

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Wednesday, April 23,  
4 2014. The meeting was held in the General Assembly Building, Room C in Richmond,  
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles  
6 Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés,  
7 Deputy Secretary; Kristina Stoney, Senior Assistant Attorney General and SBE Counsel;  
8 Anna Birkenheier, Assistant Attorney General and SBE Counsel; Susan Lee, Elections  
9 Uniformity Manager; Chris Piper, Election Services Manager and Rose Mansfield,  
10 Executive Assistant. Chairman Judd called the meeting to order at 10:00AM.

11 The first order of business was the approval of the Minutes from the State Board  
12 of Elections Board Meetings held on December 26, 2013, February 28<sup>th</sup>, and March 8<sup>th</sup> of  
13 2014. Chairman Judd stated that each set of Board Meeting Minutes would be addressed  
14 separately. Chairman Judd asked if Board Members had any additions or corrections to  
15 the December 26, 2013 Board Minutes and none were noted. Chairman Judd moved *that*  
16 *the December 26, 2013 be approved as submitted*. Vice Chair Bowers seconded the  
17 motion and the Board unanimously approved the motion. Chairman Judd asked if Board  
18 Members had any additions or corrections to the March 19, 2014 Board Minutes. Ms.  
19 Stoney noted a transcription error in the document. Vice Chair Bowers moved *that the*  
20 *March 19, 2014 Board Meeting Minutes be amended*. Chairman Judd seconded the  
21 motion and the Board approved the amendment. Chairman Judd moved *that the Board*  
22 *Minutes from March 19, 2014 be approved as amended*. Secretary Palmer seconded the  
23 motion and the Board unanimously approved the Minutes. Chairman Judd asked if there  
24 was any discussion and with none the Board unanimously approved the Minutes.  
25 Chairman Judd asked if Board Members had any additions or corrections to the April 2,  
26 2014 Board Minutes. Ms. Stoney noted an error in the legal report regarding the date  
27 recorded and that the date be changed from May 19, 2014 to May 9, 2014. Chairman  
28 Judd moved *that the Minutes of the April 2, 2014 Board Meeting be amended*. Vice Chair  
29 Bowers seconded the motion and the Board unanimously approved the motion. Secretary  
30 Palmer moved *that the April 2, 2014 Board Minutes be approved as amended*. Vice Chair  
31 Bowers seconded the motion and the Board unanimously approved the motion.

32           The second order of business was the Secretary’s Report delivered by Secretary  
33 Palmer. Secretary Palmer stated that the voter identification implementation webinar will  
34 be held on April 29, 2014 and regional training will be held May 12-23, 2014. The annual  
35 workshop training will be conducted July 21-22, 2014. Secretary Palmer stated that the  
36 voter identification regulation posted to Regulatory Town Hall on April 21, 2014 will be  
37 available for public input until May 12, 2014. Secretary Palmer expressed condolences  
38 to the family of Mr. Jim Richardson who passed on April 12, 2014. Mr. Richardson  
39 devoted his life to his family and to serving the elections community. Mr. Richardson  
40 was a military veteran and is the father of SBE employee, Terry Wagoner, Absentee  
41 Ballot Coordinator.

42           Secretary Palmer announced that the General Assembly passed and Governor  
43 McAuliffe signed SB 11, the electronic ballot return bill for overseas military voters.  
44 This is the culmination of a three year legislative effort. The companion bills, HB 759  
45 and SB 11, mark only the beginning of vital work to be done on the technical details  
46 necessary to make secure electronic return a reality for our deployed military voters. The  
47 legislation requires the formation of a working group, to include the chief information  
48 officer of the commonwealth, the chief information security officer of the  
49 commonwealth, and local election officials, to assist with the development of security  
50 measures and procedures of the program. SBE and the working group will have the rest  
51 of 2014 and part of 2015 to develop the electronic security measures, procedures, forms  
52 and regulations necessary for our report to the General Assembly and implementation.  
53 The legislation and the Board’s current regulations provide authority to the agency to  
54 appoint an advisory panel and working group where specific expertise is required. Now  
55 that the Governor has signed the bills, we plan to proceed with making appointments and  
56 will publish a notice on the website.

57           Secretary Palmer stated that the PEW Charitable Trust released a voting  
58 performance index and Virginia continues to receive high marks in election  
59 administration and is listed above the national average. Secretary Palmer noted that after  
60 the June, 2014 primary SBE will send a list maintenance mailing to voters asking them to  
61 verify their change of address to rule out duplicate registrations. Vice Chair Bowers  
62 inquired how often other states pull data from ERIC. Secretary Palmer stated that SBE

63 Virginia's data is uploaded to ERIC every 60 days and SBE receives a report every 60  
64 days. Vice Chair Bowers asked: "If a voter moves out-of-state is it the responsibility of  
65 the voter's new residence (state) to contact us or do we contact them?" Secretary Palmer  
66 replied: "Most states ask: "where was the last place they were registered to vote." That  
67 state is supposed to let the previous state of registration know that an updated registration  
68 has occurred. SBE has identified scenarios' where that process does not work and SBE  
69 discovered the errors or failure of states to provide this information during the sharing of  
70 registration data between states. " Secretary Palmer asked if there were any additional  
71 questions and there were none.

72 The next order of business was the Legal Report delivered by Kristina Perry  
73 Stoney, Senior Assistant Attorney General and SBE Counsel. Ms. Stoney requested an  
74 executive session to discuss pending litigation. Ms. Stoney asked if the current Board  
75 Members would like to continue to receive letters of assurance related to regulations. Ms.  
76 Stoney noted that this is a routine function of the attorney generals' office. Chairman  
77 Judd moved *that the attorney general's office provide letters of assurance regarding*  
78 *regulations to SBE.* Vice Chair Bowers seconded the motion and the Board unanimously  
79 approved the motion.

80 The next order of business was the presentation of the resolution honoring the  
81 work of Elwood Yates, Jr. retiring Secretary of the Powhatan County Electoral Board.  
82 The Board presented the resolution to Mr. Yates and each Board Member extended their  
83 sincere thanks for his 60 years of service to the election community. Mr. Yates thanked  
84 SBE for the years of support and noted that the years went by quickly because of the  
85 wonderful individuals he was associated with in the election community.

86 The next order of business was the State Certification Guidelines presented by  
87 Gary Fox, SBE Voting Technology Specialist. Mr. Fox stated that the original packet was  
88 submitted to Board Members on February 26, 2014 for Board approval. Mr. Fox stated  
89 that the changes reflect current technologies and updates and provides SBE with the  
90 ability to test equipment for the capability of conducting a recount. The changes include  
91 the agency's name change that is effective July 1, 2014. Chairman Judd stated that the  
92 document was absent of the mention of global pricing and service statewide. Chairman  
93 Judd stated that it is important to have global pricing so no matter the size of the locality;

94 all localities have access to same equipment, at the same price, with the same level of  
95 service. Secretary Palmer stated that *Virginia Code* Sections §§ 24.2-628 & 629 are the  
96 mechanisms for voting equipment certification within the commonwealth and the  
97 changes suggested should fall within the parameters of the *Code*. Secretary Palmer stated  
98 that SBE has worked with the vendors to participate in global pricing. Secretary Palmer  
99 stated that you cannot tie pricing to the certification of equipment. Chairman Judd stated:  
100 “I am not suggesting that the vendor price the equipment before SBE certifies the  
101 equipment, I am saying that the vendor should agree to global pricing. I am just looking  
102 out for the localities.” Vice Chair Bowers stated that there was a concern about the  
103 legality of adding global pricing to the requirements of the certification of voting  
104 equipment in Virginia. Secretary Palmer stated the proposed amendment to the  
105 Requirements and Procedures is directing the Board to review pricing when the localities  
106 can contact SBE to receive information on the pricing of equipment. Secretary Palmer  
107 stated that this proposed amendment is an attempt to set policy based on current efforts of  
108 the agency.

109 Chairman Judd moved *that the State Certification of Voting Systems:*  
110 *Requirements and Procedures, Step 7, should read: “Based on the information*  
111 *contained in the report from the evaluation agent, the test election, and any other*  
112 *information in their possession, the State Board of Elections will determine whether the*  
113 *proposed voting system will be certified for use in the Commonwealth of Virginia and*  
114 *notify the vendor of the decision. In addition the State Board of Elections will solicit a*  
115 *state-wide contract from any vendor for voting systems certified for use in the*  
116 *Commonwealth of Virginia.”* Vice Chair Bowers stated that the motion should use the  
117 new agency name: “Department of Elections”. Chairman Judd stated the name change  
118 would be reflected in the motion. Vice Chair Bowers seconded the motion to include the  
119 amendment of the name change. Chairman Judd asked if there were any public comments  
120 on the motion.

121 Clara Bell Wheeler, Chairman of the Albemarle County Electoral Board  
122 approached the podium. Ms. Wheeler stated that the areas she represents were considered  
123 small localities and would like to thank the chairman for establishing global pricing. It is  
124 extremely important that the small localities are able to purchase equipment at the same

125 price as the large localities and I thank you for putting in global pricing. Chairman Judd  
126 asked if there were additional comments.

127 Robin Lind, Secretary of the Goochland County Electoral Board approached the  
128 podium. Mr. Lind stated that there is appreciation for the chairman consistently trying to  
129 bring this issue to the forefront. Mr. Lind stated that he believed that the *Code* supported  
130 the actions of the Board Members. Chairman Judd asked if there were additional public  
131 comment and there were none. Chairman Judd asked if there were additional comments  
132 from Board Members and there were none. The Board unanimously approved the  
133 amended motion. Vice Chair Bowers moved *that the Board approve the changes to the*  
134 *State Certification of Voting Systems: Requirements and Procedures, as recommended by*  
135 *SBE Staff*. Secretary Palmer seconded the motion and Chairman Judd asked if there were  
136 any questions and there was none. The Board unanimously approved the motion.

137 The next order of business was the request for temporary full-time status for the  
138 General Registrar of Richmond County, Virginia presented by Edgardo Cortés, Deputy  
139 Secretary. Deputy Cortés informed the Board Members that the Electoral Board  
140 submitted the required request in a timely manner. Deputy Cortés stated that the request  
141 is authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of  
142 the submitted request for the period of May 1, 2014 through June 30, 2014. Vice Chair  
143 Bowers moved *that the Board approve the request from the Electoral Board of the*  
144 *Richmond County for a temporary full-time general registrar for the period of May 1,*  
145 *2014 through June 30, 2014*. Secretary Palmer seconded the motion and Chairman Judd  
146 asked if there were any questions. Vice Chair Bowers stated that there are 17 localities in  
147 the commonwealth whose general registrars' are part-time employees with full-time  
148 responsibilities and the General Assembly should look at resolving this problem by  
149 supporting funding of the general registrars. Chairman Judd stated that he echoed the  
150 Vice Chair sentiments. The voters of the commonwealth should have full-time access to  
151 the general registrars' in the locality in which they reside. Chairman Judd asked if there  
152 were additional comments.

153 Robin Lind, Secretary of the Goochland County Electoral Board approached  
154 podium. Mr. Lind expressed that a general registrar expressed distress over the workload  
155 imposed on general registrars who serve on a part-time basis and whose electoral board

156 would not request funding due to budget constraints imposed by their county  
157 management. Mr. Lind stated that VEBA would support the conversation of permanently  
158 changing all general registrars' status to full-time employees. Chairman Judd asked if  
159 there were additional comments. Therese Martin, League of Women Voters approached  
160 the podium. Ms. Martin stated that the league is supportive of changing the status of all  
161 part-time general registrars' to full-time status. Chairman Judd asked if there were  
162 additional comments. Rene Andrews, Chairman of the Electoral Board of Falls Church  
163 City approached the podium. Ms. Andrews stated that any locality that has an election  
164 needs to be available to the voters 45 days prior to the election. In the time period prior to  
165 the election, the general registrar's will need to apply for full-time status. Chairman Judd  
166 asked if there were additional comments and there were none. The Board unanimously  
167 approved the motion.

168 The next order of business was the request for temporary full-time status for the  
169 General Registrar of Mathews County, Virginia presented by Edgardo Cortés, Deputy  
170 Secretary. Deputy Cortés informed the Board Members that the Electoral Board  
171 submitted the required request in a timely manner. Deputy Cortés stated that the request  
172 is authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of  
173 the submitted request for the period of April 1, 2014 through June 30, 2014. Secretary  
174 Palmer moved *that the Board approve the request from the Electoral Board of the*  
175 *Mathews County for a temporary full-time general registrar for the period of April 1,*  
176 *2014 through June 30, 2014.* Vice Chair Bowers seconded the motion and Chairman  
177 Judd asked if there were any questions and there were none. The Board unanimously  
178 approved the motion.

179 The next order of business was the Voter Photo Identification Card Application  
180 Approval presented by Myron McClees, SBE Policy Analyst. Mr. McClees stated the  
181 proposed form currently being presented before the Board is offered in anticipation of the  
182 upcoming implementation date. During the February 26, 2014 Board Meeting, Board  
183 Members voted to allow a 21 day comment period on the original version of the form,  
184 which ended on March 24, 2014. Mr. McClees stated that over 200 comments were  
185 received on the original version of the form and the new form reflects those changes. Mr.  
186 McClees stated that in consultation with the attorney generals' office the affirmation

187 statement in section six was changed. Mr. McClees noted that the document size had  
188 changed to mirror the voter registration card. The felony warning was removed from the  
189 form and the Privacy Act Notice was added to inform voters how information will be  
190 used and protected.

191 Vice Chair Bowers stated she was pleased to read the comments and the amounts  
192 of comments lets SBE know that the election community is active regarding this issue.  
193 The removal of the felony warning was pleasing as SBE does not want to create  
194 additional intimidation to voters who have forgotten where their identification is located.  
195 Secretary Palmer suggested that the Board modify section six to read: “I swear/affirm  
196 that the information provided on this form is true by adding “to the best of my knowledge  
197 I do not have any other form of identification” to provide additional notice to the voter.  
198 Vice Chair Bowers posed the question “Why does that matter since they are using this  
199 identification to vote? When the voter says “To the best of my knowledge” this is given  
200 the right of the voter to obtain a voter identification card that was mandated by the state.”  
201 Chairman Judd stated: “To say “I swear/affirm that the information provided on this form  
202 is true.” This is addressing only the information written on the form.” Secretary Palmer  
203 stated that this identification is not mandated to vote only that it is an acceptable form of  
204 identification if the voter does not have another valid form of identification. Secretary  
205 Palmer stated: “I do not believe that asking a voter to swear or affirm that the information  
206 provided is correct is intimidating because voter have to swear or affirm to get an  
207 absentee ballot or register to vote.” Vice Chair Bowers stated: “I understand this and the  
208 photo identification is required to vote and I am not sure why you would want to add  
209 additional layers if during the next step of voting you are affirming who you say you  
210 are.” Chairman Judd stated: “We are talking about a small number of individuals as a  
211 valid driver’s license covers about 95% of voters in the commonwealth with the other  
212 numerous forms of valid identification cards accepted at the polls.” Secretary Palmer  
213 stated: “I would like to thank the SBE staff for their work in going through the comments  
214 and referring to the regulations and working with the workgroup.” Secretary Palmer  
215 moved *that the Board adopt the staff recommendation proposed Voter Photo*  
216 *Identification Card Application.* Vice Chair Bowers seconded the motion and Chairman  
217 Judd asked if there were any questions. Robin Lind, Secretary of the Goochland County

218 Electoral Board approached the podium. Mr. Lind suggested that in section six the top  
219 line be changed to read: "... , and may only be issued to registered voters that do not "to  
220 read: "and may only be issued to registered voters who do not"" as a matter of  
221 grammatical correctness. Secretary Palmer moved that the Board adopt the proposed  
222 Voter identification Card Application and removing the word "that" and replacing it with  
223 the word "who" in section six of the form. Vice Chair Bowers seconded the motion and  
224 Board unanimously accepted the amended motion. Chairman Judd asked if there were  
225 additional comments on the motion to approve the form. Theresa Martin, Chairman of the  
226 League of Women Voters approached the podium. Ms. Martin stated she was thankful to  
227 the SBE staff for taking in account the many comments received and incorporating them  
228 into the new voter identification form. Chairman Judd asked if there were additional  
229 comments and there were none. The Board unanimously approved the motion.

230 The next order of business was the Campaign Finance Express Advocacy  
231 definition presented by Chris Piper, Election Services Manager. Mr. Piper stated that the  
232 staff has worked with the Office of the Attorney General as well as the Division of  
233 Legislative Services to draft a definition of "express advocacy". Mr. Piper stated that the  
234 Board's concern with the current definition is that it proved to be too broad in its  
235 application and did not consider intent. The new definition does not attempt to define  
236 intent, but rather states that any advertisements which refer to a candidate and their office  
237 as well as the election date should be deemed to expressly advocating the election or  
238 defeat of the candidate while maintaining the "magic words" standard used in the current  
239 definition. The proposed definition would read: "Express advocacy means a direct or  
240 indirect contribution, in-kind contribution, independent expenditure or loan made to a  
241 candidate or political committee for the purpose of influencing the outcome of an  
242 election; and advertisement which refers to a party or candidate(s) by name which  
243 references the date of election or nominating event for the office sought by the candidate  
244 or uses words or phrases which specifically urge support or opposition of a clearly  
245 identified candidate, such as: "Vote for..."; "Support"; "Elect..."; "Smith for Congress";  
246 "Send Him Home"; "Oppose". Advertisements which indicate the name of the candidate  
247 and the office for which they are seeking shall also be determined to be expressly  
248 advocating the election or defeat of a candidate. Chairman Judd asked: "Do you think



249 this covers all situations that may indicate advocacy.” Mr. Piper replied: “I feel very  
250 strongly that the proposed definition meets the desires of the Boards’ request.” Secretary  
251 Palmer asked how this definition supports the law. Mr. Piper stated that the old law stated  
252 “for the purpose of influencing an election” and in 1998 the definition was challenged  
253 and the ruling referred to “express advocacy” using this definition which refers back to  
254 federal law and the use of those “magic words”. In 2006, the phrase was changed to  
255 clarify the “express advocacy” phrase and the proposed definition tightens the parameters  
256 to reduce vagueness. Secretary Palmer stated that the definition is becoming broader  
257 because SBE is adding a sentence that reads: “...the name of the candidate and the office  
258 for which they are seeking shall also be determined to be expressly advocating the  
259 election or defeat of a candidate.” Secretary Palmer asked if the definition would become  
260 broader by adding this statement. Mr. Piper directed the questions to counsel. Ms. Stoney  
261 stated that during the discussion of developing the language of “express advocacy” that is  
262 going out for public opinion for 21 days SBE was understanding that the proposed  
263 regulation was within the confines of the of the case that set precedent. Ms. Stoney stated  
264 that the attorney general’s office would verify this during the regulatory review.  
265 Secretary Palmer moved *that the proposed regulation on the definition of “Express*  
266 *Advocacy” be placed on the SBE website for public comment for a period of 21 days.*  
267 Vice Chair Bowers seconded the motion and Chairman Judd asked if there were any  
268 comments and there were none. The Board unanimously approved the motion.

269 The next order of business was the Campaign Finance Summary Updates-  
270 Approval to change reporting deadline presented by Chris Piper, Election Services  
271 Manager. Mr. Piper stated that the changes were posted for public comment. The change  
272 of 5:00pm to 11:59pm for the campaign finance reporting deadline will apply to all  
273 Summaries on the Laws and Policies of the Campaign Finance Disclosure Act of 2006.  
274 The comments have been submitted to the Board for review and are overwhelmingly in  
275 support of the proposed change. Of the 61 comments submitted, 15 opposed the proposed  
276 changes while 46 supported the changes. Staff recommends Board approval to change the  
277 deadline from 5:00pm to 11:59pm. Chairman Judd moved *that the Board approve the*  
278 *change from 5:00pm to 11:59pm for the campaign finance reporting deadline and apply*  
279 *this change to all Summaries on the Laws and Policies of the Campaign Finance*

280 *Disclosure Act of 2006*. Vice Chair Bowers seconded the motion and Chairman Judd  
281 asked if there were comments.

282 Bill Wilson, Treasurer of the Virginia Public Access Project (VPAP), approached  
283 the podium. Mr. Wilson stated VPAP respectfully requests that the Board maintain the  
284 5:00pm deadline and maintain the spirit of the policy. Chairman Judd asked if there were  
285 any other comments. Craig Carper, WCVE Public Radio reporter approached the podium.  
286 Mr. Carper stated that the Virginia Capitol Correspondents Association would like to  
287 express our concern with the proposed change to the SBE filing deadline. While the  
288 change makes it easier for those who file, it makes it more difficult for reporters to cover  
289 campaigns in a timely way. The current 5:00pm deadline allows print reporters to publish  
290 data in the next morning's paper. The proposed change to 11:59pm would effectively  
291 mean a 24 hour delay in distributing this information to the public in print publications.  
292 VPAP ask that you consider keeping the current 5:00pm deadline in place, both for the  
293 benefit of those who cover campaigns, but more importantly to better provide valuable  
294 and timely information to the public. Chairman Judd asked if there were any other  
295 comments. Ginger Stanley, Executive Director of the Virginia Press Association  
296 approached the podium. Ms. Stanley stated that the association is strongly opposed to the  
297 change in the deadline and believe that it would remove the public "right to know" and  
298 move the time out of the typical close of business time. Ms. Stanley stated that the  
299 numbers would be reported on their website however, delaying the reporting means that  
300 the impact on the print media would be negative to the media and to the public. Chairman  
301 Judd asked if there were any other comments and there were none. The Board  
302 unanimously passed the motion.

303 The next order of business was the Campaign Finance Yard Sign Proposed Policy  
304 presented by Chris Piper, Election Services Manager. Mr. Piper stated that the staff  
305 requests that the proposed definition of a yard sign be placed on the SBE website for  
306 public comment for a period of 21 days. Mr. Piper stated that there is no definition of  
307 "yard sign" in the *Code of Virginia* or in the Boards' policies. The law governing political  
308 advertisement disclosure is found in § 24.2-955. There has been some confusion as to  
309 whether a disclosure is required on signs placed on someone's private property. The  
310 proposed definition will make it clear that a disclosure is required on all advertisements

311 paid for or distributed by a candidate or political party. Chairman Judd asked if a  
312 homeowner has a homemade sign and wants to place it in their yard would there be a  
313 need for a disclaimer. Mr. Piper stated that policy specially places the ownership on the  
314 candidate or political party. Therefore, an individual who does not meet the independent  
315 expenditure threshold can place a sign in their yard without the disclaimer. Vice Chair  
316 Bowers moved *that the proposed regulation on the definition of "Yard Sign" be placed*  
317 *on the SBE website for public comment.* Secretary Palmer seconded the motion and  
318 Chairman Judd asked if there were any comments and there were none. The Board  
319 unanimously passed the motion.

320 The next order of business was the Stand by Your Ad Violations presented by  
321 Chris Piper, Election Services Manager. Mr. Piper stated that the first consideration was  
322 from the campaign of Bill Colgate. Mr. Piper stated that on or about March 10, 2014, the  
323 Chesterfield County General Registrar received a complaint concerning a flyer  
324 distributed on behalf of Bill Colgate, but did not contain the disclosure statement required  
325 by § 24.2-956. Mr. Piper stated that the copy of the flyer provided to Board Members  
326 does not include the required disclosure statement. Staff recommendation is to assess a  
327 \$100.00 penalty. Chairman Judd asked if there was a representative from the campaign  
328 and there was not. Secretary Palmer moved *that the Board assess a civil penalty of*  
329 *\$100.00 per staff recommendation.* Vice Chair Bowers seconded the motion and  
330 Chairman Judd asked if there were any comments and there were none. The Board  
331 unanimously passed the motion.

332 The next Stand by your Ad Violation was from the campaign of Bob Olson. Mr.  
333 Piper stated that on or about March 10, 2014, the Chesterfield County General Registrar  
334 received a complaint concerning a flyer distributed on behalf of Bob Olsen for  
335 Midlothian School Board that did not contain the disclosure statement required by § 24.2-  
336 956. Mr. Piper stated that the copy of the flyer provided to Board Members does not  
337 include the required disclosure statement. Staff recommendation is to assess a \$100.00  
338 penalty. Chairman Judd asked if there was a representative from the campaign. Bob  
339 Olson, candidate, approached the podium. Mr. Olsen apologized to the Board and stated  
340 that the error was an oversight on his part and when notified by Mr. Haake of the  
341 oversight there was an immediate correction. Chairman Judd asked what the time frame

342 was between notification and correction. Mr. Olsen stated that it was only a couple of  
343 hours. Vice Chair Bowers moved *that the Board waive the civil penalty assessed against*  
344 *Mr. Olsen.* Secretary Palmer seconded the motion and Chairman Judd asked if there were  
345 any other comments and there were none. The Board unanimously approved the motion.

346 The next Stand by your Ad Violation was from the campaign of Dianne Mallory-  
347 Coble. Mr. Piper stated that on or about March 10, 2014, the Chesterfield County General  
348 Registrar received a complaint concerning a flyer distributed by Dianne Mallory-Coble  
349 that did not contain the disclosure statement required by § 24.2-956. Chairman Judd  
350 asked if there was a representative from the campaign and there was not. Secretary  
351 Palmer stated that the letter from the campaign states that the campaign notified the  
352 general registrar of the error and tried to stop the flyer to make corrections. Vice Chair  
353 Bowers moved *that the penalty be waived because the correction to the flyer was made*  
354 *immediately after discovering the error.* Secretary Palmer seconded the motion and  
355 Chairman Judd asked if there were any public comments and there were none. The Board  
356 unanimously approved the motion.

357 The next order of business was the Periodic Review of Chapters 40 & 70  
358 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that these two  
359 regulations lay the ground work for the absentee voting precinct. SBE placed these  
360 regulations out on Town Hall for public comment and none were received. Ms. Brissette  
361 stated that the attorney general's office will be reviewing these regulations before they  
362 are sent out for publication. Chairman Judd asked about Section 1B that asked: "..., do  
363 you wish to cancel your registration in that county, city, or state and register and establish  
364 residence in this county or city in Virginia? What if the voter says "no" to this question?"  
365 Ms. Brissette stated that this section of the regulation was not the section of the regulation  
366 currently under review. Chairman Judd asked:"What happens?" Ms. Brissette stated that  
367 these are supplemental questions and depending on how the voter answers guides the  
368 general registrar. Chairman Judd inquired why numerous sections of this regulation are  
369 stricken. Ms. Brissette stated that these are the sections of the regulation that deal with  
370 the military overseas voting which will be part of Chapter 45. Ms. Stoney, SBE Counsel,  
371 stated that the regulations have been reviewed by the attorney general's office and the  
372 office will provide letters of assurance on these regulations. Vice Chair Bowers moved

373 *that the Board approve the proposed amendments to the Chapter 40 of its regulations on*  
374 *voter registration.* Secretary Palmer seconded the motion and Chairman Judd asked if  
375 there were any comments and there were none. The Board unanimously approved the  
376 motion.

377 The next regulation to be considered by the Board was Chapter 70, Absentee  
378 Voting presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that  
379 numerous sections of this regulation will be moved into Chapter 4.1 that deals with  
380 absentee and overseas voter and to make a change in the definition section relating to  
381 those two areas. Chairman Judd stated: “In two previous public meetings we have  
382 discussed material omissions and what is not a material omission and I would like to see  
383 some public comment on these.” Ms. Brissette stated that the changes presented today  
384 encompass the structural changes to the regulations and the content changes will be  
385 addressed at a later meeting. Chairman Judd moved *that the proposed changes to Chapter*  
386 *70 be tabled until we address it with the other regulations.* Vice Chair Bowers seconded  
387 the motion and the Board unanimously approved the motion.

388 Martha Brissette, SBE Policy Analyst, informed the Board that the suggestion to  
389 retract the approval of Chapter 40 would be suggested as the chapters are interwoven.  
390 Ms. Stoney, SBE Counsel, stated that it is recommended to table the three regulations to  
391 avoid duplications of languages and the regulations can be revised simultaneously.  
392 Chairman Judd, having voted on the prevailing side, moved *that the Board Members*  
393 *reconsider the motion to pass the proposed changes to Chapter 70.* Secretary Palmer  
394 seconded the motion and Board unanimously approved the motion. Chairman Judd  
395 moved *that the Board table Chapter 40.* Vice Chair Bowers seconded the motion and the  
396 Board unanimously approved the motion. Chairman Judd moved *that the creation of*  
397 *Chapter 45 be tabled.* Vice Chair Bowers seconded the motion and the Board  
398 unanimously passed the motion.

399 Chairman Judd asked if there was any other business to come before the Board.  
400 Reagan George, Virginia Voters Alliance approached the podium. Mr. George stated that  
401 the: “Virginia Voters Alliance was started in 2009 to educate the public about voter fraud  
402 and the need to improve our election laws and processes in the Commonwealth of  
403 Virginia. We have established a working relationship with Fairfax County Election Board

404 to recruit election officials as well as recruit, train, and deploy poll watchers to observe  
405 election activities. We also established a working relationship with True the Vote in  
406 Houston to research where multiple voters are listed at the same address. We have been  
407 successful in Fairfax County where our challenges resulted in 70% of voter registration  
408 being removed from the VERIS system. Virginia Voters Alliance was instrumental in  
409 working with members of both Privileges and Elections committees in the General  
410 Assembly to pass the current photo identification bill into law. We are planning to  
411 follow-up this project with the same type of examination of the District of Columbia,  
412 Pennsylvania, New York, new Jersey, Delaware, North Carolina, Tennessee, West  
413 Virginia, and Georgia. Virginia Voters Alliance is also investigating how to identify  
414 voters that are registered and vote in Virginia but live in the states that surround us. We  
415 are also determining the best way to identify non-citizens who have registered to vote and  
416 may have voted in past elections. The problems and improvements needed are; (i) Close  
417 the gap in the voter id law so that absentee voters must positively identify themselves  
418 with a copy of their photo identification when using mailed ballots.,(ii) There are 50,000  
419 plus patient beds in Virginia in Nursing homes and rehab centers. Voter fraud is rampant  
420 in these locations. We sent out 1500 letters to administrators informing them of vote  
421 harvesting process that take place in their facilities. We got four responses.  
422 Administrators must be held accountable for voter fraud that occurs in their facilities. Poll  
423 watchers from each party must be required to be present when patients are involved with  
424 election and voting processes.,(iii) Certain non-violent felons, especially those that  
425 commit voter fraud, should never be given back their right to vote. Felons that are not  
426 allowed to vote should be audited annually by SBE., (iv) Virginia must control the  
427 registration process as well as the form used to register voters. The current system is the  
428 perfect vehicle for identity theft and “lost” registrations. Forms must have control  
429 numbers that are issued to voter registration drive organizers. Receipts must be given to  
430 registrants. Fines should be imposed if unused forms are not returned to the local election  
431 board. Social Security numbers and birth dates should be entered via phone or internet to  
432 activate the voter’s registration.,(v) The process to control duplicate voters moving  
433 between states is broken and full of gaps. ERIC and the Interstate Crosschecks are helpful  
434 but reactive. There needs to be feedback between registrars and the new registration is

435 only active when the prior registration is purged.,(vi) Virginia should require proof of  
436 citizenship to register to vote with both the state form and federal post card. To assist in  
437 that effort the DMV should keep citizenship status on all drivers and their status should  
438 be present on all drivers' licenses. The SBE and DMV should reconcile voter  
439 registrations with citizenship status annually. Long term the federal real identification law  
440 should be amended to include citizenship status which should be made available to the  
441 state's DMV.,(vii) There needs to be a clearing house for all voter fraud referrals  
442 statewide. The SBE would be the perfect place to assume that role and provide  
443 transparency for the public concerning this issue., and (viii) SBE should also develop key  
444 performance indicators requiring the local registrars to report their work backlog, in-  
445 process and completed activities monthly. These statistics should also be made available  
446 to the public. In conclusion, the Brennen Center talking points are patently false. The  
447 statement that "voter fraud does not exist because there are no convictions" just points  
448 out that our laws are ineffective and full of gaps. The lack of convictions shows us that  
449 voter fraud is hard to prevent and hard to prove with existing poorly written laws, poor  
450 systems processes, and lax prosecutions. The statement that "voter fraud does not warrant  
451 the expenditures to prevent it because it is such a small percentage of the overall vote".  
452 What percentage of the dollars in your checking account at the bank would you be  
453 comfortable losing every month? I don't want my bank to be robbed before they take  
454 precautions to safeguard my money. The state should be just as proactive with my vote; it  
455 is just as precious to me as my checking account. Voter fraud does not require  
456 convictions to exist. Thank you for giving me the opportunity to speak to you about this  
457 important subject. Chairman Judd asked if there were further comments.

458 Jay DeLancy, Executive Director of the Voter Integrity Project of North Carolina  
459 approached the podium. Mr. DeLancy stated that on April 4, 2014 their state elections  
460 chair released information about a program that Virginia is participating in as well called  
461 the interstate crosscheck program. In North Carolina the chair found 675 voters with the  
462 exact first name, last name, date of birth, and last four of their social security number.  
463 These people either all committed fraud or were victims of identity theft. The leadership  
464 of North Carolina would like to see the release of Virginia's data found in the interstate  
465 crosscheck program. Chairman Judd asked if there were further comments.

466 Clara Bell Wheeler, Albemarle County Electoral Board Chair approached the  
467 podium. Ms. Wheeler thanked the members of the SBE Board and Staff who worked  
468 diligently to get Virginia into the Kansas Interstate Crosscheck project. Please take the  
469 data and do something with it. Ms. Wheeler stated: “When a registrar in the  
470 commonwealth has the audacity to say to SBE and his electoral board that he is not going  
471 to pay any attention to the crosscheck system and that they are not going to pay attention  
472 to dual registration. I think that person should be removed from office because they are  
473 not adhering to the *Code of Virginia* and they are not caring what the *code* says for  
474 registration and they are not listening to what SBE has provided them in terms of  
475 information. If we are going to have the crosscheck we need to use it. Voter Fraud is real.  
476 What separates us from other countries is that we should have free, fair, and legal  
477 elections. We need to check identification and teach our election officers in a  
478 standardized method of behavior for elections. Thank you for putting us in crosscheck  
479 and I know that you will implement it fairly.”

480 Secretary Palmer stated that SBE has been transparent about the results that SBE  
481 has received and, in 2014, Virginia has over 100,000 matches of duplicate registrations  
482 with other states based off of name, date of birth, and social security number. The  
483 agency, the Board, and the *Code of Virginia* has determined that we are going to take  
484 action and, in this federal election year, we are going to send mailers to all these  
485 individuals out-of-state to have them respond and remove themselves from the voter  
486 rolls. Virginia produced a report in January, 2014 and we will have a report to the  
487 General Assembly in August, 2014. This cross-state data is helpful in identifying the  
488 moving of voters and SBE wants to ensure that our rolls are clean. Secretary Palmer  
489 stated that SBE will educate the public on the responsibility of notifying their voting  
490 locality when they relocate. Secretary Palmer stated that he encourages that all the  
491 advocacy groups make it known to voters that it is important to update their information  
492 when they move. Chairman Judd asked if there were additional items to come before the  
493 Board or the Good of the Order. Ms. Stoney stated that an executive session was  
494 necessary to discuss pending litigation. Chairman Judd stated that this would not be  
495 possible at today’s meeting.



496 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the  
497 motion and without further comment the Board voted to adjourn. The meeting was  
498 adjourned at approximately 12:35PM.

499 The Board shall reconvene on May 14, 2014 at 9:00AM in the General Assembly  
500 Building, Room C.

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Secretary

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Chair

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Vice Chair

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