

# MINUTES

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2           The State Board of Elections (SBE) meeting was held on Wednesday, January 12,  
3 2011, in the General Assembly Building, 4 West Conference Room. In attendance  
4 representing SBE were The Honorable Jean Cunningham, Chair; Harold Pyon, Vice-  
5 Chair; Nancy Rodrigues, Secretary; Martha Brissette, Policy Division; Matthew Abell,  
6 Elections Services Division; Garry Ellis, Information Services; Justin Riemer,  
7 Confidential Policy Advisor, and Joshua Lief Senior Assistant Attorney General and SBE  
8 Counsel.

9           Chair Cunningham called the meeting to order at 10:01 AM.

10           The first order of business was certification of the January 11, 2011 Special  
11 Elections for Senate District 19 and House of Delegates District 8. Upon examination of  
12 the Abstracts of Votes the Board declared the following winners:

13           Senate District 19 – William M. Stanley, Jr.

14           House of Delegates District 8 – Gregory D. Habeeb

15           Matt Abell also confirmed that the winners had filed their campaign finance  
16 report, as required. He noted that copies of the official results were available for the  
17 audience.

18           The next order of business was the recertification of the November 2, 2010  
19 special election results for the proposed Constitutional Amendments. Matt Abell said  
20 that the Chairman of the Electoral Board from Middlesex was in attendance to address a  
21 problem that surfaced after the November 22, 2010 Board Meeting. He explained that a  
22 transposition of numbers in Middlesex County caused the Electoral Board to under-report  
23 the vote totals for Proposed Constitutional Amendment, Question 1, “Yes” response by  
24 600 votes. Matt Abell explained that the Board must recertify this election and the  
25 canvass book.

26           Chair Cunningham asked if this was a simple typographical error. Matt Abell  
27 explained that Middlesex County fixed the transposition on the day after the election;  
28 however it was not incorporated into their canvass totals. Matt Abell explained the  
29 checks and balances within the VERIS system are limited. He further explained that he  
30 caught the error when reviewing a post-certification provisional vote count. He said that

31 hopefully by March VERIS will be changed to allow provisional vote reporting in  
32 referendum elections. The fix will ensure a more robust verification effort for the agency  
33 going forward. Secretary Rodrigues stated that the State Board depends on the localities  
34 to provide the information. Matt Abell believes that the certification process is growing  
35 ever more effective with the improvement of the VERIS system, and he would classify  
36 this as a onetime occurrence. Vice-Chair Pyon said that we made a mistake and they  
37 (locality) made a mistake, but if there is a system in place to prevent this in the future, we  
38 need to look at them. Matt Abell believes that the transformation of State Board to a more  
39 proactive agency in terms of verification of election results is happening. He explained  
40 that the State Board is moving as quickly as it can within budget restraints. Secretary  
41 Rodrigues explained that the State Board's budget has been cut by 29% in this Board's  
42 tenure. She also mentioned that with the help of Robin Lind and Information Services,  
43 this issue with VERIS was being resolved. Middlesex Electoral Board Chair Robert M.  
44 Tassone was given the opportunity to address the Board and stated that they will pay  
45 closer attention to detail in the future.

46 Furthermore, Matt Abell responded that the State Board proposes to incorporate  
47 the abstract of votes, whereby a human who has entered the number into VERIS will be  
48 able to run a report so that the numbers are pre-populated. This may not completely  
49 correct the problem, but it might lessen the occurrence of human transposition problems.  
50 Matt Abell identified the canvass book page and explained to Chair Cunningham that  
51 there was no need to go through all the Abstracts because it was an isolated issue with  
52 Middlesex County. The recertification of the votes were as follows:

53 Question 1 "Yes" total is 2,794 from its original value of 2,194.

54 Question 1 "Yes" County Total increased by 600 votes to 1,142,929

55 The Statewide Grand Total increased to 1,585,492.

56 A letter was sent to the Governor explaining the results were recertified. Secretary  
57 Rodrigues thanked Middlesex Electoral Board Chair Robert M. Tassone for attending the  
58 meeting. This concluded this agenda item.

59 The next order of business was the request for the Board to conduct the ballot  
60 position drawing for the Special Election in House District 91. Vice-Chair Pyon asked  
61 Chair Cunningham to draw first. Chair Cunningham drew Democrat for the First Ballot

62 position and the Vice-Chair drew Republican for the Second Ballot Position. That  
63 concluded this agenda item.

64 The next order of business was the approval of minutes from the November 22,  
65 2010 Board Meeting. Confidential Policy Advisor Justin Riemer requested that this item  
66 be moved to the next scheduled Board meeting. Board members agreed.

67 The next order of business was the approval of the correspondence template for  
68 the regulation on voter residency. The Board approved at its last meeting the voter  
69 residency regulation. As a result, York County general registrar asked that SBE update  
70 the related correspondence to this matter. Martha Brissette indicated that the additional  
71 language for the correspondence included a notice which calls to the attention of the voter  
72 that there may be a special election. A special election can result in a shorter deadline  
73 and the voter is then put on notice. Vice-Chair Pyon moved to adopt the template for the  
74 regulation on voter residency. The motion was seconded and unanimously approved.

75 The next order of business was the Report of Death of Registered Voters (SBE-  
76 427). Garry Ellis explained that often family members will report that a family member  
77 has passed away. The proposed form asks for the necessary information from family  
78 members to enable the locality to research the matter. Chair Cunningham clarified that  
79 this is just an update to an existing form. Garry Ellis confirmed that this was a  
80 modification to the form that already exists. He explained that the update adds the  
81 warning language so that individuals will know that if they provide information under  
82 false pretenses they will be subject to a penalty of law. Chair Cunningham asked if there  
83 were any questions from the audience. There were none. Chair Cunningham moved to  
84 adopt the modification to the form. The motion was seconded and unanimously approved.

85 The next order of business was the request for electronic format approval of the  
86 Absentee Readiness Compliance. Martha Brissette presented the new electronic format of  
87 the Absentee Readiness Compliance that is in the form of a survey. She explained that  
88 staff took the previously approved certification and put it into electronic survey format.  
89 This was done to make it easier for the General Registrars to respond. It also made it  
90 easier for staff to track certifications coming in from 134 localities. Martha Brissette  
91 added that the Board has a consent decree which includes additional survey requirements  
92 thus the use of electronic surveying will add to greater efficiency. Martha Brissette  
93 explained that one general registrar has reviewed the survey and thought it would be

94 helpful to have in this electronic format. The general registrar also provided some  
95 suggestions, like adding a password for extra security.

96 Secretary Rodrigues asked if the survey would be on SharePoint. Martha Brissette  
97 responded that a link could be to SharePoint or through VERIS. Secretary Rodrigues  
98 reiterated that the main issue raised by general registrars was security. Chair Cunningham  
99 stated that in essence they can approve the forms but the technical way of protecting the  
100 information will be left to Matt Davis, Information Services. Martha Brissette requested  
101 permission to pilot this new format for a Special Election in Wise County on April 5,  
102 2011 and would send out the survey on February 11, 2011. Chair Cunningham made a  
103 motion to approve the electronic form. The motion to adopt the form was seconded and  
104 unanimously approved. Chair Cunningham makes a motion to pilot the form for any  
105 special elections being held on April 5, 2011. The motion was seconded and unanimously  
106 approved.

107 The next order of business was the approval of the proposed regulation on  
108 Material Omissions from Federal Write-In Absentee Ballots (FWAB). Martha Brissette  
109 explained that this year SBE saw an increase in FWAB usage. In 2010, the Federal  
110 Voting Assistance Plan created an electronic wizard allowing voters to create their own  
111 printed ballot. This increase use resulted in several issues. The State Board worked with  
112 the Attorney General's office and the Absentee Working Group and determined that  
113 uniform standards of determining material omissions were needed. During the public  
114 comment no suggestions were received on this particular regulation. Chair Cunningham  
115 made a motion to approve the text of the regulation. The motion was seconded and  
116 unanimously approved.

117 The next order of business was the approval of the Absentee Voting Restatement.  
118 This particular regulation did not receive any public comments. Chair Cunningham asked  
119 if there were any questions or comments from the audience. Bill Jenkins from Suffolk  
120 County asked if this was the regulation that did not require the voter to give a sworn  
121 statement of physical residency on Envelope B. Martha answered she believed what he is  
122 referring to was Material Omissions approved on November 22, 2010 by the Board.  
123 Secretary Rodrigues asked Joshua Lief if the regulations passed at the November 22,  
124 2011 had been submitted for preclearance. Joshua Lief responded that they had not been  
125 submitted. Secretary Rodrigues and Joshua Lief agreed that they would follow up with

126 each other after the meeting regarding this matter. Chair Cunningham moved to adopt the  
127 Absentee Voting Restatement proposed regulation. The motion was seconded and  
128 unanimously approved.

129 The next order of business was the restatement for Voter Registration  
130 Applications. Martha Brissette explained that Fairfax County General Registrar, Edgardo  
131 Cortes, had sent a comment restructuring the draft to state the regulation affirmatively  
132 rather than negatively. The Board did not feel that it had adequate time to review the  
133 suggestions and thus Secretary Rodrigues made a motion to carry over to the next Board  
134 Meeting. The motion was seconded and unanimously approved.

135 Chair Cunningham asked for any further comments or new business. There being  
136 none asked for a motion to adjourn. However Secretary Rodrigues asked Joshua Lief to  
137 share his concerns about the procedures for regulatory Town Hall. Joshua Lief indicated  
138 that he wanted to discuss a more consistent approach on adding regulations to Town Hall.  
139 Secretary Rodrigues explained that this Board had moved to an era of more transparency  
140 by going to the regulatory Town Hall. She said it has been a learning process for all of us  
141 to use the Town Hall, but ultimately she thinks it will be much better for the election  
142 community as well as public. Chair Cunningham pointed out that SBE is not required on  
143 all regulations to do Town Hall but was doing so voluntarily. Secretary Rodrigues agreed  
144 and added that prior to this Board there were complaints from the field that they did not  
145 have the opportunity to comment before regulations were adopted. Secretary Rodrigues  
146 reiterated that this was done voluntarily not statutorily.

147 Chair Cunningham again moved to adjourn the meeting. The motion was  
148 seconded and unanimously approved. The meeting was adjourned at 10:45 AM.

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Secretary

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Chair

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Vice-Chair