, will be determined by the ELECT based upon policies, guidelines, and directives as adopted and modified by the SBE from time to time.

A voting system could still be decertified even if an upgrade plan is submitted. This could happen for a variety of reasons, such as a vendor is not showing progress in meeting their upgrade plan.

★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Vendor Notification of "End of Life"

We have certified equipment with the SBE and have determined that the following (hardware/ software/components) in our certified system will, within 18 months, be at "End of Life" status. Complete this form (for the areas applicable), attach the upgrade plan and send to:

Secretary of SBE, 1100 Bank Street, 1st Floor, Richmond, VA 23219

"End of life" (EOL) is a term used with respect to product (hardware/software/component) supplied to customers, indicating that the product is in the end of its useful life (from the vendor's point of view), and a vendor stops sustaining it; i.e. vendor limits or ends support or production for the product.

Mainstream Support: The first phase of the product lifecycle; when support is complimentary
Extended Support: The phase following Mainstream Support, in which support is no longer complimentary
Last Date of Mainstream Support: The last day of Mainstream Suppor

Vendor_____Date:_____

Certified Voting Systems Impacted:_____

Certified Version(s) Software:_____ Firmware:_____

Certified Product:_____

Certified EPB System Impacted:_____

Certified Version(s):_____

DATE(S) FOR "END OF LIFE":

☐ Operating System (description)_____
☐ Software (Modules or Packages) (description)_____
☐ Product(s) (components) (description)_____

Vendor must submit an upgrade plan to the SBE 12 months in advance of "End of Life". The plan should include timeline(s), list of impacted localities, estimated cost for localities (if any), and VSTL report(s) showing the upgrade(s) will ensure all systems operate properly with the new upgrade(s) and/or replacements(s).*

*A voting system could still be decertified even if an upgrade plan is submitted. This could happen for a variety of reasons, such as a vendor is not showing progress in meeting their upgrade plan.

ELECT Personnel Received and Reviewed by_____ Date:_____

EOL Upgrade Plan ☐ Approved ☐ REJECTED SBE Meeting:_____

I – Voting System Certification Application Form

Certification ☐	Recertification ☐

The company officer or designee who is responsible for the voting system should complete this form. With this signature, the company officer agrees to a release for the VSTL as well as other states that may have decertified the voting system to respond to any questions by ELECT. This application must be signed by a company officer and enclosed in the Voting System Certification Request Package.

☐ Check if you prefer to have the VSTL testing performed at another site to be specified which may require additional cost for the testing.

Name of Company: _____

Name and Title of Corporate Officer: _____

Contact Phone Number: _____

Email Address: _____

Primary Address of Company: _____

City, State, Zip Code: _____

Name of voting system to be certified: _____

Version Number/Name of Voting System to be certified: _____

I reviewed and confirmed that the voting system meets the requirements of the Virginia Voting System Certification Standard. My company will comply with additional requests in a timely manner to complete this certification.

Signature of Corporate Officer: _____

Date: _____

J – De Minimis Change Guideline

The SBE has adopted the EAC's De Minimis Change Guideline and applicable EAC Notice of Clarification of De Minimis Change Guidelines to manage a minimal hardware and/or software change to a certified voting system in a consistent and efficient manner. Software De Minimis Changes should have the following general characteristics:

1. Update a discrete component of the system and do not impact overall system functionality
2. Do not modify the counting or tally logic of a component or the system (formatting changes to reports are allowable)
3. Do not affect the accuracy of the component or system
4. Do not negatively impact the functionality, performance, accessibility, usability, safety, or security of a component or system
5. Do not alter the overall configuration of the certified system (e.g. adding ballot marking device functionality to a previously certified DRE component)
6. Can be reviewed and/or tested by VSTL personnel in a short amount of time (approximately less than 100 hours).

A vendor must submit the VSTL's endorsed package to ELECT for approval along with a copy of the EAC determination. A proposed De Minimis Change may not be implemented to the certified voting system until the change has been approved in writing by ELECT.

VSTL Endorsed Changes

The vendor will forward to ELECT any change that has been endorsed as De Minimis Change by VSTL. The VSTL's endorsed package must include:

1. The vendor's initial description of the De Minimis Change, a narrative of facts giving rise to, or necessitating, the change, and the determination that the change will not alter the system's reliability, functionality, or operation.
2. The written determination of the VSTL's endorsement of the De Minimis Change. The endorsement document must explain why the VSTL, in its engineering judgment, determined that the proposed De Minimis Change meet the definition in this section and otherwise does not require additional testing and recertification.

VSTL Review

The vendor must submit the proposed De Minimis Change to a VSTL with complete disclosures, including:

1. Detailed description of the change
2. Description of the facts giving rise to or necessitating the change

3. The basis for its determination that the change will not alter the system's reliability, functionality, or operation
4. Upon request of the VSTL, the voting system model at issue or any relevant technical information needed to make the determination
5. Document any potential impact to election officials currently using the system and any required notifications to those officials
6. Description of how this change will impact any relevant system documentation
7. Any other information the VSTL needs to make a determination.

The VSTL will review the proposed De Minimis Change and make an independent determination as to whether the change meets the definition of De Minimis Change or requires the voting system to undergo additional testing as a system modification. If the VSTL determines that a De Minimis Change is appropriate, it shall endorse the proposed change as a De Minimis Change. If the VSTL determines that modification testing and certification should be performed, it shall reclassify the proposed change as a modification. Endorsed De Minimis Change shall be forwarded to ELECT for final approval. Rejected changes shall be returned to the vendor for resubmission as system modifications.

ELECT's Action

ELECT will review the proposed De Minimis Change endorsed by a VSTL. ELECT has sole authority to determine whether any VSTL endorsed change constitutes a De Minimis Change under this section.

ELECT's Approval: ELECT shall provide a written notice to the vendor that ELECT accepted the change as a De Minimis Change. ELECT will maintain the copies of approved De Minimis Change and track such changes.

ELECT's Denial: ELECT will inform the vendor in writing that the proposed change cannot be approved as De Minimis Change. The proposed change will be considered a modification and requires testing and recertification consistent with this Certification Standard.

De Minimis Change is not applicable to the voting system currently undergoing the State Certification testing; it is merely a change to an uncertified system and may require an application update.

★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Virginia State Board of Elections | Request for De Minimis Change

In accordance with the State Certification of Voting System and Electronic Pollbook Requirements and Procedures, SBE has adopted guidelines to manage hardware/software related changes to certified Voting System and Electronic Pollbook System. To request a De Minis Change the procedure begins with a letter, from the vendor to the Secretary of the State Board of Elections and the VSTL endorsed package for the De Minimis Change. This letter shall begin the process to evaluate whether the De Minimis Change will be approved for use on Voting Systems and/or Electronic Pollbooks certified in Virginia.

De Minimis Changes should have the following characteristics:

1. Update a discrete component of the system and do not impact overall system functionality.
2. Do not affect the accuracy of the component or system.
3. Do not negatively impact the functionality, performance, accessibility, usability, safety, or security of a component or system.
4. Do not alter the overall configuration of the certified system.
5. Can be reviewed and/or tested by VSTL personnel in a short amount of time (approx. less than 100 hours).

Vendor description of the De Minimis Change:_____

_____

Description of the facts giving rise to or necessitating the change: _____

_____

Document any potential impact to election official currently using the system and any required notifications to those officials. _____

_____

☐ VSTL endorsed package included.

Signature of Company Officer: _____ Date:_____

ELECT's Action: Received by: _____ _____ _____ Date: _____

Reviewed by: _____ _____ _____ Date: _____

☐ APPROVED ☐ REJECTED

Vendor Notified of Status by: (initials) _____ Date: _____

K – Cast Vote Record Clarification

1. A permanent record of all votes produced by a single voter
2. Electronic CVRs are called ballot images
3. CVR is evidence that a ballot was available for review by the voter
4. CVR should have an identifier that can be linked to an identifier on the corresponding paper ballot provided; the scanner creating the CVR can impress an identifier on the ballot as it is scanned
5. CVR should include indications of what actions the scanner took if the scanner does contest-rule post-processing of the ballot selections
6. CVR has indications of marginal marks, mark quality/density (if scanner is capable).
7. A CVR can include signed/hashed references to an associated image of the ballot or images of write-ins made by the voter on a paper ballot

Commissioner Chris Piper
1100 Bank Street, 1st Floor
Richmond, VA 23219-3947

Re: Audit of the Unisyn OVS 2.2 voting system

Dear Mr. Piper,

SLI Compliance is submitting this report as a summary of the auditing efforts for **Unisyn Voting Solution's (UVS) OpenElect Voting System (OVS) 2.2.**

The evaluation was conducted on February 8-10, 2022 in the Virginia Department of Elections offices in Richmond, Virginia.

The scope of the audit included verifying compliance with the requirements/test assertions contained in appendices D (Test Assertions) and G (Hardware Guidelines) in the latest version of the Virginia Electronic Voting System Certification Standard, which is currently accepted for testing and certification by the Virginia Department of Elections.
SLI also confirmed that a VVSG 1.0 source code review was performed and a penetration test report for the **UVS OVS 2.2** voting system was given to Virginia for their acceptance.
The voting system does not have any wireless communication or modem capabilities available.

It has been determined that the **Unisyn OVS 2.2** voting system meets the audited acceptance criteria of the State of Virginia's Voting System Standard, January 2020, version 2.0.

OVS 2.2 voting system components audited were comprised of:

Election Management System (EMS)

- OpenElect Central Suite (OCS) version 2.2
- Ballot Layout Manager (BLM) version 2.2
- Election Manager (EM) version 2.2
- Tabulator Client (TC) version 2.2
- Tabulator (Tab) version 2.2
- Auditor version 2.2
- Tabulator Reports (TR) version 2.2

Unisyn Scanners

- OpenElect Voting Optical Scan (OVO) version 2.2
- OpenElect Voting Center Scan (OVCS) version 2.2
- OpenElect mini-Voting Central Scan (mini-OVCS) version 2.2
- OpenElect Freedom Vote Scan (FVS) version 2.2

Ballot Marking Devices

- OpenElect Voting Interface(OVI-VC) version 2.2
- FreedomVote Tablet (FVT) version 2.2

Sincerely,
Michael Santos
Senior Test Manager
SLI Compliance

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Public Comment

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