

1 MINUTES

2

3 The State Board of Elections Board Meeting was held on Wednesday, August 27,
4 2014. The meeting was held in the General Assembly Building – Room C, Richmond,
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles
6 Judd, Chair; Kimberly Bowers, Vice Chair; Don Palmer, Secretary; Kristina Perry
7 Stoney, Senior Assistant Attorney General and SBE Counsel and Anna Birkenheier,
8 Assistant Attorney General. In attendance, representing the Department of Elections
9 (ELECT) was Edgardo Cortés, Commissioner; Susan Lee, Election Uniformity Manager;
10 Matt Abell, Election Services Lead; Pamela Blount, Candidate Processing Specialist;
11 Martha Brissette, ELECT Policy Analyst; Gary Fox, Voting Technology Specialist and
12 Rose Mansfield, Executive Assistant-Clerk. Chairman Judd called the meeting to order at
13 10:00AM.

14 The first order of business was the approval of the Minutes from the State Board
15 of Elections Board Meeting held on August 6, 2014. Chairman Judd asked if Board
16 Members had any additions or corrections to the August 6, 2014 Board Minutes. Vice
17 Chair Bowers stated that the letter introduced and read in its entirety on her behalf needed
18 an excerpt entered into the official SBE Minutes. Secretary Palmer stated that the revised
19 Minutes needed to be presented to the Board Members with this addition before
20 additional action occurred. Chairman Judd moved *to table additional discussion*
21 *regarding the Minutes until the next opportunity when the Board convenes.* Secretary
22 Palmer seconded the motion and the Board unanimously approved the motion.

23 The second order of business was the Commissioner’s Report delivered by
24 Commissioner Cortés. Commissioner Cortés reported that during the Special Election
25 held on August 19, 2014 ELECT rolled out a revised results reporting page on the
26 ELECT website. Commissioner Cortés reported that ELECT switched from a vendor
27 supported program to an ELECT Staff supported program that will decrease the time
28 required to post results to the website. Commissioner Cortés reported that he attended a
29 regional meeting of the Virginia Electoral Board Association (VEBA) in Salem, Virginia
30 on August 26, 2014. The general registrars have been hosting meetings and inviting
31 delegates and senators to speak on the roles of the general registrars in their localities.

32 Additional topics of discussion include local issues that affect elections in their areas.
33 Commissioner Cortés stated that the rollout of the voter photo identification program
34 continues and as of this date there were 611 submissions for voter photo identification.
35 Roanoke City has processed 115 photo identification applications. This is reflective of
36 the two-three public outreach events held each week by the general registrars office. With
37 the increase of public outreach events, ELECT noted an increase in requests for voter
38 photo identification. This is an applaudable effort on the part of the general registrars and
39 the localities. The off-line capability of the voter photo identification program is in the
40 final stages and is near completion. Training will be provided by ELECT after the Labor
41 Day holiday. Commissioner Cortés reported that the GREB Workgroup established by
42 the SBE Board will met for their first meeting on September 4, 2014. This will be an
43 organizational meeting therefore; the meeting posting on Town Hall is absent an agenda.

44 Commissioner Cortés stated that regarding the state’s lists maintenance activities
45 ELECT participates in two programs; (i) the Interstate Cross-Check Program and (ii) the
46 Electronic Registration Information Center (ERIC) Program. ELECT exchanges data
47 with 37 states and the District of Columbia in addition to the other information ELECT
48 receives within state departments and services. ELECT follows the practices established
49 by state and federal law in particular in accordance with the National Voter Registration
50 Act of 1993. ELECT refers any violation to the appropriate authorities or individuals
51 when a violation has occurred. The membership agreement for the ERIC program
52 requires a mailing be sent to all individuals who are eligible non-registered Virginia
53 residents.

54 Commissioner Cortés reported that Governors’ McAuliffe delivered a message
55 regarding the budget to Virginia State Agencies. ELECT was instructed on their “savings
56 targets” for the current and 2016 fiscal year. ELECT will need to reduce their budget by
57 146 thousand dollars in the 2015 fiscal year and 197 thousand dollars in 2016 fiscal year.
58 These savings targets will have an impact on the agency and the localities ELECT serve.
59 ELECT has not determined how these mandatory savings targets will be satisfied.

60 The next order of business was the Legal Report presented by Kristina Perry
61 Stoney, Senior Assistant Attorney General. Ms. Stoney reported that the Secretary of the
62 Fairfax Electoral Board referred 17 voters that allegedly voted in Virginia and Maryland

63 in the 2012 General Election to the attorney general's office. The attorney general's
64 office has received the request and the evidence. A complete review of the materials will
65 be conducted and if further investigation is required the attorney general's office will
66 work with federal and local authorities. Ms. Stoney stated that an executive session is
67 required to discuss pending litigation.

68 The next order of business was the certification of the special election held on
69 August 19, 2014 presented by Matt Abell, Election Services Lead. Mr. Abell explained
70 the process and Board Members examined the abstracts. The special elections occurred in
71 Senate District 38 and House of Delegates Districts 48 and 90. Chairman Judd announced
72 that having examined the certified abstracts of the votes cast from the August 19, 2014,
73 special elections in Senate of Virginia, 38th District, House of Delegates, 48 District and
74 House of Delegates, 90 District, the SBE determined on this 27th day of August, 2014,
75 that A. Benton Chafin, Jr. received the greatest number of votes (17,496) in Senate
76 District 38, Richard C. "Rip" Sullivan, Jr. received the greatest number of votes (5,978)
77 in House District 48 and Joseph C. "Joe" Lindsey received the greatest number of votes
78 (1,736) in House District 90 and each was duly elected as the next representative to his
79 respective General Assembly District. Chairman Judd announced that the ascertainment
80 process was complete.

81 The next order of business was the Optical Scan Trial in Clark County presented
82 by Gary Fox, ELECT Voting Technology Specialist. Mr. Fox stated that Clarke County
83 requested to utilize two pieces of optical scan voting equipment during the November 4,
84 2014 general election. Clarke County will compare the equipments' performance before
85 determining which units to purchase. Chairman Judd moved *that the Board approve the*
86 *experimental use of certified optical scan voting equipment in Clarke County for the*
87 *November 4, 2014 general election.* Secretary Palmer seconded the motion and without
88 public comment the Board unanimously approved the motion.

89 The next order of business was the Freedom of Information Act (FOIA) Meetings
90 Policy presented by Martha Brissette, ELECT Policy Analyst. Ms. Brissette stated that
91 2014 legislation created an opportunity for SBE Board Members to participate in
92 meetings electronically. Ms. Brissette stated that each board member would have a
93 maximum of two meetings per calendar year that for personal reasons they could attend

94 electronically. Ms. Brissette stated that in order for SBE to use this legislative change the
95 board must first adopt a policy regarding the electronic attendance of its' members.
96 Chairman Judd stated that he was not comfortable with being presented with a proposal
97 for the first time and then acting on a suggested policy during that same meeting. Vice
98 Chair Bowers stated that it was appreciated that the ELECT staff compiled this
99 information on the SBE meeting schedule and that holding 53 meetings during this
100 current boards' tenure of three plus years has presented some challenges. Chairman Judd
101 expressed concerns about enacting a policy of this type considering the membership of
102 this board is three members. Vice Chair Bowers stated that this policy consideration
103 arrives late in the tenure of the current board membership and this matter should be
104 discussed at a latter Board Meeting. Chairman Judd directed ELECT to place this on the
105 agenda of a future SBE Board Meeting.

106 The next order of business was the 7th District Special Election Hand-Out and
107 Absentee Ballot Insert presented by Martha Brissette, ELECT Policy Analyst. Ms.
108 Brissette stated that as with the proposed pledge materials in 2012, ELECT staff is
109 seeking Board approval to handle instructions and forms for a unique situation not clearly
110 addressed by our statutes and regulations. The race in the 7th District has garnered
111 significant attention nationally supporting that any doubt be resolved in favor of
112 requesting Board approval as well as authority to handle any adaption that may become
113 necessary as determined by ELECT in consultation with participating localities. Ms.
114 Brissette stated that there have been questions concerning the color of the band at the top
115 of the flyer and the poster and that the color is currently orange. These posters will be
116 printed at the local level. Chairman Judd stated that the localities should be uniform and
117 that the color will remain orange. Vice Chair Bower moved *that the Board approve the*
118 *explanatory poster the Department of Elections staff has developed with the participating*
119 *localities for use in the polling places and absentee balloting.* Chairman Judd seconded
120 the motion and without public comment the Board unanimously approved the motion.

121 The next order of business was the Absentee Material Omissions presented by
122 Martha Brissette, ELECT Policy Analyst. Ms. Brissette stated that the Board approved
123 posting these changes for public comment at the June 10, 2014 Board Meeting. The
124 public comment period opened on June 30, 2014, and closed on July 21, 2014. A total of

125 87 comments were received. Most of the comments opposed treating generational suffix
126 and street identifier as material. Based on the comments received, staff recommends the
127 draft without these two changes.

128 Chairman Judd stated that SBE should initiate the regulation to include the street
129 identifier, generational suffix and have the first and last name in their proper location on
130 the Absentee Ballot (AB) form. This would preserve the integrity of the vote and ensure
131 that there is no question about which voter has submitted the form. Vice Chair Bowers
132 stated that the process of filling out the AB application requires all of the information to
133 be included so that when the ballot is return there is a process for identifying the
134 corresponding information and voter data. This system offers the checks and balances
135 that are needed to ensure the integrity of the vote. Secretary Palmer stated that the
136 generational suffix is important if individuals are living at the same residence and it is
137 important for SBE to provide guidance on this issue to election officials. Chairman Judd
138 stated that the street identifier is important in neighborhoods or sub-divisions where the
139 same name is used multiple times with the only difference being street, court, or drive at
140 the end. Vice Chair Bowers stated that if you go back to the AB application, the
141 information provided on this form would assist the election official in determining the
142 identity of the AB voter. Commissioner Cortés stated that the recommendations of
143 ELECT staff were based on the comments of the general registrars and that those
144 omissions were not viewed as materials omissions by those in the election community.
145 The return AB envelope contains a barcode that links that particular ballot back to the
146 original application and this information is used by the general registrars to record
147 everything from the correct precinct to other forms of official reporting. Chairman Judd
148 asked if there were any public comments.

149 Robin Lind, Secretary of the Goochland Electoral Board approached the podium.
150 Mr. Lind stated that the explanation provided by the commissioner of the identifiers on
151 the AB envelope were helpful in this discussion. In the canvassing of the results it has
152 caused distressed to members of the electoral board community when the board must
153 discard ballots when something is omitted that we consider immaterial.

154 Chairman Judd asked if there were additional comments and there were none.
155 Chairman Judd read 1VAC20-45-40 and 1VAC20-70-20 in its entirety.

156 Vice Chair Bowers moved *that the Board approve the staff proposed changes to*
157 *its regulations: IVAC20-45-40 as read in its entirety and IVAC20-70-20 related to*
158 *material and immaterial omissions from absentee ballots to be effective on filing with the*
159 *Register of Regulations.* Secretary Palmer seconded the motion.

160 Chairman Judd moved *that the motion presented be amended to include that*
161 *IVAC20-70-20 be amended in Section C (5), materials omissions from Absentee Ballots,*
162 *be stricken and under Section B, material omissions that an addition of the language that*
163 *states “The voter omitted his generational suffix and one or more individuals with the*
164 *same name are registered at the same address and it is impossible to determine the*
165 *identity of the voter”.* Secretary Palmer seconded the motion and Chairman Judd asked if
166 there were public comments and there were none. The Board unanimously approved the
167 amended motion.

168 Chairman Judd returned the Board to the motion and asked if there were
169 additional comments and there were none. Chairman Judd moved *that the Board approve*
170 *the staff recommendation as amended.* Secretary Palmer seconded the motion and the
171 Board unanimously approved the motion.

172 The next order of business was the public comment period. Bill Bell, Secretary of
173 the Virginia Electoral Board Association (VEBA) approached the podium. Mr. Bell
174 stated that the Board should consider doing the mass mailings on list maintenance to the
175 local level. Mr. Bell stated that the localities could correct any errors noted in the
176 localities. Commissioner Cortés stated that ELECT has reviewed this option and is
177 working on a plan. Chairman Judd asked if there were additional public comments and
178 there were none.

179 Chairman Judd moved *that the Board add Robin Lind, Secretary of the*
180 *Goochland Electoral Board, to the GREB Workgroup that is reviewing the duties and*
181 *responsibilities of the general registrars and electoral board members.* Vice Chair
182 Bowers seconded the motion and the Board unanimously approved the motion.

183 Chairman Judd then moved *to close the meeting to discuss actual and probable*
184 *litigation matters and specific legal matters requiring the provision of legal advice by*
185 *legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.* Vice Chair
186 Bowers seconded the motion and the Board unanimously carried the motion. Chairman

187 Judd directed Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés,
188 Commissioner; Kristina Perry Stoney, Senior Assistant Attorney General and SBE
189 Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel and Rose
190 Mansfield, Executive Assistant, to remain with the Board during the closed session.
191 Secretary Palmer seconded the motion and the Board went into Executive Session at
192 11:20AM.

193 At 11:45AM Chairman Judd *moved to reconvene in open session and a roll call*
194 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
195 *certifying that during the closed meeting (i) only public business matters lawfully*
196 *exempted from open meeting requirements under this chapter, and (ii) only such public*
197 *business matters as were identified in the motion by which the closed meeting was*
198 *concerned were heard, were discussed or considered.* Vice Chair Bowers seconded the
199 motion and the Board unanimously approved the motion. Rose Mansfield, Executive
200 Assistant performed the roll call vote and all Board Members approved the motion.

201 Chairman Judd asked if there were comments for the Good of the Order and there
202 were none. Chairman Judd moved *that the Board adjourn.* Secretary Palmer seconded the
203 motion and without further comment the Board voted to adjourn. The meeting was
204 adjourned at approximately 11:55AM.

205 The Board shall reconvene on November 4, 2014 at 9:00AM in the Washington
206 Building, 1100 Bank Street, Richmond, Virginia– Room 27.

207

208

209 _____
Secretary

210

211

212 _____
Chair

213

214

215

216 _____
Vice Chair

217

