

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Wednesday, May 14,
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 Perry Stoney, Senior Assistant Attorney General and SBE
8 Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel; Chris Piper,
9 Election Services Manager; Myron McClees, SBE Policy Analyst; Eugene Burton,
10 Voting Technology Specialist; Garry Ellis, NVRA/Voting Registration Coordinator and
11 Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at
12 9:00AM.

13 The first order of business was the approval of the Minutes from the State Board
14 of Elections Board Meeting held on April 23, 2014. Chairman Judd asked if Board
15 Members had any additions or corrections to the April 23, 2014 Board Minutes. Vice
16 Chair Bowers noted a transcription error and cited the errors for the record and for
17 change. Chairman Judd asked if there were additional additions or deletions to the
18 Minutes and there were none. Vice Chair Bowers moved to adopt the Minutes for the
19 April 23, 2014, Board Meeting as amended. Secretary Palmer seconded the motion and
20 the Board unanimously approved the Minutes.

21 The second order of business was the Secretary's Report delivered by Secretary
22 Palmer. Secretary Palmer stated that SBE is preparing for the July 1, 2014 voter
23 identification law implementation. This week general registrar's and staff are being
24 trained to utilize the software and are being provided with the technical expertise to
25 utilize the new equipment. Secretary Palmer stated that beginning June 1, 2014 localities
26 will begin to test the equipment and mailing process under the supervision of SBE. The
27 first training session will start today in Henrico County, Virginia. SBE staff will also be
28 conducting registration training on the National Voting Registration Act (NVRA)
29 throughout the Commonwealth to designated agencies that will supplement online NVRA
30 training in some agencies and meetings between SBE and the other executive branch
31 agencies that provide these services. Vice Chair Bowers asked if expired drivers licenses

32 would be considered a valid form of identification at the polls. Myron McClees, SBE
33 Policy Analyst, stated that a bill introduced during this legislative session to allow
34 expired identification to be used as a valid form of identification did not pass. However,
35 Mr. McClees stated that previous guidance from SBE is that the expiration date needed to
36 be within 30 days past the expiration date. Vice Chair Bowers asked if policy guidance
37 could be updated to allow expired identification cards to be utilized. Chairman Judd
38 stated that if the picture and the address on the identification match the data base, the
39 identification should be considered valid. Secretary Palmer said the language of the new
40 identification law allowing for a valid Virginia driver's license seems to provide
41 flexibility on the issue. Chairman Judd asked if there were any other questions or
42 comments for the Secretary and there were none.

43 The next order of business was the Legal Report delivered by Kristina Perry
44 Stoney, Senior Assistant Attorney General and SBE Counsel. Ms. Stoney stated that the
45 hearing for the *Fairfax County Democratic Committee v. General Registrars, Electoral*
46 *Board, and SBE Board Members* was held on May 9, 2014. The amended motion to
47 dismiss and the motion to dismiss for the defendants were denied. The judge ruled that
48 the answer be filed within 21 days. Ms. Stoney noted that this litigation has spanned a
49 period of 18 months. Chairman Judd asked if there were any questions and there were
50 none.

51 The next order of business was the General Registrar and Electoral Board Survey
52 presented by Edgardo Cortés, Deputy Secretary. Deputy Cortés stated that SBE has
53 received a requested from the general registrar and electoral board associations to
54 conduct a study on the evolution of the duties of the general registrars. Deputy Cortés
55 stated that the legislators reviewed this issue during the past session and deferred the
56 matter to SBE. The last study of this nature was conducted in 1991 and since that time the
57 National Voter Registration Act has passed, the Help America Vote Act became law, and
58 significant amendments to UOCAVA have occurred. Deputy Cortés stated that the
59 request is that SBE conducts this study. Chairman Judd asked if there were any
60 comments.

61 William Bell, Virginia Electoral Board Association (VEBA) approached the
62 podium. Mr. Bell stated that VEBA members support conducting a study. VEBA is

63 following the advice of the legislators by submitting this request to SBE. VEBA members
64 believe that a study is necessary, long overdue, and VEBA offers their support during the
65 study.

66 Lisa Wooten, Waynesboro City General Registrar and Voter Registrars
67 Association of Virginia (VRAV) President approached the podium. Ms. Wooten stated
68 that VRAV spoke with legislators and are following their guidance on how to approach
69 the request for a study. Ms. Wooten stated that general registrars represent the same
70 population that local constitutional officers represent. The difference between
71 compensation for general registrars and constitutional officers is vast. VRAV would
72 appreciate SBE conducting a survey and analyzing the results.

73 Robin Lind, Goochland County Electoral Board Secretary and Communications
74 Director of VEBA approached the podium. Mr. Lind stated that a study of both general
75 registrars and electoral board members in the past has been unsuccessful. Mr. Lind stated
76 that the legislators will support SBE if they select to conduct a study.

77 Carol Noggle, Virginia League of Women Voters approached the podium. Ms.
78 Noggle stated that the league is aware of the advancement of responsibilities that the
79 general registrars' have undergone to conduct the election process.

80 Chairman Judd asked if there were additional public comments and there were
81 none. Secretary Palmer stated to successfully conduct a study a workgroup should be
82 established that has members of the election community involved and participating.
83 Secretary Palmer stated that a first organizational meeting could occur before or
84 simultaneously with the annual training in Richmond. Deputy Cortés stated that SBE
85 could identify workgroup members and create a timeline for conducting the study and
86 present the information at the next Board Meeting. Chairman Judd stated that SB313
87 passed by the General Assembly during the last session, added to the *code* a section that
88 states: "the state board shall report annually by August 1st for the preceding 12 months,
89 ending June 30th to the committees of Privileges and Elections for each of its' activities
90 undertaken to maintain the Virginia Voter Registration System and the results of those
91 activities, the Boards' report shall encompass those activities under and pursuant to
92 subdivisions 8, 9, and 10." Chairman Judd stated that the results of the study should be
93 included in the report to the committees. Vice Chair Bowers moved *that SBE move*

94 *forward with the study and the creation of a workgroup.* Secretary Palmer seconded the
95 motion and the Board unanimously approved the motion.

96 The next order of business was the State Certification Document for Electronic
97 Poll Books presented by Eugene Burton, Voting Technology Specialist. Mr. Burton
98 stated that SBE is submitting a certification checklist for electronic pollbooks. Mr. Burton
99 stated that the *Code of Virginia* allows all localities to expend their own funds to
100 purchase electronic pollbooks that have been approved for use in elections by SBE.
101 Although most localities in Virginia use the EPB program developed by SBE, many
102 localities are looking at vendors for solutions that offer newer technology. To help ensure
103 the EPB solutions offered by vendors meet Virginia Election Law requirements, SBE
104 staff is proposing a certification process. Chairman Judd asked if there were any
105 questions and there were none. Secretary Palmer moved *that the Board approve the*
106 *request for certification checklist-electronic pollbooks as recommended by SBE staff.*
107 Vice Chair Bowers seconded the motion. Chairman Judd asked if there were any public
108 comments and there were none. The Board unanimously approved the motion.

109 The next order of business was the Voter Photo ID Regulation presented by
110 Myron McClees, SBE Policy Analyst. Mr. McClees stated that the General Assembly
111 passed legislation in 2013 that requires all individuals voting in-person to show a photo
112 identification document prior to casting a regular ballot. Mr. McClees stated a proposed
113 regulation was presented before the Board during the April 2, 2014 meeting and went out
114 for public comment on April 21, 2014 and expired on May 12, 2014. Mr. McClees stated
115 that the comments received have been provided to the Board for potential edits for
116 inclusion in the final regulation to be presented during the June 11, 2014 Board Meeting.
117 Vice Chair Bowers commended the staff for their work compiling the public comments.
118 Chairman Judd stated that it was good to see folks weighing in on the subject and sharing
119 their concerns. Chairman Judd stated that the use of expired drivers' license should be
120 included in the regulation as a form of photo identification. Mr. McClees stated that the
121 definition of the term "valid" would need to be further defined. Chairman Judd stated that
122 "valid" should mean that the address on the identification matches what is on file for the
123 voter with some reasonable resemblance to the photo. Secretary Palmer stated that photo
124 identification is presented to confirm the identity of the voter. Vice Chair Bowers asked:

125 “On Election Day: “Do poll workers look at the expiration date?”” Deputy Cortés stated
126 that there is variation across the state in the way officers of elections may check the
127 identification. The address confirmation occurs verbally when the voter cites the
128 information to the election worker. The new voter identification card will not contain the
129 address or expiration date. Chairman Judd asked if there were additional comments.

130 Donna Rostant, Chair of the Election Law and Voter Protection of the Fairfax
131 Democratic Committee approached the podium. Ms. Rostant stated that the definition of
132 what is a “valid” identification should be defined to help relieve the anxiety that some
133 voters may have when heading to the polls on Election Day. Chairman Judd asked if
134 there were additional public comments and there were none.

135 Chairman Judd stated: “photo identification is required to complete most
136 functions to include age restricted purchases and boarding a plane. The end result is that
137 more individuals have photo identification than in times past. The Vice Chair questioned,
138 after the 2012 elections, how many people cast provisional ballots due to lack of
139 identification...out of 2.4 million votes cast only 200 were for this reason. I think we
140 have covered the photo identification solution very well. Photo identification is the norm
141 for so many things now which means regardless of age. We will have the equipment and
142 the facilities in place to serve those individuals.” Vice Chair Bowers stated: “Moving
143 forward I want the definition of “valid” defined because we do not want the voters to be
144 unclear of what is an acceptable form of identification. I am looking forward to getting
145 the word out to the election community about this issue. I would like to see expired
146 identification considered as a form of “valid” identification.” Secretary Palmer stated:
147 “SBE is working to ensure that the new voter identification law is implemented smoothly
148 and will improve the administration of elections and increase public confidence in the
149 voting process. We will have a SBE team that will be assisting the general registrar
150 offices in outreach providing information and free voter IDs as necessary. For example,
151 SBE has periodic contact with agencies that work with the elderly population and voters
152 with disabilities because of the ongoing annual absentee ballot process and if there is a
153 need in that community, we will have a team of employees to respond to that need. SBE
154 will also be an additional location for voters to obtain the free identification. The ID
155 program is tied to the statewide database system (VERIS) to aid the general registrar’s

156 and their staff in quickly identifying the voter and processing the information. The SBE
157 staff will continue look at the interaction between VERIS and using the program in a
158 mobile way. The overall goal is to incorporate the mobility function into current outreach
159 practices of voter registration or education. The voter identification outreach program
160 would take place when a need is identified in conjunction with other requests to the
161 general registrar's office or SBE. Chairman Judd asked if there were additional
162 comments and there were none.

163 The next order of business was the Voter Registration Drive Guidelines-Approval
164 of Revisions, presented by Garry Ellis, NVRA/Voting Registration Coordinator. Mr. Ellis
165 stated that the changes presented are due to the upcoming name change establishing the
166 Department of Elections as well as the photo identification requirements. Chairman Judd
167 stated: "Mr. Ellis is an effective trainer and when the guidelines became the standard, I
168 took the training and passed." Secretary Palmer asked: "Mr. Ellis what are the statistics of
169 the on-line training?" Mr. Ellis replied: "Over 800 individuals last year took the third-
170 party on-line training and 116 of those individuals took the in-person training." Chairman
171 Judd asked if there were any other comments and there were none. Vice Chair Bowers
172 moved *that the Board approve staff's proposed changes to the Guidelines for Conducting*
173 *Voter Registration Drives*. Secretary Palmer seconded the motion and Chairman Judd
174 asked if there were any comments and there were none. The Board unanimously passed
175 the motion.

176 The next order of business was the Stand by Your Ad Violations presented by
177 Chris Piper, Election Services Manager. Mr. Piper stated that on or about March 19,
178 2014, the staff received a complaint concerning a political advertisement appearing on a
179 yard sign which was paid for by the Chesterfield County Republican Committee but did
180 not contain the disclosure statement required by § 24.2-956.1. Mr. Piper stated that the
181 *Code of Virginia* and the Board's guidance is unclear on whether disclosures are required
182 on yard signs and the Board is currently reviewing a proposed definition of yard sign to
183 clear up this confusion. Staff recommendation is to not assess a penalty. Secretary Palmer
184 moved *that the complaint be dismissed*. Vice Chair Bowers seconded the motion and
185 Chairman Judd asked if there were any comments and there were none. The Board
186 unanimously passed the motion.

187 Chairman Judd asked if there was any other business to come before the Board.
188 Lisa Wooten, Waynesboro City General Registrar and Voter Registrars Association of
189 Virginia (VRAV) President approached the podium. Ms. Wooten stated that the mobile
190 equipment for the general registrar's could not be utilized by all general registrars
191 because of the lack of resources. Ms. Wooten asked if there would be guidance on taken
192 the equipment to a voter's personal residence. Chairman Judd asked if there were
193 additional questions.

194 Carol Noggle, Virginia League of Women Voters approached the podium. Ms.
195 Noggle stated that in some localities the sheriffs' office provides photo identification. Ms.
196 Noggle asked if the third-party registration training would have to be updated with the
197 new revisions. Mr. Ellis stated that that the certification expires on June 30, 2014
198 therefore, all individuals will need to recertify their training. Chairman Judd asked if
199 there were additional public comments and there were none.

200 Chairman Judd then moved *to close the meeting to discuss actual and probable*
201 *litigation matters and specific legal matters requiring the provision of legal advice by*
202 *legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.* Vice Chair
203 Bowers seconded the motion and the Board unanimously carried the motion. Chairman
204 Judd directed Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés,
205 Deputy Secretary; Anna Birkenheier, Assistant Attorney General and SBE Counsel and
206 Rose Mansfield, Executive Assistant, to remain with the Board during the closed session.
207 Secretary Palmer seconded the motion and the Board went into Executive Session at
208 10:10AM. At 10:25AM Chairman Judd directed Kristina Stoney, Senior Assistant
209 Attorney General and SBE Counsel to join the second half of the executive session.

210 At 10:55AM Chairman Judd *moved to reconvene in open session and a roll call*
211 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
212 *certifying that during the closed meeting (i) only public business matters lawfully*
213 *exempted from open meeting requirements under this chapter, and (ii) only such public*
214 *business matters as were identified in the motion by which the closed meeting was*
215 *concerned were heard, were discussed or considered.* Vice Chair Bowers seconded the
216 motion and the Board unanimously approved the motion. Rose Mansfield, Executive
217 Assistant performed the roll call vote and all Board Members approved the motion.

218 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
219 motion and without further comment the Board voted to adjourn. The meeting was
220 adjourned at approximately 11:00AM.

221 The Board shall reconvene on June 11, 2014 at 10:00AM in the General
222 Assembly Building, Room C.

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Secretary

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Chair

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Vice Chair

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